

Voting in 2004:
A Report to the Nation on America's Election Process
Tuesday, December 7, 2004
Room SD-G50, Dirksen Senate Office Building

Panel 5: Voter Suppression and Intimidation

MOD: Good afternoon, ladies and gentlemen, good afternoon. I'm Wade Henderson, Executive Director of the Leadership Conference on Civil Rights. This is a continuation of our program voting in 2004 a Report to the Nation, jointly cosponsored by the Leadership Conference, the Century Foundation and Common Cause, and we'd like to welcome you to the afternoon portion of today's program. Our next panel will focus on the issues of voter suppression and intimidation, issues that have been mentioned earlier today in other panels and just in setting the context I'd make the following observation. In every national election since reconstruction, voters, especially African American voters and other racial minorities, Native Americans and others have faced efforts aimed at driving down voter turnout as a routine factor in the election process. While the violence of the post Civil War voter suppression taxes, poll taxes and literacy tests of the Jim Crow era may be behind us. Today more subtle and creative tactics have taken their place. Today, for example, we see efforts to

drive down voter turnout through the use of misleading public information campaign such as flyers distributed in minority neighborhoods reminding voters to get out and vote on some day other than the designated election day or suggesting to voters that if they have a misdemeanor criminal offense that they may nonetheless be subjected to hard time if they in fact cast a vote, or through so-called ballot integrity initiatives that use poll challengers, sometimes even law enforcement officers to intimidate, to slow things down at polling places and to drive potential voters away. Ultimately the objective is to deny persons who are otherwise lawfully entitled to vote their chance to cast a ballot. Here to talk about what they saw in the 2004 election, we have a panel, a distinguished panel, of six speakers. And because of the importance of this issue and the size of our panel we are asking each of our panelists to keep their presentations to about five minutes so that we have ample time for discussions and questions afterwards. I'm going to introduce our first speaker and then go down the row and introduce each of them in the order in which they will follow. And we have a replacement for our first speaker, John Bonafaz (ph.), who was the general counsel of the National Voting Rights Institute.

And instead I'm pleased to say that we have a good friend and colleague, Brenda Wright, who is the managing attorney of the National Voting Rights Institute. She will be followed by Judith Brown, senior attorney at the Advancement Project, then by Heather Dawn Thompson, president of the Native American Bar Association of Washington, D.C., Steven Lopez, policy analyst with the National Association of Latino Elected and Appointed Officials who is filling in today for Larry Gonzales (unint.) Washington director, to be followed by Crystal Lander, director of campus programs for the Feminist Majority Foundation, and finally our last speaker on this panel, my good friend, Hillary Shelton, director of the Washington Bureau of the NAACP. Please join me in welcoming the entire panel and our first speaker this afternoon.

BRENDA WRIGHT

FS: Thank you, Wade, and thank you also to Shelly (unint.) Common Cause and to the Century Fund for sponsoring this very important day of attention to what happened in the 2004 election. I'm afraid that not only am I not John Bonafaz, but I'm also a little bit off topic because the topic that I've been asked to address here is to give folks

here not a discussion of some specific episodes of voter intimidation or minority disenfranchisement but to give folks an update about one of the efforts that my organization is involved in right now which is the recount that's going on in Ohio. And we felt that folks here would want to know what the status of that is. This happened to be the panel where they had a room to put us. So, I'm sorry to spoil your great introduction there Wade by going off topic immediately. So, I think as most of you know presidential candidates, David Cobb of the green party and Michael Babnarick (ph.) of the libertarian party have joined together to request a recount of all the votes cast in Ohio for President of the United States. Now David Cobb and Michael Babnarick are two candidates who probably agree on absolutely nothing except that there was something very wrong with the way that this past election was conducted and that in a democracy it's imperative that every vote be counted, and my organization, the National Voting Rights Institute, agreed to represent the candidates in requesting the recount and litigation the right to a recount if necessary. Other groups such as Common Cause, People for the American Way Foundation, (unint.) Fannie Lou Hamer (ph.) project have joined us in calling for the recount and

for an investigation of the irregularities in Ohio and elsewhere. Now, we knew from the outset in filing this request for a recount that there was probably little chance that the result of the election would change, and that in fact was not the purpose of the recount. But again in a democracy it's fundamental that we count the votes. And as you have already heard there are many reasons to doubt that that standard has been met in Ohio. Our other goals in pressing for a recount have been to keep a spotlight on the many irregularities and inequities and indeed the massive breakdown in election administration that affected the results in Ohio, to create space for additional efforts to investigate at least some of these problems such as the machine error that led to three thousand eight hundred and ninety three non existence votes being credited to George Bush in one precinct in Franklin County where only six hundred some votes were actually cast, to highlight the ninety three thousand ballots that were discarded in Ohio as spoiled because of over votes and under votes and essentially to assure the hundreds of thousand of outraged voters in Ohio that their concerns ser not being ignored and that people were exploring every possible avenue including the recount avenue to rectify the problems that

occurred. Now, Ohio law allows any candidate in an election to request a recount by filing a letter with each county and posting a bond for ten dollars per precinct. Total cost was around a hundred and thirteen thousand dollars and confirming the power of internet fundraising that we saw in this last election the candidates raised the sum almost entirely through internet donations from small donors around the country in just a few days. Mr. Cobb and Mr. Babnarick initiated a request for the recount and posted the necessary bond on November 19th, 2004, asking all eighty eight counties and the secretary of state to expedite their canvassing and to being a recount as soon as possible. After we filed these letters and posted the bond amounts, it became clear very early on that Ohio officials were dragging out the initial certification of election results in a way that would prevent a recount from being completed prior to December 7th, today, which as you may know is the federal safe harbor date for conclusively resolving controversies about the choice of presidential electors. And what that safe harbor date means is that under federal law any state that certifies its electors by that date cannot later have its slate challenged in Congress when Congress comes to vote on January 6th. That's the safe

harbor that allows for a presumption that the electoral votes have been chosen properly. I agree with you. It's not any guarantee and we're going to continue to press that point. But in any event the date the electoral college meets this year is December 13th. And so, today is the six days before the electoral college meets. Now, some of the delay in starting a recount has been because Ohio law itself has an unnecessarily slow time table for a recount. Some is also because of discretionary decisions by Kenneth Blackwell who you already heard about his morning, and county election officials. The initial canvassing of the vote in Ohio did not begin until November 13th, eleven days after the election. And Mr. Blackwell decided that county election boards could turn in their initial certifications as late as December 1st. So, given that time table, it quickly became clear that we would need litigation to request that the recount be expedited if we were to have any chance of meeting this December 7th date. We filed a lawsuit in federal court on November 22nd and I should mention that I don't want to steal John Bonafaz's thunder. He's really been doing the heavy lifting on all of this. And the only reason I'm here today telling you about his rather than he is that he is still out there doing the

heavy lifting on this effort. Our request for a TRO and preliminary injunction was denied and it was denied solely on the grounds that the judge saw no irreparable harm resulting in delay in conducting the recount. And his reasoning was this. His reasoning was the Kerry campaign had not sought a recount, and there was no likelihood that Mr. Cobb or Mr. Babnarick was going to turn out to be the winner. And so, no party before the court according to this decision could establish irreparable harm. However, he did, the judge's decision did indicate that there was in fact a right to this recount although not on an expedited basis. The next day one of the counties in Ohio, Delaware County, filed a lawsuit in state court seeking not just to delay the recount but to stop it entirely even though there's a very clear and automatic right to it under Ohio law. The county named Cobb and Babnarick as defendants as well as my organization, the national voting rights institute which is serving solely as council in the matter. That's how far these folks go. The county argued that it would suffer irreparable harm from doing a recount because the recount would actually cost more money than is covered by the bond requirement. And a state court judge on that basis issued a TRO against the recount without hearing from

us totally on an ex parte basis finding that the county had proven irreparable harm because it might have to spend money out of its own (unint.) for the recount. Now, are there any litigators here? Have you ever won a TRO on the basis that your client might have to expend money unnecessarily? As we all know the requirement for irreparable harm is an injury that is not financial and cannot be compensated by money damages, and the state court never addressed whether there was a substantive basis in Ohio law to refuse to conduct the recount and there isn't. So, we promptly removed the Delaware County lawsuit to federal court which turned out to be probably a good thing to do. At that point the Kerry campaign filed a motion to intervene in that lawsuit. On Friday, the federal judge this last Friday dissolved the state court injunction that was stopping the recount in Delaware County and said the county obviously couldn't establish irreparable harm. However, the judge unfortunately also denied our renewed request to expedite the recount, not just hold it but to expedite it. Even though he granted intervention to the Kerry campaign he point out that the Kerry campaign still had not formally requested a recount from state authorities on its own behalf. And so, he said thee was still no party

before him that was suffering irreparable harm. As a result, I'm afraid it looks almost certain that Mr. Blackwell will today, December 7th, send out certificates of elections to the Ohio electors directing them how to cast their ballots in the electoral college on December 13th, even though a necessary part of the state process to determine the accuracy of the count has not been carried out and will not be concluded even by December 13th. Now, in my opinion that makes December 7th, 2004, another day that shall live in infamy. And from what we discovered in seeking this recount we know that if Ohio were facing an election outcome as close as that of Florida in 2000 or even as close as some states like Iowa and New Mexico this year we would right now be facing another meltdown in the process for determining the electoral college outcome. What this highlights is the need for reform not only of the Ohio vote canvassing schedule but the federal schedule as well. This will be if you think about it the second presidential election in a row where the electoral college will meet and vote even though a pivotal state hasn't completed a recount that under state procedures is required to definitely determine the election outcome. Last time it was Florida. This time it's Ohio. There's no reason why

we can't move back the safe harbor day, make it something like December 31st, make January 3rd the date for electors to cast their votes and make January 10th the date when Congress counts the votes. All of that can be changed by statutes so that in future elections when there are disputed results, when there are irregularities, when there is a need for a recount to make sure that every vote counts we can actually get that done and have a result in which people can be confident. I see my time is up. There's more to say about this but I'll leave it there.

MOD: Brenda, thank you so much, and that certainly a while slight diversion from the topic at hand was extremely important and we are pleased that you were able to come to join us for this. I should also mention that John Connors, the democratic for Michigan, the ranking member of the House Judiciary Committee is sponsoring a forum tomorrow entitled what went wrong in Ohio, preserving democracy, what went wrong in Ohio. It will be held in Room 2237, the Rayburn House Office Building, and it begins tomorrow morning at ten a.m. And I know that this will be the subject of Congressman Connors' forum. I also want to acknowledge a couple of people who I saw here in the room this afternoon. The first is Representative Maxine Waters,

Democrat from California. She's in the back of the room. I think all of you know that Congresswoman Waters is of course the outspoken member of the House Judiciary Committee. She was also the chair of the Democratic Caucus Task Force and Election Reform in 2001 and 2002. And Congresswoman Waters thank you so much for coming in today. I also so Representative Larson, the ranking democrat on house administration, who was one of the supporters of our meeting here today. I know I saw him coming in during the last panel, and I want to acknowledge him. I don't know if he's still here, but his role and the important contribution that he has made and will make is deeply appreciated. So, thanks to Representative Larsen.

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MOD: And with that in mind we will go to our next panelist, Judith Brown.

JUDITH BROWN

FS: Thank you, Wade, and thank you to the conveners for providing me with an opportunity to address you today on behalf of advancement project and on the critical issue of voter suppression and the role that it played in 2004. In an effort to avoid another debacle, advancement project focused its 2004 election work on pre election. We knew

from 2000 that post election litigation was not going to be the answer to voting rights problems in this election. In 2004 it became clear that there were efforts underway to dust off reconstruction era statutes in order to disenfranchise voters particularly minority voters. These statutes, commonly known as challenge statutes, permit voters and party representatives called poll watchers or poll observers to challenge the eligibility of other voters ultimately giving private citizens the power to prompt the purging of voters immediately prior to or on election day. There were clear warnings that this was going to happen. In Nevada there were seventeen thousand challenges filed prior to election day. In Ohio, thirty five thousand challenges filed prior to election day and disproportionately in urban areas. By all news accounts the culprits of these activities were national and state republican party committees. I want to stop here and say that advancement project is a non partisan organization. However, we are in the business of protecting the voting rights of voters of color and therefore focused in on this issue very early on as an issue of disenfranchisement in minority communities. The targets of this disenfranchisement were new voters in urban areas. In

Florida, the state republican party announced that it would use the infamous felon challenge purge list that was created by the state of Florida and withdrawn by the state of Florida to target challenges. Despite knowing that the state's lists was tainted by racial discrimination, the state republican party decided to use it anyway. In Wisconsin, the GOP went even further to conduct background checks on newly registered voters. This is voter suppression in 2004. For those who don't know, in 1981 the RNC was sued by the DNC for what was called their ballot security program which was used, they used mailings to target black and Latino voters in New Jersey for election day challenges. As a result there was an existing consent decree in the United States district court in New Jersey in which the consent decree said that the RNC could no longer use nor appear to use racial or ethnic criteria in connection with valid integrity ballot security or other efforts to prevent or remedy suspected vote fraud. The court also required that the RNC actually violated that consent decree in 1986 and any valid security program was supposed to go before the court for approval by the court. In 2004 the writing was on the walls. Partisan voter suppression efforts had to be stopped. An analysis of

republic poll watcher assignments in Hamilton County and Ohio and Miami Dade Florida indicated that these poll watchers were disproportionately assigned to minority voting precincts. In Hamilton County for example while fifty five percent of the voting aides whites and sixty two percent of voting age Hispanics live in areas covered by these republicans eight nine percent of voting age blacks lived in areas where republican poll watchers were assigned. In October the leadership conference on Civil Rights wrote to the DNC and RNC requesting meetings and asking them to cease and desist with any activities to suppress the vote. With no response from the RNC, the leadership conference held a vigil on the steps of the RNC's headquarters here in DC. Ultimately litigation was going to have to be the answer. There were several cases filed by the Ohio democratic party trying to stop the purges, trying to make sure they were fair procedures put in place. Advancement Project also acted to protect minority voters. On behalf of Ebony Malone, a first time African American voter in (unint.) County Ohio whose name appeared on the republican challenge list we intervened in the New Jersey DNC RNC case and forced the content decree. The evidence in the case demonstrate that the RNC had

participated actively in a joint effort with the Ohio republican party to use returned mailings to challenge the rights of thousands of newly registered voters. The RNC claimed that these were that the letters were simply to all new registered voters. The list was in fact analyzed by the RNC for voter fraud. The evidence placed the case squarely within the confines of the consent decree. The RNC also hosted and we found this in discovery voter registered fraud strategy conference calls. These calls included state chairman and discussed Nevada, Ohio, New Mexico and Pennsylvania. RNC staff also suggested cross checking absentee ballots against return mail in Nevada, Florida, Pennsylvania, New Mexico and Ohio. In an email that we receive, an RNC staff person wrote an email indicating Jack Christopher and I already tasked our I tem personally with creating a mach between the board of elections return mail and the absentee ballot request list. I can't speak to other states, but if they don't have flagged voter roles then we run the risk of having GOP fingerprints. These actions indicated participation and assistance by the RNC in efforts to identify and challenge newly registered voters in direct violation of the consent decree. The evidence also demonstrated that the Ohio

challenge list consisted of a disproportionate number of African American voters. Our experts showed that in Hamilton County which Cincinnati is situated in voters in precincts with the highest concentration of black voters were eight times more likely to be challenge than voters in the most heavily non black precincts. In (unint.) similarly situated voters were three times likely to be challenged... have suppressed the vote on November 2nd. Thank you.

MOD: Our next panelist, Heather Dawn Thompson, president of the Native American Bar Association of DC.

HEATHER THOMPSON

FS: My name is Heather Dawn Thompson, the member of the Cheyenne River Tribe in South Dakota. In addition to being president of the native American Bar Association here in DC, the more relevant position that I have for today is I was the national coordinator for the native vote election protection coalition for 2004. And so, I was the coordinator for all the native communities nationwide that worked in conjunction with the national non partisan election protection coalition. That includes both our reservation communities and our urban Indian communities. I think that the native voice is a new one to voting right

and so we're very happy to be here today. I'm very pleased and honored to be invited. I know that this has been a struggle going on in many minority communities for decades as it has been in the native communities but it's perhaps not as well publicized from the native community perspective. The native vote has been denied officially in many states up until the 60s because of the unique status of native Americans as having a dual citizenship between both their tribe and the United States, and it was often times used as an excuse to deny the vote within several states. And new Mexico I think was the last state to finally get rid of that in 1962. So, this has been a long struggle for the native community not only officially and illegally but also culturally. As you probably can imagine there's a very difficult relationship between most natives and the federal government, one that makes registering with the federal government a huge hurdle and obstacle for many of our elders. My grandmother, my grandfather, the memories are still very fresh that when you register with any federal agent that meant your kids were getting taken away to boarding school or you lost your land. And so, really basic acts of voter registered as with I'm sure very many immigrant community share extraordinarily difficult.

And then when you compound that with voter intimidation it's heartbreaking. And so, in many of our communities where we're stating to overcome these obstacles and they're starting to see their vote being powered they're making a difference in Washington State and defeating (unint.) Gordon and they're electing Senator Johnson in South Dakota and they're turning out and we're getting seventy, eighty percent voter turnout in some of our reservations and then they show up and they need your ID and they want to know who you are and they've never seen these people that are working at the voter poll and they're intimidated and a lot of people just go home. And this has been a really big problem in South Dakota because it has been so partisan for the last couple of years and because of Senator's Daschle's races and Johnson and (unint.) race. And so, but we're grateful for that because it raised awareness within our whole community. And so, what was happening in South Dakota is that the partisan organizations were sending people from New York and DC, I live here too, there's nothing wrong with that. But if you haven't been out west and you haven't been on a reservation it's probably not the best time to go on election day. And so, while we appreciate both parties putting some efforts into our

communities it caused more problems than it helped. And so, what we decided within the native communities and the tribal leaders came to us and said please train our own people, teach us the rules. Teach us what the laws are and we'll send our own people. Please stop sending these people with a New York that touch people's ponytails. So, this year we organized ourselves. WE worked with the election projection coalition and we are so very blessed and grateful hat they were there because they provided the training that they we would have not been able to do this otherwise. We had over five hundred Indian attorneys, law student, local grassroots organizers trained and on the ground in their own communities. And so, we are so very grateful for that. Some of the things that we learned is that we were particularly subject to being targeted because we're easy to point out on a map. There's a reservation. You don't have to do a lot of demographic analysis. You just look at the map and you show up and so it makes our communities particularly subject to being targeted on election day especially in tight races as with most communities. Some of the problems that we saw on election day which are probably going to be similar to other minority communities but some are very unique to tribal

communities, a lot of racial animosity. For those of you who are not from the newest, in many communities the relationship between the predominantly non Indian community and the Indian community is very similar to the African American and white communities in the 60s in the south. There's continued racial animosities. There's signs that say no Indianans at gas stations. There's go back to the reservation slurs when you go to vote on election day. So, for those of you that haven't been out west and to these communities, if you can imagine that, it's still is happening within our communities. And when you have predominantly non natives running the electoral systems on the reservation communities you can imagine the tension that you have on election day particular in areas like the (unint.) reservation Idaho where their non native community is actively suing the tribe to diminish their reservation. It's not a very welcoming and warn environment for election day. We had aggressive poll challengers just like the rest of the communities. Many of our tribal police had to escort the poll challengers off the reservations because they were causing such a commotion. Unfortunately the partisan poll watcher even those that were not actively challenging just not being forum the community caused a lot

of problems and uncomfortable situations particularly with our elders. Some of the systemic problems that were unique to Indian country that affected us disproportionately, the new ID requirement. Many of our elders within our community like I said are not comfortable registering in any way with the federal government and do not have any form of federal identification. If they do have identification it's tribal ID. It's from their tribal government. And many states worked with us beforehand to change that to accept tribal IDs but some states would not including very partisan states like the state of Minnesota which actively put a rule on the books that said if you live on the reservation you can use your tribal ID, but God forbid you try to move anywhere else and it's no longer valid. So, we had huge, huge urban populations of native peoples that were disenfranchised and we had to sue the state of Minnesota, won that injunction Friday before the election. And informatively we were very upset to see the republican party to show up and intervene on Friday morning. Fortunately we won that. A quick summary, I see my time is over. So, I'll just give four quick recommendations from the things that we've seen on the election day that we'd really like to see change in the

future. One is a model that we saw in Colorado that really seemed to work where both parties and non partisan organizations were meeting together for months before the election to do pre election work. It didn't work perfectly. There were still some voter intimidation problems in Colorado but not nearly extensively as we saw in the other states, and the state parties actually specifically requested to both of their national parties to not send poll challengers. So, I think that Colorado is a really excellent model that we should look into a little bit more. Two is that we really would request the whole voting rights community to help us push for the same rules for non partisan watchers. Partisan poll watchers are not working for our communities and I imagine they're not working for many of your communities. And only by really having non partisan option within our communities are we able to recruit our local individuals to be advocates on election day. And as many of you know that worked on election day poll watching there's a lot of hurdles that non partisan poll watchers have to overcome that partisan poll watchers do not and many states they're actually completely (unint.). The third out of four is that we need some help in changing some rules in the state that

disproportionately affect our tribes and our tribal communities such as the tribal ID requirements. And in many states they have these rules whereby if you have a community that's small, perhaps under five hundred people you don't have pen the polls until ten a.m. I know Minnesota has this rule and I think one other southwestern has this rule. Unfortunately most of our communities are those communities that are under five hundred. So, we had in Minnesota we had entire reservations that didn't open until ten a.m. and people showing up to vote before work. And fourth and final and this affects everybody I think equally but regardless of all the voter intimidation problems, all the targeting problems, the number problem that we had across the board without a doubt was voter registration issues, cards not getting in, cards being returned, people moving. Eighty percent of the problems that we saw with disenfranchising our community would be what we saw with same day voter registration. Thank you.

MOD: Thanks, Heather. We'll now hear from Steven Lopez of the National Association of Latino Elected and Appointed Officials.

STEVEN LOPEZ

MS: God afternoon everyone. On behalf of the (unint.) educational fund, I want to thank you for the invitation to participate today and to provide the Latino perspective on this issue. Before I speak of our findings regarding the Latino community, I wanted to briefly give you some background on the organization and let you know what we are about. The (unint.) educational fund is the leading organization that empowers Latinos to participate fully in the American electoral process from citizenship to public services. We're a national nonprofit, nonpartisan organization whose constituency includes over six thousand Latino elected and appointed official ranging from school board members to members of congress. Our efforts focus on voting rights, electoral reform, citizenship and naturalization, the census and federal and judicial appointments and we work in coalition with a number of other groups and we are the leading voice in the area of electoral reform in the Latino community. So, let me begin now by sharing what we did and what we found in this recent election. Since 2001, (unint.) has been engaged in a community outreaches called (unint.) or voice of the community, and it's a program dedicated to educating Latino

voters on information pertinent to the voting process. And based on the input and information we collected during that effort, we realized that there was a need in the community for service that would provide information to Latino voters leading up to and on the date of the election. So, this led to the creation of our national voter hotline. It's called (unint.) or go out and vote, and we partnered with the nation's primarily Spanish language and media organization Univision and we launched the hotline on September 21st of this year. So, from the time of the initiation of the program to election day we received over thirteen thousand calls from folks across the country including those living in the battleground states. And based on the data that we collected from our hotline information we didn't observe a clear attempt of voter suppression in the Latino community. On the contrary we were excited and encouraged by the numbers of Latinos who came to the polls and cast their vote. In fact we witnessed the highest turn out among Latinos in history. Voter participation increased by over one million new voters to over seven million plus compared to the 2000 presidential election. So, again this was a very exciting event in the Latino community. As you might know Latinos

had two senators or two members of the Latino community to the U.S. Senate this year, one republican and one democrat. So, I think that speaks for the political adversity among our community. However, it would be naïve to say that Latinos didn't encounter any problems on election day. Let me briefly share an example. Our hotline received widespread complaints from voters in Pima County in the state of Arizona. Until 2 p.m. on election day, the proposition portion of the ballot in Pima County was not available in Spanish. Pima County is overwhelmingly Latino, and a number of those voters are bilingual. So, they need documents in Spanish. Under Section 203 of the federal voting rights act, Pima County was obligated to provide information and materials in Spanish and failed to do so. And this was especially problematic given that proposition 200 a proposition important to Spanish speaking voters in the state of Arizona was on that state's ballot. We called on election officials to take immediate steps to comply with the voting rights act and to provide voters in Arizona the tools necessary to cast their ballots. And just to give you some other examples, I'm going to read off some classifications of the types of calls that we received. This is a report that we compiled based on the

calls that we received from the 21st of September to election day. We received calls regarding lack of language assistance. So, poll trainers have not been able to communicate with voters in Spanish for example. There was a lack of provisional ballot available at some polling places. So, there were voters who were unable to cast a vote. There was also some harassment going on at polling places. But I want to say this, based on the data that we collected through our hotline we found that these were isolated incidents, and overall there was not a clear indication of widespread voter suppression in the Latino community. The volume and nature of the calls received through the hotline demonstrates that much work remains to be done in getting critical information into the hands of Latino voters. For example, a large number of callers had received information such as sample ballots, polling location or confirmation of their voter registration. So, from our perspective the types of problems callers encountered show that election officials need to do a better job of ensuring that all voters receive the information they need in a timely manner. And it's also a matter of jurisdictions strictly complying with federal requirements to provide language assistance to Latino

voters as well as jurisdictions making significant improvements to the quality of their poll worker training. So, from the lowest perspective, it was not an issue of voter suppression in the Latino community but rather an administrative failure of the election officials and not being adequately prepared and failing to provide information in a timely manner to Latino community. So, we see a need to be more concerned for what is occurring inside the polling locations rather than outside. And so, again for us it was a matter of problems and the mechanics of voting in this election, and this is all due to the information that we collected through our hotline. And that's not to say that there weren't instances, but based on the information that we were able to produce through (unint.) these are the conclusions that we have come to. Thank you.

MOD: Thank you, Steven. Our next panelist is Crystal Lender, director of campus programs for the feminist majority foundation.

CRYSTAL LENDER

FS: Good afternoon. First I'd like to thank everyone for inviting me. This has been a tremendous learning experience for me. It's also been a unique opportunity

because I think something that hasn't been talked about here is the suppression of student votes meaning college students at two year and four year universities. Many of us know that or expect voter and suppression intimidation from minority voters, but sometimes we don't think about those young people who are voting for their first time and this is of tremendous importance to them because we're reminding them constantly to vote setting the stage for the future at work, yet they're not even allowed to get through the lines the first time we try to vote. So, what makes them thin in ten years that gets any better? So, it's really setting that precedence. I am the campus director for the (unint.) foundation which is a nonprofit organization here in the Washington, DC, area. We do also have an LA office. We are a nonpartisan organization like many of the other ones here. We held a student voter registration and mobilization drive. It started earlier this year. We were actually one of the organization that convened the march for women's lives that happened in April 2004. That's right over a million people. Men, women and children came out for that here right in DC and we were so energized from that march that our students immediately went back to campus and started a voter education as well

as registration drives. While our campaign was nationwide, we targeted our young staff who are all recent college graduates in nine states. We were in Arizona, Nevada, Ohio, Oregon, Iowa, Pennsylvania, West Virginia, Washington state and Wisconsin. Some of the states that you've heard some information about throughout today. Our underground efforts consisted of having staff people on the ground working with our campus groups who are long standing feminist young women's organizations across the country. These young people went into these areas to help educate the students on what to expect many times their first time voting. What we found is a couple different things happened. During our registration drive, we found that students were being given misinformation and not just misinformation by their school officials but misinformation by the local board of elections. Most of the things we saw fell into two categories. Either it was clear partisan politics or it was just laziness by many of the people who work at these organizations. We had students being told that if you voted for, if you're an out of state student voting on your local campus that you could lose your financial aide. Now, one has nothing to do with the other. So, we were very puzzled many times when students would

call us and say hey do you think I could lose my financial aide, and we'd say absolutely not. The requirements even the financial aid offices at their schools were saying one has nothing to do with the other, but it's a very useful technique with suppressing student votes. If you were worried about how to get to college or how your parents are paying for college, you don't want to risk anything to ensure that you get that financial aide to stay in college. It was a very useful technique that they used on students. Another thing that happened and it happened in Arizona, this was covered by the local news quite a bit. At the University of Arizona's main campus, we had one of our student groups there held a voter registration drive on campus. What they had come to them is a local Fox news cameraman came and said to the students who were registering students to vote hey do you know you could be committing an unintentional felony by registered out of state students to vote here on campus. Well, these students were educated and they knew exactly what to say and they said you're wrong and we now you're wrong and we're not backing down. And I'm just saying I met these young women a couple of months ago and they were just determined that they would not be intimidated. Well, some of

the thing that were brought up here were the education. Having a very educated population means that you don't back down when you're trying to be intimidated and that's one thing and I think we definitely have to keep going. These young women called our office and said you know what someone's trying to intimidate us, tell us what to do, tell us where to go. They called their local county officials in their office and heard the recording with the same misinformation on that recording and they did not stop until they got an apology by Fox News that ran on their local television station. I mean we were so proud of them because we had to do very little but to support them. They were determined that they were not going to let misinformation get on their campus, huge campus. Another thing I want to bring up that I experienced personally, in Wisconsin, in Boyd, Wisconsin, which is about an hour outside of Milwaukee, the students have to be deputized to register other fellow students to vote. Well, we call in and make sure the students can be deputized. We help them any way possible. Well, the local official said she wouldn't deputize any students because it was a waste of time and she would only deputize... and then when I went in there and basically said yeah this is not going to work,

she said well I'll deputize six only between the hours of twelve and one on Friday, pure intimidation tactic, but clearly I'm not very easy to intimidate. So, I pushed on a little bit more and we finally got the woman to allow other students to be deputized. But clearly no student should have to go through that so that they could register fellow students to vote on their campus. The last thing I want to say is that not just with registration. It went on into mobilization where we had with what we saw in Milwaukee, some of our campus organizers were wards or precincts combined so that all the lines went from something that should be normally maybe fifteen to twenty minutes. We had students reporting they waited ten to eleven hours to vote. They had two machines in places like Ohio University in Athens where the students, fifty thousand students on campus, they are the town. Basically they were waiting all day. At Canyon College, they waited eleven hours to vote, and it was raining in some counties on election day. So, let me tell you the intimidation packets came in a variety of different forms, but especially with young people. It's really, really important that we start them voting early. And if they're intimidated they're eighteen and twenty years old, what

makes us think they're going to be voting in ten years?

Thank you.

MOD: Thanks, Crystal. Our final panelist this afternoon, but by no means our least Hilary Shelton, director of the Washington Bureau of the NAACP. Hilary.

HILARY SHELTON

MS: Thank you, Wade. I want to thank everyone for inviting us to participate in this afternoon's event. I want to commend you for holding this conference and for focusing attention on critically important issues facing American citizens particularly those of us of color as we attempt to pursue our constitutional right to cast a free and (unint.) vote and indeed have that vote counted. It is an honor and a privilege to be here on behalf of the NAACP, our nations oldest and largest civil rights organization currently with twenty two hundred membership units across the United States as well as membership units in Germany, Korea, Italy and Japan. I serve as director of the NAACP's Washington Bureau, the federal legislative and national public policy division. The NAACP as part of our original mandate has been protecting voter's rights since 1909. Throughout our over ninety five year history the NAACP has advocated against Jim Crowe laws and the so-called black codes. And

we were instrumental in development of the enactment of the 1964 voting rights act, the 1992 motor voter law, and most recently the numerously helpful as the help America vote act. But there's a number of very helpful provisions, but we have problems with some of the bill even though we supported it. Prior to the 2000 presidential election, the NAACP took a three pronged approach to non partisan voting empowerment, encouraging facilitating voter registration, enhancing voter education efforts and aggressive get out the vote programs. After what we witnessed in the 2000 presidential election in Florida Illinois, Missouri and many other places across the country, we were convinced that indeed we had to add a fourth component. That fourth component is voter protection. As most citizens of the world are aware of in the 2000 presidential election between four and six million Americans did not have their opportunity to cast an (unint.) vote and have their vote counted. Indeed, they were disenfranchised when their votes were thrown away. One factor has received less public attention though is the disproportionate number of those Americans who were wrongly disenfranchised were racial and ethnic minority Americans and specifically African Americans. In the 2000 general election, a

disproportionate number of voters predominately in African American and other racial and ethnic minority communities were disenfranchised by a combination of illegal actions, inadequate voter education, poll worker training, faulty voting machines and election administration incompetence. Despite the enactment of the help America vote act of 2002, the NAACP was aware that in 2004 voters would face these same problems and even more including unfamiliar machines (unint.) voter identification requirements and potential erroneous voter purging and voter suppression activities and that again these problems could very well take place in disproportionate levels in the African American community. The NAACP involved in nonpartisan election protection programs sought to removed the barriers that hinder African Americans and other racial ethnic minority Americans from participating fully in the electoral process. The problem was designed to educate, identify and respond based on the help America vote act, the national voter registration act, the voting rights acts in various state election laws. We wanted to make sure that the laws were applied fairly and that that they were followed and that each voter's ability to vote free and fairly was not hampered. Thus, the NAACP entered a November 20004 ready for action. The NAACP

engaged in a major election protection effort. We dispatched lawyers, poll monitors and volunteers to assist voters across the nation. We put into place a national command center at our headquarters in Baltimore, Maryland, and replicated similar centers in each of our seven regional offices and fifteen other key sites across the country. Each command center which was set up three weeks prior to (unint.) began as an education post. We recruited and trained poll monitors, educated community as to their electoral rights and recruited lawyers to help on election day. The command centers were also key (unint.). We publicized the toll free number which voters could use if they experienced or witnessed any problems or concerns. We further placed poll monitors at precincts and provide immediate assistance to voters. When the need arose, we dispatched lawyers up to polling places to respond to voter complaints and allegations. Often time our command centers served not only in the communities which they were based but also educated voters and poll workers on electoral procedures that they may have been unaware of such as the requirements in the recently passed help America vote act. During the presidential election period, we at the NAACP recorded more than thirty eight thousand formal complaints

and inquires from voters nationwide. I must hasten to say that this number although unacceptable high represents only a fraction of the calls received. Some of the examples of intimidation attempts to voter suppression included the spread of misinformation and threats which we found to be aimed at African Americans and other voters of colors. These included flyers being distributed to some on official looking letterhead that targeted African Americans and other racial ethnic minority communities telling voters that you are ineligible to vote in a presidential election if indeed you voted already in some other election this prior year. You cannot vote in the presidential election if you or any member of your family has ever been found guilty of anything including a traffic ticket. Indeed, voter registration deadlines had passed when indeed they had not. It also said that republicans could vote on November 2nd, but democrats should vote on November 3rd and finally that election day was November 4th and that particular flyer was offered only in African American specific communities. Furthermore, after analyzing all the recorded data that we have received to date it appears that other issues, many of which were a result of poor preparation or in some cases, and that has also led to

problems of eligible voters who wanted to cast a ballot. These problems included improper requests for identification and in some cases being asked for more than one form of identification, enough identification to open a credit account at your local department store, non-uninformed acceptance of identification. That is, asking for the wrong kinds of identification, and proper instructions on when to offer a provisional ballot, long line due in part to poorly trained poll workers and adequate staffing of our machines, long time voters showing up at the polls and finding themselves no longer on the list of voting rolls, non uniform and sometimes discriminatory procedures for handling voters who requested but did not receive absentee ballots, inadequate assistance to voters who needed language or disability assistance and concerns, inequitable distribution of voting materials, that is ballots and ballot machines and disruptively aggressive challenge to and interrogation of voters eligible to participate in the election by third party organization or even political parties in all (unint.). Sufficive to say that it does that it does not appears as if every eligible American voter was allowed to vote nor were the votes of all eligible Americans counted. Perhaps

most disturbing is the fact that I can only report to you on the problems or inquires of those who called into our hotline or who spoke with one of our lawyers or poll monitors on the ground. No one knows the real number of Americans who could not vote because these frustrations that impacted them may or may not have been the result of them simply leaving the polls and committing themselves never to come back and try it again. The NAACP is currently developing a final set of recommendations for state and federal election officials based on what we saw and learned in the 2004 election to help reduce the number of problems. To date I'm prepared to provide an informal list of recommendations that we feel strongly should be taken up by every state in the nation and by our federal government. Number one, the federal government should indeed put in place uniform ethical systems for counting provisional ballots. The focus should be on making sure that these provisional ballots are to be a last resort and that every effort be made so that the provision ballots will indeed be counted in the final analysis. There should be a statewide public system through which any resident can retrieve via the internet or automated telephone system their voting registration status at any given time. There

should be an expanse of the acceptable forms of identification to include signature (unint.) and the board of elections should recruit additional poll workers. There should be a mandated number based on the actual number of registered voters rather than the estimations of turn out. States should review absentee distribution and how local election boards can distribute them sooner by next day mail, and voting machines should be (unint.) distributed based on the actual registered voters rather than the expected turn out as well. States should increase the number of machines so that as to shorten the long lines they would experience on election day 2004. With that, I'm going to go and take my seat and say there is indeed much more. But I think what's very, very important in this particular forum is that we have the opportunity to have some interaction and leave this meeting indeed with a plan and a commitment to see that the travesties that we experienced in this election much like the travesties we experienced in the 2000 election never ever happen again on the watch of the American people. Thank you very much.

MOD: Hilary, thank you so much for that representation. I want to acknowledge by the way Representative Bobby Scott,

Democrat from Virginia who is here. He's another member of the House Judiciary Committee.

MOD: We are over our allotted time. I do see people in line on both sides. Let me try to take the first two on each side if we can do one more question after that we will certainly try, but I'm committed to the first two on each side, starting with the young lady here in the red jacket.

Q: Thank you to everybody up here on the panel. It's really informative what you've been telling us. My question is in particular in regards to college age students. I was working doing some bipartisan get out the vote work in West Virginia on college campuses and I heard first hand about a lot of voter suppression and about intimidation from... well, I was coming out of one angle, but just people coming on and giving misinformation to students. And I know as a recent graduate myself students don't have a whole lot of time, or don't necessarily take the time to investigate things further, although they could. When they receive information, a lot of times it's not really investigated to understand the root and the source of that information. So, a lot of the... I would say that a major issues seems to be students who are lacking information and therefore whether they're registered to vote. They're not voting

because they're just not feeling divided and sure about which candidate to go with apart from the voter suppression which is a real problem. So, my question is what is the effective, initiative that we can launch nationwide on college campuses to encourage students to get out to vote, but not only to get out to vote but to be informed and go to the polls having the information they need to make an educated decision.

A: One of the things that I would definitely say is regardless of the presidential vote, while we want everyone to vote for president, we strongly encourage our students to vote locally. Like I said, many of these colleges take up half of the city. I went to University of Michigan Anne Arbor. We were the city. There is nothing without us on that campus. So, we felt very strongly. If I ever paid attention to what was going on locally, we technically could have ran that city. We didn't, and many times we were basically taken advantage of with student housing and some things, financial aid, parking tickets. My parking tickets were double on their campus what the local people paid. Maybe if I paid attention in those four years I was there I would have maybe been able to change that. So, a big thing that we've been doing was starting the education

not right before the election, but years. I mean we know when the next elections are going to be, '06 and '08 are right up. We already know it. We need to start today with educating them on local politics and showing them how to make an impact because if someone told me I could made an impact on my parking tickets, believe me I would have figured it out.

Q: Hello. My name is Carol Shelton, hope I get a smile from you. I was a presiding judge at a large inner city precinct in Columbus, Ohio, was about ninety nine percent black. We ad a forty five percent turnout as a result of voter suppression. From my experience, and I've had lots of it, I would have guessed an eighty percent turnout from the way things looked at the beginning of the day and at the very least seventy prevent, which means that we lost approximately four hundred democratic votes for president in one precinct. Now, my question is, and this is a big question. We're talking about 2006. We're talking about 2008, and we're talking about the year 2000. And it seems we did a lot between the year 2000 and 2004, but the election was stolen in 2004 and why. Why are we busy talking about what we'll do later? You know our democracy is down the drain right now.

MOD: Well, Ms. Shelton, I think your comment stands for itself. I'll only make one additional observation, and again this is just a reminder for all of us in the audience. I mean the organizations that are participating in today's hearing by and large are nonpartisan, nonprofit organizations. And I want to distinguish between our concerns about how the system operates for all Americans and our desire for a partisan outcome whatever that partisan outcome might be. I think those of who are here and attempting to focus on the problems of the 2004 election need to be especially careful in trying to show that the problems that we're talking about are systemic and need a systemic remedy and that limiting these problems benefits all Americans regardless of their political persuasion. And I think it really is important to keep in mind the standard that we as nonpartisan, nonprofits attempt to carry out in the work that we do. Next question.

Q: I think it's a wonderful conference. I think we know what we need to do. There are other things that I hope as we go forward on this will be important, the things like Jerry Maundering (ph.), violation of election laws such as the Hatch Act, false campaign advertisement, rig debates, manipulation of voters, false campaign advertising, notion

of winning at all costs, deficient and particularly the efficiencies in ethics and morality of both of the census. And so, my question is really rhetorical is how can work together and go forward from here. I hope this group flows together and we address those problems and how do we work together. How do we teach ourselves this, etc.?

MOD: It's a great question. I'll take a little bit of the moderator's prerogative and then open it up to the other panelists. I think your participation in today's discussion is an important first step. We were really just trying to get information about what transpired. Secondly, you're coming out here today I hope means that you're willing to be a part of a broader network of individuals and organizations, some who were represented here today, some who are around the country couldn't be with us but are watching this on C-span or who will be in contact with organizations who are part of this larger coalition. I think you heard from a number of members of Congress earlier today many who were cosponsors of the help America vote act. It's very clear that there is some fine tuning of that legislation that's needed. It is not clear however, that we can cut through the partisan fog that surrounds many of these issues in order to make progress.

I think assuming we are able to do that we can make progress, but we're going to rely on public groups individuals all over the country to make their voices heard and to demand a system that is accountable and is as high minded as the American people. We don't have that system today. We do need it, and this is the first step in getting there. Thank you.

Q: We continue to tolerate the intolerable. I mean I know that the effort of all the panelists, many of the attendees things would be much worse had you not dedicated what you have to making it better. But it is intolerable for minorities to be waiting in ten hour lines and wealthy whites not to. It's just intolerable. And I don't think it's a partisan position to say that no matter what the margin of victory if an election has systematic barriers to voting that are based on race, socioeconomic status, religion, age, military votes, I mean any identical characteristic. If there are systematic barriers to voting and there is not a remedy, those results must be rejected. And if our legal system, and I don't mean to make a speech, but these are our election laws intended for us to have elections that are free and fair and yield results that reflect our will, and if our election laws fail to provide

this result, we must demand a political solution, and that solution I believe is demanding the objection to electors from any state that cannot independently prove to we the people that their elections were free, fair and accurately reflect the will of their electorate and that's any state. I just want to say one thing. When our group, I'm in New Jersey with New Jersey for democracy and my particular group is Union County for Democracy. And when after the election we were just horrified and when we talked about that we must demand a political solution that the discrimination is absurd, and what we were looking at is the student, the minority and student they did a double whammy in New Brunswick where many of the members of my groups were witnesses. They ran out of provisional ballots for students. Students were turned away. It was just pandemonium, insufficient resources. So, as we talked about we must demand that our representatives object to even our own electors that what was great in the room was a number of people woke up and said you know gee we really have to clean up our act, and that's how you get people behind election reform as a real consequence. And I actually did have a question. The question is has there been an analysis of the allocation of resources because it

seems that it's not just the polling machines. It is poll workers, people maintaining the lists, under allocating maintenance of the list so that there are more errors. I mean I don't know if there's been an analysis and I've wondered that. (Inaud.). Does this go for allocation of resources even before the election?

MOD: It's a great question. To my knowledge there has been no national study. It's a terrific idea. I think it's one of the suggestions we will encourage go forward from this meeting. And I'm going to bring it to a halt here and I know that there are people in line and I apologize. I know that this young lady has been waiting for quite a while to ask a question. We are now about twenty minutes over. And one of our next panelists on the next panel has to return to teach a class and may have to miss giving his presentation. So, I'm really going to try to bring this to an end. I apologize for those who are being short changed in terms of their questions. I hope you will fill out a three by five card. We will try to answer them. And some of our panelists will remain so that you can ask a question again. But please ladies and gentlemen, this has been a terrific panel, and I'd like you to join me in thanking these very great panelists for their time this afternoon.

