Mandate for Reform:

Election Turmoil in St. Louis November 7, 2000

Report by
Secretary of State Matt Blunt

July 24, 2001

OFFICE OF THE SECRETARY OF STATE
STATE OF MISSOURI
JEFFERSON CITY
65101

MATT BLUNT
SECRETARY OF STATE

STATE CAPITOL
ROOM 208
(573) 751-2379

July 24, 2000

Dear Citizens of Missouri:

Fair and accurate elections are the foundation of our democratic form of government. As American citizens, each of us is entitled to a voting system that meets the highest standards of integrity. In November 2000, the nation witnessed one of the closest elections in history. The aftermath of the presidential election is still being felt here and throughout our nation. In Missouri, controversy surrounding the vote in St. Louis thrust our state into the national spotlight, undermined public trust throughout the state, and presented troubling questions about the soundness of Missouri's voting system.

Immediately after the election, I formed a bipartisan commission to recommend comprehensive changes in Missouri's election laws and procedures. The changes recommended to the Legislature included early voting, better training for election judges, modernization of voting equipment, and other administrative changes. The Missouri Senate and House of Representatives did not reach final agreement on legislation to send to the Governor. We must renew in 2002 these efforts to assure that every vote will count.

Equally important to the restoration of public trust are the allegations of wrongdoing concerning the November 7, 2000 election in the City of St. Louis. After a detailed examination by my office, I am today presenting findings on certain issues with recommendations for local and state action. Our principal recommendations include:

First, those who broke state or federal election statutes must be punished. Even under present conditions, there is no reasonable defense for the numbers of fraudulent ballots cast by, or in the names of convicted felons, deceased voters, and others not legally qualified to vote.

Second, the circuit courts in St. Louis City and St. Louis County must conform their decisions to the law when ruling on affidavits presented by individuals seeking to vote under court order. Few of the court-approved affidavits in November met the standards of state law. In this area alone, well over 1,000 improper ballots were cast in the City and County. Moreover, the use of affidavits in the City and County was grossly out of line with other jurisdictions, a fact that compels the conclusion that there was in St. Louis an organized and successful effort to generate improper votes in large numbers.

Third, the courts in the City of St. Louis must apply the established rule of law to the question of when to close the polling places. The law in Missouri is clear and firm: every qualified voter who arrives at the polls by 7 p.m. shall vote, no matter how long it takes, but there is absolutely no provision allowing a judge to extend the hours of voting. Only in St. Louis City was voting extended late into the evening, in clear violation of state law.

Finally, I am recommending that the elections authorities of St. Louis City and St. Louis County act immediately, on a cooperative basis, to remove tens of thousands of inaccurate voter registrations. The huge number of duplicate registrations creates a high and ongoing risk of fraud. It is well past time for the City and County to address this issue.

It is my duty as Missouri's chief elections official to administer all statewide elections. This report, "Mandate for Reform," details massive problems with our election system. We cannot repeat the chaos that erupted in the City of St. Louis on Election Day 2000. My January 29, 2001 report to the people, "Making Every Vote Count," outlines comprehensive reforms to enhance the viability of Missouri's election process. The time to restore the people's trust in the system is now, in advance of the 2002 and 2004 general elections.

Sincerely,

Matt Blunt

Matt Blunt
Secretary of State

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I. INTRODUCTION

The Office of the Secretary of State initiated this investigation because many people made allegations of fraud in the conduct of the November 7, 2000, general election (the "November 7 election") in St. Louis City and County. These allegations, if proven, are not only violations of law but also are serious breaches of the public trust that tear at the very foundation of the principle of free and fair elections.

In a public hearing conducted in St. Louis pursuant to Secretary of State Blunt's bipartisan commission on election law reform (the "Blunt Commission"), several witnesses testified about possible violations of election laws and a coordinated effort to misuse the court system to manipulate the results of the November 7 election. Many of these witnesses called on the Secretary of State to investigate these allegations. Given that the November 7 election involved federal and statewide offices, any election law violations would adversely affect a statewide interest. Secretary of State Blunt concluded that an investigation into these allegations was necessary.

II. GUIDING LEGAL PRINCIPLES

The concept of free and fair elections is sacred to our democratic system of government. "No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined." *Wesberry v. Sanders,* 376 U.S. 1, 17, 84 S.Ct. 526, 535 (1964). Essential to the right to vote is a fair election process. "Preserving the integrity of the electoral process, preventing corruption, and 'sustaining the active, alert responsibility of the individual citizen in a democracy for the wise conduct of government' are interests of the highest importance. Preservation of the individual citizen's confidence in government is equally important." *First National Bank of Boston v. Bellotti,* 435 U.S. 765, 788-89, 98 S.Ct. 1407, 1422 (1978) (citations omitted) (emphasis added). Thus, these United States Supreme Court cases provide that the right to vote means nothing without preserving the integrity of the entire election process. Likewise, "[t]he preservation of the integrity of the electoral process is a legitimate and valid state goal." *State ex rel. McClellan v. Kirkpatrick,* 504 S.W.2d 83, 88 (Mo. banc 1974). Any act that casts doubt on the validity of an election undermines the confidence in government that is essential in our society. Thus, the Missouri election laws establish procedures to conduct full and fair elections, including, specifically, mandating who is entitled to vote and who is not.

No less important to the integrity of the election process than preserving the right to vote is ensuring that legitimate votes are not diluted by votes illegally cast. "The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government. And the

right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise." *Reynolds v. Sims,* 377 U.S. 533, 555, 84 S.Ct. 1362, 1378 (1964) (emphasis added). *See also Bush v. Gore,* __ U.S. __, 121 S.Ct. 525, 530 (2000). "Courts should not hesitate to vigorously enforce the election laws so that every properly registered voter has the opportunity to vote. But equal vigilance is required to ensure that only those entitled to vote are allowed to cast a ballot. Otherwise, the rights of those lawfully entitled to vote are inevitably diluted." *State ex rel. Bush-Cheney 2000, Inc. v. Baker,* 34 S.W.3d 410, 413 (Mo. App. 2000) (emphasis added).

With these fundamental legal principles in mind, set out below is an analysis of the conduct of the November 7 election in St. Louis City and County.

III. THE ALLEGATIONS AND SCOPE OF INVESTIGATION

On January 12, 2001, the Blunt Commission held a public hearing in St. Louis. Secretary of State Blunt stated that the purpose of the hearing was "to let Missourians come before us and talk about problems they've experienced on election day, solutions and suggestions that they may have."[1] Secretary Blunt also announced at the hearing that his office would conduct an investigation into two problem areas of the election: (1) the possible misuse of the judicial process; and (2) lawsuits filed on election day that caused chaos in St. Louis.[2]

Several persons testified on these two problem areas, as well as other problems, at the January 12 hearing. Former State Senator and current U.S. Congressman William L. (Lacy) Clay testified that the November 7 election in St. Louis City "resulted in chaos at polling places all over the city and a near riot at the Board of Election Commissioners."[3] Congressman Clay further stated that failures of the system in St. Louis City "not only caused great inconvenience and confusion for the voters, they threatened the integrity of the electoral process."[4]

U.S. Congressman Todd Akin of St. Louis testified that "some serious attempt needs to be made in the area of prosecution when we do find fraud within the system because the system is really the whole backbone of our system of free government."[5]

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[1] Transcript of January 12, 2001, public hearing of the Blunt Commission (hereinafter "Tr."), at 7, lines 22-25.

[2] Tr. at 8, lines 15-25; at 9, lines 1-9.

[3] Tr. at 10, lines 17-19.

[4] Tr. at 10, line25; at 11, lines 1-2.

[5] Tr. at 28, lines 9-13.

Congressman Akin further testified that one area that needed to be examined was "the misuse of court orders" in allowing persons not registered to vote to in fact cast a ballot.[6] "In fact, I would say there was a serious abuse where we had affidavits which clearly showed that somebody was not a registered voter and the judge said, oh, go ahead and vote anyway, to the degree I've even seen one of those affidavits where the particular voter came in and said, well, I'm not registered because I'm a convicted felon and the judge said go ahead and vote anyway."[7]

Congressman Akin also testified that another potential area for abuse was the large number of duplicate voter registrations in both the City and the County. This could have lead to voters voting more than once.[8] He stated, "The potential for abuse there is significant."[9]

Joyce Guard, Executive Director of the League of Women Voters in St. Louis, also testified. Part of her duties as Executive Director is to oversee a voter hotline.[10] She testified that the hotline received calls about felons voting.[11]

Former St. Louis Congressman and Republican candidate for Governor Jim Talent testified that the problems in St. Louis, unfortunately, are not new. "Year after year in the City of St. Louis there are allegations of fraud and inefficiency."[12] He further

[6]Tr. at 28, lines 15-16.

[7] Tr. at 28,16-23.

[8] Tr. at 29, lines 3-14.

[9] Tr. at 29, lines 14-15.

[10] Tr. at 36, lines 9-12.

[11] Tr. at 43, lines 1-2.

[12] Tr. at 20, lines 12-14.

testified, "I cannot tell you the number of people who have on their own called me up or pulled me aside at meetings since the election and told me that they are discouraged by the possibility that the election system is rigged and they're afraid that their votes don't count."[13]

In sum, pursuant to Secretary of State Blunt's directives and the information obtained from the testimony set out above, the scope of this investigation into the conduct of the November 7 election in St. Louis City and County concerned the following areas:

- Whether there was an organized effort to misuse court orders to allow persons to vote who were not legally entitled to cast ballots in the election;
- Whether felons voted in the election;
- Whether there were any instances of multiple voting by the same individual;
- Whether anyone voted in the name of a person who had died before the election;
- Whether anyone voted from an address that was a vacant lot or other uninhabitable location;
- Whether election judges were actually qualified to serve as election judges;
- Whether "drop sites" were used where fake names were registered to one person; and
- Whether the litigation filed in St. Louis City was a preconceived effort to illegally manipulate the results of the election.

[13] Tr. at 20, lines 22-25; at 21, line 1.

IV. SUMMARY OF REPORT

The Office of the Secretary of State believes that there is substantial and credible information that election laws were violated in the November 7 election. Review of one thousand two hundred sixty-eight (1,268) applications seeking court orders to vote and the corresponding court orders from St. Louis City and County reveal that one thousand two hundred thirty-three (1,233) persons who were not qualified to vote nonetheless obtained court orders to cast ballots. The number of people in St. Louis City and County who sought court orders to vote and the number of court orders issued grossly exceed the number of court orders sought and granted in Kansas City/Jackson County, the other urban/suburban jurisdiction in the state. The number of people voting by court order in the November 7 election is even more striking when compared to the numbers who voted by court order in the March 6, 2001, City of St. Louis mayoral primary, where only nine (9) people voted by court order. Even further evidence of a coordinated effort were allegations that a small bus made several drops of people to the central office on November 7 with alleged election day problems coupled with allegations that the City Board of Election Commissioners' offices were purposely flooded with unqualified voters.

Based on information provided by the United States Attorneys in Missouri, investigation into whether persons convicted of a federal felony voted in the November 7 election revealed that sixty-two (62) persons identified as convicted federal felons voted in the November 7 election. Based on information provided by the St. Louis County Prosecuting Attorney, investigation into whether persons convicted of a felony in St.

Louis County voted in the election revealed that fifty-two (52) persons identified as convicted Missouri felons voted in the election.

Based on information provided by the City and County Boards of Election Commissioners (the "City Board" and "County Board", respectively), it is highly probable that twenty-three (23) people voted more than once in the November 7 election, and it is likely that an additional forty-five (45) persons voted twice.

Based on information provided by the Missouri Department of Health, fourteen (14) persons in St. Louis City and County who were reported as deceased before the November 7 election nevertheless are recorded as having voted in the election.

Based on information provided by the City Board, it appears that seventy-nine (79) voters who were registered from vacant lots in St. Louis City voted in the November 7 election.

The investigation uncovered forty-five (45) election judges in St. Louis City who were not registered to vote as required by law, according to information provided by the City Board.

Investigation of fifty-four (54) locations in St. Louis City and County where more than eight people are registered from the same location revealed that fourteen (14) of these locations, all in the City, are not apartments, nursing homes or any other type of group homes where one would reasonably expect multiple registrants to live. Thus it appears that these fourteen (14) locations may be "drop sites" where fake names are registered to one person.

In an effort to keep the polls open past the closing time mandated by statute, Plaintiffs the Gore-Lieberman Campaign, William L. (Lacy) Clay's Campaign, and the

Missouri State Democratic Committee filed a lawsuit in St. Louis City Circuit Court in which the lead Plaintiff (Robert D. Odom) was dead. The Plaintiffs then stated that the actual lead Plaintiff was Robert M. Odom. The Plaintiffs claimed that Robert M. Odom was not allowed to vote. However, Mr. Odom in fact had voted and had no trouble voting. As a result of the lawsuit and the representations made by the lead Plaintiff and witnesses, the St. Louis City Circuit Court issued an Order keeping the polls open in St. Louis City past the closing time mandated by statute. The information suggests that the lawsuit was not filed as a result of problems that occurred on election day, but instead was filed as a result of a plan conceived before election day. At about the same time that the court issued the Order, St. Louis City residents were receiving pre-recorded telephone messages from Rev. Jesse Jackson telling them they could vote late, and half an hour later Vice President Al Gore was telling KMOX radio listeners that the polls were still open. The purpose of these communications was to encourage persons not eligible to vote because of their failure to get to the polls on time to nonetheless go to the polls and vote.

Further support that the attempt to extend the voting hours was not to address problems that occurred on election day but instead was conceived before election day is that almost the exact same petition was filed in Jackson County. A comparison of the two petitions reveals that long passages in both petitions are word-for-word the same. The use of canned pleadings suggests a strategy to extend the voting hours was developed before election day, and that the lawsuits were not a result of occurrences that happened on election day.

These facts and others set out below should be investigated by the appropriate law enforcement authorities and any violations of law should be prosecuted.

V. RESULTS OF INVESTIGATION

The investigation into conduct of the November 7 election consisted of reviewing primarily documentary evidence.[14] The Secretary of State's investigation was limited to public documents. The Secretary of State has no subpoena power to compel disclosure of non-public documents or to compel persons to testify under oath about these matters. Therefore, one of the purposes of this Report is to make a referral of the information contained herein to the appropriate law enforcement organizations with jurisdiction over these matters and the authority to compel testimony under oath to investigate whether election laws were violated and prosecute the persons who violated any laws.

A. There Is Substantial And Credible Information That The Judicial Process Was Misused To Secure Court Orders To Allow Persons Not Legally Entitled To Vote To Nevertheless Cast Ballots In The Election

The legal analysis begins with the Missouri Constitution, which sets out the qualifications of voters as follows:

> All citizens of the United States, including occupants of soldiers' and sailors' homes, over the age of eighteen who are residents of this state and of the political subdivision in which they offer to vote are entitled to vote at all elections by the people, if the election is one for which registration is required if they are registered within the time prescribed by law….

Mo. Const. Art. VIII, § 2 (1945) (emphasis added). The Missouri Constitution further provides that "Registration of voters may be provided for by law." *Mo. Const. Art. VIII, § 5 (1945).*

[14] Chapter 115, RSMo, does not grant the Secretary of State subpoena power to compel the production of documents. For this Report our review was limited to public documents available under the Missouri Sunshine Law. An Appendix which contains copies of the relevant documents has been prepared concurrently with this Report.

The Missouri Supreme Court has interpreted these constitutional provisions to mean that "unless a person is registered he is not at any time legally entitled to vote." *Scott v. Kirkpatrick,* 513 S.W.2d 442, 444 (Mo. banc 1974). The purpose behind this requirement is so that legal votes will not be diluted by illegal votes. *State ex rel. Bush-Cheney 2000, Inc.,* 34 S.W.3d at 413; *Bush,* 121 S.Ct. at 530.

1. Chapter 115 Limits Who Is Entitled To A Court Order

The Missouri election laws, Chapter 115, RSMo, set out who is qualified to register and vote and who is not:

> 1. Except as provided in subsection 2 of this section, any citizen of the United States who is a resident of the state of Missouri and seventeen years and six months of age or older shall be entitled to register and to vote in any election which is held on or after his eighteenth birthday.
>
> 2. No person who is adjudged incapacitated shall be entitled to register or vote. No person shall be entitled to vote:
>
> (1) While confined under a sentence of imprisonment;
>
> (2) While on probation or parole after conviction of a felony, until finally discharged from such probation or parole; or
>
> (3) After conviction of a felony or misdemeanor connected with the right of suffrage.

§ 115.133, RSMo 2000. The election laws further provide that only those who are registered are legally entitled to vote:

> Except as provided in subsection 2 of section 115.137 and section 115.277, no person shall be permitted to vote in any election unless the person is duly registered in accordance with this chapter.

§ 115.139, RSMo 2000. As a result, Missouri constitutional and statutory law is clear that unregistered voters are prohibited from voting.

It is equally clear that Missouri courts are bound by the election statutes. "Elections are statutory creatures, and as such the courts must act within statutory confines." *State ex rel. Holland v. Moran,* 865 S.W.2d 827, 832 (Mo. App. 1993) (emphasis added). Consequently, courts have no power but to issue orders that comply with the statutory scheme set out in Chapter 115, RSMo.

Chapter 115 provides for five types of orders that a court may issue to allow persons to vote. The first type of order is an order pursuant to Section 115.223 to restore the name of a lawfully registered voter whose name was removed from the voter registration rolls. However, Section 115.223 does not allow an individual who never registered to cast a ballot nor does it grant a court authority to alter the legal qualification of a voter. Section 115.223 provides in full:

> Whenever a voter's name has been removed from the registration records by an election authority, the voter may appeal the removal to the circuit court. Unless prohibited by court rule, the petition may be filed in an associate circuit court division. No formal pleading shall be required, and it shall be sufficient for the voter to present to the court an application verified by affidavit setting forth that his name has been removed from the registration records, the date of such removal, and any other information showing his qualification to vote. The application shall first be presented to the election authority, which shall either restore the voter's name to the registration records or furnish a statement showing the reason the voter's name was removed from the records. The court shall hear and dispose of such application forthwith. Evidence may be introduced for and against the application. If the court sustains the application, the court shall notify the election authority of its action, and the election authority shall restore the applicant's name to the registration records and note that it was restored by order of the court. No person whose name is restored to the registration records by order of the court shall be protected by such order if he is challenged or prosecuted for false registration or false voting. If a voter's name is restored to the registration records by the election authority or by order of the court on election day, the voter shall be permitted to vote in the office of the election authority.

Thus, courts must follow the requirements of Section 115.223 which limits the use of court orders to only those who were properly registered to vote as well as Section 115.139 which provides that "no person shall be permitted to vote in any election unless the person is duly registered."

A duly registered person is one who is registered before the deadline set by law. Section 115.135.1 provides:

> Any person who is qualified to vote, or who shall become qualified to vote on or before the day of election, shall be entitled to register in the jurisdiction within which he or she resides. In order to vote in any election for which registration is required, a person must be registered no later than 5:00 p.m., or the normal closing time of any public building where the registration is being held if such time is later than 5:00 p.m., on the fourth Wednesday prior to the election. In no case shall registration for an election extend beyond 10:00 p.m. on the fourth Wednesday prior to the election. Any person registering after such date shall be eligible to vote in subsequent elections.

For the November 7 election, the fourth Wednesday prior to the election was October 11, 2000. As a result, to vote in the November 7 election, a person had to be registered to vote on or before October 11, 2000. Any person not so registered was not entitled to vote, and no court had authority to so order, except in the very limited circumstances set out below.

A second type of order that Chapter 115 authorizes courts to issue is an order to allow intrastate new residents to vote by absentee ballot. § 115.277.4, RSMo 2000. An "intrastate new resident" is "a registered voter of this state who moves from one election authority's jurisdiction in the state to another election authority's jurisdiction in the state after the last day authorized in this chapter to register to vote in an election and otherwise possesses the qualifications to vote." § 115.275(3), RSMo 2000. Accordingly, to qualify for a court order to vote under Section 115.277.4, a person must be: (1) a valid registered

voter in Missouri (2) who moves from one jurisdiction in Missouri to another jurisdiction in Missouri (3) after the cutoff date for registration. If these requirements are met, a person is eligible for a court order to cast an absentee ballot for presidential electors, vice presidential electors, U.S. Senator, U.S. Representative, statewide elected officials, and statewide questions only. A court is not authorized to issue an order allowing an intrastate new resident to vote at a polling place nor vote for any other offices or ballot issues. Again, only a voter in Missouri who was registered before the cutoff date is entitled to this limited vote in the jurisdiction of his or her new residence.

The third type of order that Chapter 115 authorizes a court to issue is to allow new residents to vote by absentee ballot for president and vice president electors only after such person registers to vote. § 115.277.5, RSMo 2000. A "new resident" is "a person who moves to this state after the last date authorized in this chapter to register to vote in any presidential election." § 115.275(4), RSMo 2000. Thus, to qualify for an order to vote under Section 115.277.5, an individual must move to Missouri from out of state after the cutoff date for registration. Under these circumstances, such a person is entitled to a court order allowing him or her to vote by absentee ballot for president and vice president electors only. Again, a court has no authority to issue an order allowing a new resident to vote at a polling place nor to vote for any other offices or ballot issues.

The fourth type of order that Chapter 115 authorizes a court to issue is an order allowing an interstate former resident to vote by absentee ballot for president and vice president electors only. § 115.277.3, RSMo 2000. An "interstate former resident" is "a former resident and registered voter in this state who moves from Missouri to another state after the deadline to register to vote in any presidential election in the new state and

who otherwise possesses the qualifications to register and vote in such state." § 115.275(2), RSMo 2000. Such a person is entitled to vote in Missouri by absentee ballot for president and vice president only. Again, a court has no authority to issue an order allowing an interstate former resident to vote at a polling place nor to vote for any other offices or ballot issues.

Finally, the fifth type of order is an order allowing certain military and related personnel to vote either by absentee ballot or at their regular polling place. § 115.277.2, RSMo 2000.

Despite these clear statutory requirements, as detailed below it appears that in St. Louis City and County one thousand two hundred thirty-three (1,233) persons not legally qualified to cast ballots nevertheless obtained court orders to vote.

2. Summary Of The Evidence[15]

a. St. Louis City

We reviewed three hundred and fifty-seven (357) applications verified by affidavits (the "Applications") and corresponding court orders from St. Louis City.[16] Analysis of the reasons given on the Applications as to why the applicants believed that they were entitled to court orders to vote shows that three hundred forty-two (342) of those persons likely were not legally entitled to vote and thus were not eligible to obtain

[15] The City Board provided copies of the "Appeal of Ineligibility to Vote Due to Close of Registration" Applications and the corresponding court orders issued by the Circuit Court of the City of St. Louis. St. Louis Attorney Mark (Thor) Hearne, as an addendum to his oral testimony at the January 12, 2001, public hearing conducted by the Blunt Commission, submitted copies of the "Verified Petition for Voting Absentee Ballot" and "Verified Petition for Registration/Reinstatement to Registry" Applications and the corresponding court orders issued by the Circuit Court of St. Louis County. *See,* Letter from Mark (Thor) Hearne, May 7, 2001. The copies of these documents provided by Mr. Hearne were the original copies provided to him by the County Board.

[16] *See,* spreadsheet, *St. Louis City Affidavits Report.*

court orders, while only fifteen (15) persons appeared to have valid reasons for obtaining court orders.[17] The reasons given include:[18]

- "I didn't know."[19]
- "I want a Dem[ocratic] president."[20]
- "I [petitioner's name] was a [illegible] felon. I was released on November of 1999. I didn't know that I had to register again to vote."[21]
- "Never had time."[22]
- "I was under the mistaken impression that I could re-register up to a week before the November election date."[23]
- "Missed deadline."[24]
- "Forgot to register by deadline."[25]
- "I was sick."[26]

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[17] *Id.*

[18] As noted above, for an Application to comply with Section 115.223, it must state a reason why the applicant was removed from the registration rolls, the date of such removal, and any other information showing his or her qualifications to vote. The Applications reviewed each were stamped by the Board, "RULING OF ELECTION BOARD REGISRATION REFUSED DUE TO CLOSE OF REGISTRATION AS PRESCRIBED IN THE ELECTION LAWS OF THE STATE OF MISSOURI SECTION 115.135." which showed that these persons were not registered by the cutoff date in St. Louis City. Almost none of the Applications contained statements showing why the applicants were removed from the rolls. Consequently, on their face the Applications failed to comply with the statutory requirements.

[19] Matter No. 19273, St. Louis City Circuit Court (2000).

[20] Matter No. 19281, St. Louis City Circuit Court (2000).

[21] Matter No. 19434, St. Louis City Circuit Court (2000).

[22] Matter No. 19319, St. Louis City Circuit Court (2000).

[23] Matter No. 19035, St. Louis City Circuit Court (2000).

[24] Matter No. 19383, St. Louis City Circuit Court (2000).

[25] Matter No. 19263, St. Louis City Circuit Court (2000).

[26] Matter No. 19320, St. Louis City Circuit Court (2000).

- "For the democratic party."[27]
- "I had to work."[28]
- "I was out of town working."[29]
- "Putting it off towards the last minute."[30]
- "Missed deadline—never registered before."[31]
- "Could not get a baby sitter."[32]
- "I don't know."[33]
- "I did not know that it was required."[34]
- "Just found out I could vote."[35]
- "Have been working for the NAACP, wasn't getting off in time."[36]
- "I didn't know I have just been caught up in school."[37]
- "I was not informed of registering when you change address. I just was informed today."[38]

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[27] Matter No. 19117, St. Louis City Circuit Court (2000).

[28] Matter No. 19254, St. Louis City Circuit Court (2000).

[29] Matter No. 19078, St. Louis City Circuit Court (2000).

[30] Matter No. 19291, St. Louis City Circuit Court (2000).

[31] Matter No. 19532, St. Louis City Circuit Court (2000).

[32] Matter No. 19289, St. Louis City Circuit Court (2000).

[33] Matter No. 19446, St. Louis City Circuit Court (2000).

[34] Matter No. 19354, St. Louis City Circuit Court (2000).

[35] Matter No. 19337, St. Louis City Circuit Court (2000).

[36] Matter No. 19134, St. Louis City Circuit Court (2000).

[37] Matter No. 19390, St. Louis City Circuit Court (2000).

[38] Matter No. 19080, St. Louis City Circuit Court (2000).

- "Missed registration deadline of 10/11/00."[39]
- "Didn't know of the deadline."[40]
- "Obtained new employment, and could not get coverage for time needed to register."[41]
- "I was unaware of the Oct. 11 cutoff for registration."[42]
- "Didn't realize deadline passed."[43]
- "Forgot to."[44]
- "Failed to register."[45]
- "Just moved, no time to register."[46]

The Applications, of which the above cited examples are only the most egregious, contain affirmative statements showing that the persons were not qualified to cast a ballot in the November 7 election. Many applicants admitted that they never registered before election day. The stated reasons show that the vast majority of applicants were not entitled to court orders to vote.

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[39] Matter No. 19426, St. Louis City Circuit Court (2000).

[40] Matter No. 19294, St. Louis City Circuit Court (2000).

[41] Matter No. 19138, St. Louis City Circuit Court (2000).

[42] Matter No. 19355, St. Louis City Circuit Court (2000).

[43] Matter No. 19255, St. Louis City Circuit Court (2000).

[44] Matter No. 19334, St. Louis City Circuit Court (2000).

[45] Matter No. 19278, St. Louis City Circuit Court (2000).

[46] Matter No. 19280, St. Louis City Circuit Court (2000).

b. St. Louis County

We reviewed nine hundred eleven (911) Applications and corresponding court orders from St. Louis County.[47] Analysis of the reasons given on the Applications as to why the applicants believed that they were entitled to court orders to vote shows that eight hundred ninety-one (891) of those persons likely were not legally entitled to vote and thus were not eligible to obtain court orders, while only twenty (20) persons appeared to have valid reasons to obtain court orders.[48]

The reasons given include:[49]

- "[Applicant] has just registered for the first time. She wants to vote in this election."[50]
- "[Applicant] was not aware of the Oct. 11, 2000 cut-off date. She wants to vote in the November 7, 2000 election."[51]
- "[Applicant] was unaware of Missouri Law concerning registration."[52]
- "Registered on Oct. 12 2000."[53]

As with the Applications in St. Louis City, the Applications from St. Louis County contain affirmative statements showing that the persons were not qualified to cast

[47] *See,* spreadsheet, *St. Louis County Affidavit Report.*

[48] *Id.*

[49] The County Applications failed to comply with Section 115.223 in several respects. The Applications did not state that the applicant had been removed from the rolls nor did they state any dates of removal. Furthermore, many of the Applications contained information showing that the voter was not qualified to vote. As such, they should have been dismissed for failure to comply with the statute.

[50] Matter No. 0367945, St. Louis County Board of Election Commissioners (2000).

[51] Matter No. 0363885, St. Louis County Board of Election Commissioners (2000).

[52] Matter No. 0439078, St. Louis County Board of Election Commissioners (2000)

[53] Matter No. 0442588, St. Louis County Board of Election Commissioners (2000).

a ballot in the November 7 election. The most common reason given in the County Applications was that the applicant was unaware of the registration cut-off date, but that the applicant wanted to vote anyway. Many others simply admitted that they failed to register. The stated reasons show that the vast majority of applicants were not entitled to court orders to vote.

3. The Information Suggests An Organized Effort To Misuse Court Orders

Combining the numbers from St. Louis City and County set out in 2. a. and b. above, it appears that a total of one thousand two hundred thirty-three (1,233) people were not qualified to vote by court order in the November 7 election. As noted below, the large number of court orders sought and obtained in St. Louis City and County for the November 7 election are unprecedented.[54]

Given the large number of court orders, the issue is whether there is evidence suggesting an organized effort to misuse the court system to manipulate the results of the election. Information exists which suggests such an effort. Prior to leaving office, former Secretary of State Bekki Cook conducted an investigation into the conduct of the November 7 election. In her "Analysis and General Recommendations Report" dated January 4, 2001 (hereinafter the "Cook Report") issued as a result of her investigation, former Secretary of State Cook reported that "a small bus made several drops of people

[54] This Report does not address the St. Louis City and St. Louis County Circuit Courts' roles in issuing the court orders to ineligible applicants because the Secretary of State has no authority to investigate the conduct of the judiciary. However, the sheer number of court orders issued to ineligible applicants raises questions that should be addressed by the appropriate authorities.

to the central office with alleged election day problems."[55] If there were bus drops being made, it is self-evident that someone had to coordinate and organize the transportation and bus drops at the City Board's central office.[56]

Furthermore, the sheer number of court orders issued in St. Louis City and County is staggering when compared to similar jurisdictions in the state. As set out above, in St. Louis City and County, over twelve hundred court orders were issued. Conversely, in Kansas City and Jackson County, the state's other large urban/suburban area, [57] less than fifty court orders were issued. In Kansas City, between thirty and forty court orders were issued.[58] In Jackson County only six or seven court orders were issued.[59] Therefore, in St. Louis City and County the number of court orders issued was over ten times greater than in Kansas City and Jackson County. The number of persons in St. Louis City and County that appeared to have valid reasons for court orders (fifteen and twenty, respectively) are more in line in comparison to the number of court orders issued in Kansas City and Jackson County (thirty to forty and six to seven, respectively). The incredibly disproportionate number of persons seeking and obtaining court orders in

[55] The Cook Report at 7. Former Secretary of State Cook did not elaborate or provide a citation for the source of this information. The Cook Report was mostly limited to addressing procedural and administrative matters. Former Secretary of State Cook declined to make a complete review of the court orders, but did find that "some of the individuals who sought and obtained judicial authorization to vote may not have been timely registered in the City." The Cook Report at 7 n. 6.

[56] A December 5, 2000, St. Louis Post-Dispatch article reported that a City Republican official accused Democrats "of flooding the city board's offices with unqualified applicants." Mark Schlinkmann, *GOP Questions Voting of Late Registrants in City,* St. Louis Post-Dispatch, December 5, 2000. Observers admitted that the atmosphere in the office on election day was "bedlam." *Id.*

[57] According to 2000 census figures, the population in St. Louis City is 348,189, and St. Louis County, 1,016,315. The population of Kansas City is 441,545, and Jackson County, 654,880. Missouri Census Data, http://mosl.sos.state.mo.us/lib-ser/libref/census/mocensus.html.

[58] The Cook Report at 13.

[59] The Cook Report at 13.

St. Louis City and County, considered with the other evidence outlined above, suggests an organized effort may have been made in St. Louis City and County to misuse the court system.

Even further evidence of a coordinated effort in the November 7 election is the utter absence of Applications and court orders in the March 6, 2001, St. Louis City mayoral primary. In the November 7 election, the race that generated the most votes was the presidential race. A total of 124,752 persons cast ballots in St. Louis City[60] with three hundred fifty-seven (357) persons obtaining court orders to vote. By contrast, in the March 6 mayoral primary, 87,135 persons cast ballots in the mayoral race[61] with nine (9) persons obtaining court orders to vote.[62] Thus, the ratios of votes cast by court order to total votes cast in the November 7 election was 1 to 349, and in the mayoral primary 1 to 9,682. Quite frankly, the difference speaks for itself. The grossly disproportionate number of persons who obtained court orders to vote in the November 7 election as opposed to the mayoral primary suggests that a scheme was in place in the November 7 election to use court orders to allow persons to illegally cast ballots.

[60] Official Election Returns, State of Missouri General Election, November 7, 2000, as announced by the Board of State Canvassers on December 4, 2000, http://sosweb.sos.state.mo.us/enrweb/countyresults.asp?eid=14&cids=1584&arc=1&cboCounties=1584&submit1.x=77&submit1.y=15.

[61] Mark Schlinkmann, *Slay Grabs Win in Mayoral Primary Mayor Harmon Manages Only 5 Percent; Bosley Takes 41 Percent,* St. Louis Post-Dispatch, March 7, 2001.

[62] Matter Nos. 19551, 19552, 19553, 19554, 19555, 19556, 19557, 19558, and 19559, St. Louis City Circuit Court (2001).

B. There Is Substantial And Credible Information That Felons Illegally Voted In St. Louis City and County In The November 7 Election

1. Federal Felons

Section 115.133 prohibits from voting felons who have not been discharged from their sentences. The National Voter Registration Act (NVRA) requires the United States Attorneys in Missouri to notify the Secretary of State of all convictions of Missouri Citizens for a federal felony offense. 42 USC § 1973gg-6(g). The information that the U.S. Attorney must provide includes the name, residence address, the description of the offense, and the sentence. *Id.*

The Secretary of State's Office maintains the records for people convicted of felonies in Missouri's Eastern and Western District Federal Courts as reported by the U.S. Attorneys. A comparison of the names, dates of birth and social security numbers of individuals appearing on the lists with the voting histories of St. Louis City and County for the November 7 election confirms that sixty-two (62) convicted federal felons voted.[63]

2. Missouri Felons

Likewise, Section 115.195.2 requires that each election authority obtain at least once each month from the circuit court clerk the name and address, if known, of each person over eighteen years of age in its jurisdiction who has been convicted of a felony, or a misdemeanor connected with the right of suffrage.

[63] *See,* Federal Felons who voted in St. Louis City and County. The information that the U.S. Attorneys are required to provide does not include the time when the felon has been finally discharged from probation or parole from the felony conviction. Section 115.133 provides that only those felons who are confined, on probation, or on parole are not eligible to vote. Thus, a felon who has been finally discharged from his sentence can re-register and vote. Further investigation by law enforcement authorities with access to the sentencing information is necessary to determine whether any election laws were violated. The purpose of this Report is to point out the possible violations.

At the request of our investigators, the St. Louis County Prosecuting Attorney provided a list of convicted felons from St. Louis County. A comparison of the names and dates of birth[64] of individuals appearing on the list with the voting history of St. Louis County in the November 7 election revealed that fifty-two (52) convicted Missouri felons voted.[65]

C. There Is Substantial And Credible Information That Persons In St. Louis City And County Voted More Than Once In The November 7 Election

Section 115.631(2) makes it a felony to vote more than once at any election knowing that the person is not entitled to vote or that the person has already voted on the same day at another location inside or outside the state of Missouri.

Our investigators reviewed the City and County Boards' computer databases containing the voting histories of those who voted in the November 7 election and ten surrounding counties contained in the CVRDB to determine whether any registrants voted twice in the November 7 election.[66] In addition to names, our investigation also

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[64] The list provided by the St. Louis County Prosecuting Attorney did not include social security numbers, nor does the law require the St. Louis Prosecuting Attorney to include social security numbers.

[65] *See,* Missouri Felons who voted in St. Louis County. On several occasions, our office has requested from the St. Louis City Circuit Attorney a list of felons convicted in St. Louis City Circuit Court. *See,* Letters to Jennifer M. Joyce dated May 9, 2001, and June 14, 2001. After the May 9, 2001, request, the Circuit Attorney responded by letter dated June 11, 2001, indicating that no persons had been convicted of election-related offenses. *See,* Letter from Jennifer M. Joyce dated June 11, 2001. As a result, our office sent the June 14, 2001, letter to clarify that our original request was for all felonies, not just election-related felonies, and also to renew our request for the felony information. In addition, our investigators made three requests in person and at least three requests over the telephone. As of the date of this Report, we have not received the information. Thus we have been unable to investigate whether such felons voted in St. Louis City.

[66] The City Board and County Board made their registration and voting history databases available to Secretary of State investigators to review whether persons registered in the City and the County voted twice in the November 7 election.

compared dates of birth and social security numbers when available.[67] Our investigation revealed twenty-three (23) voters whose names, dates of birth, and social security numbers matched, making it highly probable that they voted twice in the November 7 election.[68] Furthermore, we identified forty-five (45) voters whose names and dates of birth matched, which makes it likely that they voted twice in the election.[69]

D. There is Substantial And Credible Information That Persons In St. Louis City Voted Using The Names Of Deceased Persons

Section 115.631(3) makes it a felony to apply for a ballot in the name of any other person, whether the name be that of a person living or dead or of a fictitious person, or applying for a ballot in his own or any other name after having once voted at the election inside or outside the state of Missouri.

Our investigators obtained from the Missouri Department of Health (MDOH) a list of deceased persons who died in St. Louis City and County from 1990-2000. [70] Comparison of the voter history in St. Louis City and County with the names, dates of birth, and social security numbers of deceased persons on the list indicates that fourteen (14) people voted under the names of deceased persons.

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[67] Federal law has required election authorities to include social security numbers as part of a voter registrant's personal information only since 1999. Thus, many registrants who registered prior to 1999 do not have social security numbers included in their personal information in the registration databases.

[68] *See,* list of Duplicate Voters.

[69] *See,* list of Duplicate Voters.

[70] The Secretary of State requested from the Missouri Department of Health (MDOH) a list of the names, dates of birth and social security numbers of persons in St. Louis City and County who died from 1990-2000. The MDOH would not release the information without assurances that the information would be kept confidential. *See,* undated letter from Garland Land, Director, Center for Health Information and Management & Evaluation, faxed to the Secretary of State on May 10, 2001. Thus the information from the MDOH is not included in the Appendix.

E. There Is Substantial And Credible Information That Seventy-Nine People Who Were Verified Vacant Lot Registrants Voted in the November 7 Election

Section 115.135.1 provides that any person qualified to vote shall be entitled to register in the jurisdiction within which he or she resides. "Residence" for purposes of voter qualifications generally means "an actual residence, coupled with the intention to remain there permanently or for an indefinite time." *Marre v. Reed,* 775 S.W.2d 951, 955 (Mo. banc 1989). While it may be possible that a homeless person living in the City could legally list a vacant lot as his or her address and be entitled to vote, it is also possible that someone could list a vacant lot as an address in a plan to commit voter fraud.

The St. Louis City Board of Election Commissioners provided a report titled "City of St. Louis – Board of Elections Verified Vacant Lot Registrant – Election History" dated March 2, 2001. This report lists the following information: (1) the addresses of lots verified to be vacant by the Board; (2) the names of persons registered to vote at these addresses; and (3) the voting history of such registrants. From the report, our investigation identified seventy-nine (79) people who were registered to vote from vacant lots and who voted in the November 7 election.[71]

F. There Is Substantial And Credible Information That Forty-Five Election Judges From The November 7 Election Were Not Registered Voters

Section 115.085, RSMo 2000, provides that no person shall be appointed as an election judge who is not a registered voter in the jurisdiction of the election authority for which he or she is appointed. Nevertheless, a review of lists of election judges (names, dates of birth and/or social security numbers) from St. Louis City provided by the City

[71] *See City of St. Louis – Board of Elections Verified Vacant Lot Registrant – Election History,* St. Louis City Board of Election Commissioners.

Board for the November 7 election revealed that forty-five (45) election judges were not registered voters in the City.[72]

The concern is that if an election judge serves knowing that he or she is not registered to vote and thus is not qualified to serve, that judge may have less-than-pure motives. An election judge is in a position to manipulate the results of the vote count. Thus, it is important that the law enforcement agencies investigate each of these forty-five (45) persons to determine whether any voting irregularities can be traced to them.

G. There is Substantial And Credible Information That Drop Sites Were Used In The November 7 Election

One of the historical vote fraud schemes used in St. Louis City has been the use of "drop sites" where fake names are registered to one person. This one person then can vote multiple times under the fake names. For example, one of the more infamous drop site voter fraud schemes in St. Louis City occurred in 1948. Twelve persons were registered to vote in the August primary from a "ramshackle frame building at 2431 North Spring avenue, which houses the headquarters of the Fourth Ward Regular Democratic Organization".[73] Furthermore, "10 persons are registered from the four-room flat of Democratic Alderman Walter W. Ziegenbaig at 3650 Garfield avenue in the Fourth Ward."[74] A similar scheme occurred in 1956. "Nine persons are registered to vote from

[72] *See,* list of Election Judges not registered to vote. We also requested this information from the County Board, but it only released the names, not any other identifying information, such as a date of birth or social security number. Thus, we were unable to make an exact match.

[73] *12 Registered to Vote From Building Housing Democratic Club,* St. Louis Post-Dispatch, August 3, 1948.

[74] *Id.*

the home of State Representative Jennie S. Walsh, 4374 Laclede avenue, but of the nine only three, besides Mrs. Walsh and her husband, Michael, actually live there[.]"[75]

Using the CVRDB, we identified approximately two hundred fifty (250) addresses in the City and County that are not identified as apartments and where eight or more persons are registered to vote. Our investigators then conducted a random survey of fifty-four (54) of those locations, twenty-seven (27) each in the City and County, by personally visiting those addresses. Our random sampling of the fifty-four (54) locations determined that fourteen (14) of those addresses, all in St. Louis City, appeared to be one family dwellings and not apartments, nursing homes or group homes.[76] Thus, it is possible that these fourteen (14) addresses might have been used as drop sites due to the high number of registrations attributed to those addresses. Local law enforcement should investigate.

H. There Is Substantial And Credible Information That The Judicial Process Was Misused In Attempts To Extend TheVoting Hours Past The Closing Time Mandated By Statute

Another potential misuse of the judicial process in an effort to manipulate the results of the election was a lawsuit to extend the voting hours in St. Louis City past the closing time mandated by statute.

Section 115.407 requires the polls to be closed at 7:00 p.m. However, the statute also provides that anyone standing in line at 7:00 p.m. shall be permitted to vote. As the Court of Appeals would later note:

> [P]ursuant to the second sentence of the statute, anyone in line when the polls close must be permitted to vote. Although the lines may be long and

[75] *9 On Voter List At Mrs. Walsh's Home; Only 5 Live There, She Says,* St. Louis Post-Dispatch, August 23, 1956.

[76] *See,* Drop Site Investigation Reports.

> the number of working machines less than desirable, anyone in line at seven o'clock will eventually be permitted to vote no matter how late the hour and their vote will count. If any voters in line at seven o'clock are unwilling or unable to stay and vote, their inconvenience will not be lessened by extending the hours in which new voters can join the line. Extending the hours of voting simply permits voting by persons not entitled to vote due to their failure to come to the polls on time.

State ex rel. Bush-Cheney 2000, Inc., 34 S.W.3d at 412 (footnotes omitted).

A brief overview of the events that occurred late on election day is necessary. At approximately 3:20 p.m. on election day, the Gore-Lieberman Campaign, William L. (Lacy) Clay's Campaign Committee and the Missouri State Democratic Party filed a petition in St. Louis City Circuit Court.[77] The petition, entitled "Petition For Emergency Order to Extend Voting Hours" asked the court to keep the polls open in St. Louis City until 10:00 p.m., three hours past the 7:00 p.m. closing time required by statute. At approximately 6:30 p.m., the court issued its Order that the polls remain open until 10:00 p.m. and the Board's central office be held open until 11:59 p.m. An emergency appeal was taken to the Court of Appeals, and at approximately 7:45 p.m., that court issued a Preemptory Writ of Prohibition quashing the Circuit Court's Order. The Court of Appeals followed with a full opinion on the case issued on December 6, 2000. The end result is that the polls remained open at least forty-five minutes past the closing time set by statute.

The lawsuit appears to have been filed not as a result of any problems that occurred on election day, but instead was the result of a preconceived plan devised before election day. On Monday, November 6, the day before the election, at a Gore-Lieberman Campaign rally in America's Center in St. Louis City, Congressman Clay spoke to the

[77] *Robert D. Odom, et al. v. Board of Election Commissioners of the City of St. Louis, Missouri,* St. Louis City Circuit Court, Case No. 004-2379.

crowd spoke to the crowd about keeping the polls open beyond the legal closing time. The St. Louis Post-Dispatch reported these remarks by Congressman Clay: "If it requires leaving the polls open a little longer, we're going to get a court order to do it."[78]

Further evidence that there was a preconceived plan before election day were the numerous similarities between the lawsuit in St. Louis City and one filed the same day in Kansas City.[79] The same language used in both petitions suggests that these lawsuits were coordinated and planned before election day. The Gore-Lieberman Campaign was also a plaintiff in the Kansas City lawsuit. The press reported that the Kansas City petition "relies on the same law and includes language similar to the petition filed in St. Louis."[80]

A comparison of the two petitions reveals not only similar language, but also long passages that are word-for-word exactly the same. This comparison makes it apparent that the two petitions were not created to address specific problems on election day and were not crafted to address unique concerns in one jurisdiction. The advance preparation of canned pleadings suggests a plan was developed before election day.

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[78] Mark Schlinkmann and Jo Mannies, *Lacy Clay Fears City Election Board May Try To Block Some Eligible Voters At Polls Today,* St. Louis Post-Dispatch, November 7, 2000.

[79] *Bergman and Gore and Lieberman 2000 Committee, Inc. v. Kansas City Board of Election Commissioners,* Jackson County Circuit Court, Case No. 00-CV-227036.

[80] Dierdre Shesgreen, *Senate Panel Focuses on City Election Woes,* St. Louis Post-Dispatch, May 4, 2001, at 5.

Following is a paragraph-by-paragraph comparison of the two petitions:

ST. LOUIS CITY	**KANSAS CITY**
Title: "Petition For Emergency Order to Extend Voting Hours"	Title: "Petition For Emergency Order to Extend Voting Hours"
¶ 5. "Robert D. Odom has not been able to vote and fears he will not be able to vote because of the long lines at the polling places/machine breakdowns in St. Louis, Missouri, that have lasted for several hours."	¶ 4. "Ms. Bergman has not been able to vote and fears he/she will not be able to vote because of the long lines at the polling places/machine breakdowns in Kansas City, Missouri, that have lasted for approximately 1 hour and 20 minutes."
¶ 7. "Missouri law, Mo. Rev. Stat., Section 115.411.(sic) requires Defendant to provide sufficient number of voting booths to allow all voters to vote: 'For each polling place in its jurisdiction, the election authority shall provide a sufficient number of voting booths, equipped and supplied so voters can vote conveniently and in secret.'"	¶ 5. "Missouri law, Mo. Rev. Stat., Section 115.411.(sic) requires Defendant to provide sufficient number of voting booths to allow all voters to vote: 'For each polling place in its jurisdiction, the election authority shall provide a sufficient number of voting booths, equipped and supplied so voters can vote conveniently and in secret.'"
¶ 11. Plaintiffs want to assure that all properly registered voters have the opportunity to vote.	¶ 7. Plaintiffs want to assure that all properly registered voters have the opportunity to vote.
¶ 12. Plaintiffs, on information and belief, allege that because of the large number of people desiring to vote in the election being held on November 7, 2000 and the inadequate number of polling facilities that are open and available during the scheduled voting hours, many otherwise eligible voters will de facto be denied their right to vote, contrary to both the United States Constitution and the Constitution of this State.	¶ 8. Plaintiffs, on information and belief, allege that because of the large number of people desiring to vote in the election being held on November 7, 2000 and the inadequate number of polling facilities that are open and available during the scheduled voting hours, many otherwise eligible voters will de facto be denied their right to vote, contrary to both the United States Constitution and the Constitution of this State.
¶ 13. Immediate action is needed because the polls are scheduled to close at 7 p.m. this day and there is no practical remedy after that time.	¶ 9. Immediate action is needed because the polls are scheduled to close at 7 p.m. Central Time this day and there is no practical remedy after that time.

¶ 14. Because of this emergency, notice of the intent to file this Petition has been served by telephone on the defendant in this matter, who has accepted telephonic service.	¶ 10. Because of this emergency, notice of the intent to file this Petition has been served by telephone on the defendant in this matter, who has accepted telephonic service.

It is interesting to note that in addition to using the same exact language and phrases, both petitions rely on the same law and even block quote the same portion of the same statute. Paragraph 4 of the Kansas City petition is particularly revealing because although the lead Plaintiff was a woman, that paragraph refers to her as "he/she." It apparent that the language of the petition was drawn up as a form before any Plaintiff had been identified and the person who prepared the Kansas City petition forgot to delete the "he/" from the form pleading.

Further credible information suggests that the venues targeted for these lawsuits are significant. Both St. Louis and Kansas City are urban areas with large concentrations of people. The heavy concentration of persons in urban areas make coordinated transportation, like the reported bus trips, effective in delivering large numbers of voters to the polls in a short time.

Still further evidence of an effort to misuse the court system is the conduct of the Plaintiffs and their counsel in the St. Louis City lawsuit. The St. Louis Post-Dispatch reported the following:

> Around 3 p.m. Democrats filed suit to keep the polls open late. Attorney Douglas Dowd represented Robert D. Odom, who claimed not to have been able to vote. It turns out Robert D. Odom died in 1999. Mr. Dowd has said since that the actual plaintiff was Robert M. Odom, a Clay campaign aide. But the real Mr. Odom had not had trouble voting, even though Mr. Dowd said in court that he was ready to testify in support of the suit.

> About the time that Circuit Judge Evelyn Baker issued the order keeping the polls open – an order at odds with state law – city residents were receiving pre-recorded telephone messages from the Rev. Jesse Jackson telling them they could vote late. Half an hour later, Vice President Al Gore was telling KMOX listeners that the polls were still open.[81]

Given these circumstances, it is apparent that the Plaintiffs' purpose in seeking a court order to extend the voting hours was to recruit voters who were not already in line at 7:00 p.m. as required by the statute. As set out above, City residents began receiving at their homes the pre-recorded telephone messages from Rev. Jesse Jackson at about the same time the court issued its Order to keep the polls open. Moreover, at about the time that the polls should have been closing, Vice President Al Gore was telling KMOX listeners that the polls were still open. These messages were not directed at persons already standing in line to vote at 7:00 p.m. The only purpose of Rev. Jackson's and Vice President Gore's communications was to encourage voting by persons not entitled to vote due to their failure to come to the polls on time. *State ex rel. Bush-Cheney 2000, Inc.,* 34 S.W.3d at 412.

The timing of Rev. Jackson's pre-recorded telephone message also is curious. Such a message would take some time to record and distribute for use in a phone bank. It is unlikely that it could have been prepared and readied for use on a moment's notice. It is more likely that it was recorded well in advance as part of a preconceived plan.

The information identified above suggest that the *Odom* lawsuit was not filed as the result of events on election day, but was instead a preconceived effort planned before election day to misuse the judicial process to manipulate the results of the election.

[81] Editorial, *Fraud or Disenfranchisement?* St. Louis Post-Dispatch, February 12, 2001.

The Jackson County Circuit Court summarily dismissed the petition there, and the voting hours were not extended in Kansas City. Conversely, the St. Louis City Circuit Court held a hearing and issued an Order. The polls in St. Louis City remained open approximately forty-five minutes after the normal closing time, until the decision in *State ex rel. Bush-Cheney 2000, Inc.* ordered the polls closed. The *State ex rel. Bush-Cheney 2000, Inc.* court recognized that it would probably never be known whether the extra forty-five minutes affected the outcome of the election: "It is impossible to know how many voters were improperly permitted to cast a ballot after the polls should legally have been closed." *State ex rel. Bush-Cheney 2000, Inc.,* 34 S.W.3d at 413.

VI. POSSIBLE VIOLATIONS OF LAW

On the basis of the information reviewed in our investigation, this Report identifies the following irregular, if not illegal, actions in the conduct of the November 7 election in St. Louis City and County:

- In St. Louis City, 342 persons obtained court orders to vote even though it appears that they were not qualified to vote;
- In St. Louis County, 891 persons obtained court orders to vote even though it appears that they were not qualified to vote;
- In St. Louis City, there may have been a coordinated effort to recruit and transport to the Election Board's office persons not legally entitled to vote for the purpose of obtaining court orders to vote;
- In St. Louis City, there may have been an effort to flood the Election Board's office with unqualified voters with the intent to create bedlam so that election fraud could be perpetuated;
- In St. Louis City and County, 62 federal felons cast ballots in the November 7 election;
- In St. Louis County, 52 persons convicted of a felony in the County cast ballots in the November 7 election;
- In St. Louis City and County, it is highly probable that 23 persons voted more than once in the November 7 election, and likely that an additional 45 persons voted twice in the election;
- In St. Louis City, 14 deceased persons are recorded as having cast ballots in the November 7 election;

- In St. Louis City, 79 people registered to vote from vacant lots cast ballots in the November 7 election;
- In St. Louis City, 45 election judges were not registered to vote and thus were not qualified to serve as election judges in the November 7 election;
- In St. Louis City, 14 locations may have been "drop sites" where fake names registered to one person may have been used; and
- In St. Louis City, a lawsuit was filed not as a result of events on election day, but instead was a preconceived plan devised before the election for the purpose of allowing those not legally entitled to vote to cast ballots anyway.

The actions set out above, if proven, are violations of both federal and state law. The possible violations of federal law include 18 U.S.C. §241 (conspiracy to deprive voters of their right to the free exercise of their rights); 42 U.S.C. § 1973i(c) (knowingly or willfully giving false information in registering or voting); 18 U.S.C. § 371 (conspiracy to commit an offense against the United States or defraud the United States). Possible violations of state law include Section 115.631(1) (willfully and falsely making an affidavit or statement); Section 115.631(3) (procuring any person to vote knowing the person is not lawfully entitled to vote or knowingly procuring an illegal vote to be cast at any election); Section 115.631(5) (aiding, abetting or advising another person to vote knowing the person is not legally entitled to vote or knowingly aiding, abetting or advising another person to cast an illegal vote); Section 115.631(2) (voting more than once at any election knowing that the person is not entitled to vote or that the person has already voted on the same day at another location inside or outside the state of Missouri); and Section 115.631(3) (applying for a ballot in the name of any other person, whether

the name be that of a person living or dead or of a fictitious person, or applying for a ballot in his own or any other name after having once voted at the election inside or outside the state of Missouri). It is vital that possible violations of the laws be vigorously investigated and lawbreakers prosecuted to the full extent of the law.

VII. HISTORY OF VOTE FRAUD IN ST. LOUIS

By way of background, set out below are numerous examples of election irregularities in St. Louis spanning at least the last half-century, of which the turmoil in the November 7 election is only the most recent. Many of these incidents led to grand jury investigations and convictions. This pattern of fraud and corruption has contributed to the cynicism that elections in St. Louis are rigged as expressed by witnesses in the January 12, 2001, Blunt Commission hearing. The following is a list of newspaper articles in St. Louis newspapers from 1946 to 1996 reporting on irregularities and vote fraud schemes:

DATE	NEWSPAPER	ARTICLE
7/26/46	Post-Dispatch	Fraud Evidence Found in Check of Registration in Fifth Ward
7/27/46	Post-Dispatch	Election Board Calls 38 Clerks in Investigation of Voting Lists
10/30/46	Post-Dispatch	Canvassers Fired By Board of Election
10/31/46	Globe-Democrat	Six Canvassers of Election Board Fired For Neglect
11/8/46	Globe-Democrat	Admits Voting for Democrats Twice Tuesday
7/28/48	Post-Dispatch	Recheck Shows 1255 Unfound at Voting Address
7/29/48	Star Times	Four Dead Found On Voting Rolls in Sixth Ward
7/30/48	Globe-Democrat	Hunt 50 Ineligible Voters in 6th Ward
7/31/48	Globe-Democrat	Recanvass Fails to Find 132 on Sixth Ward List
8/2/48	Globe-Democrat	Check Indicates 19 Ghost Voters at Claridge Hotel
8/3/48	Post-Dispatch	Inquiry Ordered On Registration From 2 Buildings
8/3/48	Post-Dispatch	12 Registered To Vote From Building Housing Democratic Club
10/20/48	Post-Dispatch	Voters' Lists in 21 Precincts Being Rechecked
10/26/48	Star Times	2 Election Clerks Fired by Board
3/5/49	Post-Dispatch	2 Vote Canvassers Fired For Negligence
10/20/51	Globe-Democrat	Two Election Clerks Named in Frauds
4/15/52	Post-Dispatch	Candidate Given Zero in Precinct to File Contest, Assails "Frauds"
7/18/52	Globe-Democrat	Douglas Warns Against Ghost Voters in Poll List
7/25/52	Post-Dispatch	Check-Up Shows Many Errors in Three Precincts of Eighth Ward
6/20/53	Globe-Democrat	303 Taken Off Election Rolls in 14 Precincts
7/20/54	Post-Dispatch	Lists of Voters Being Rechecked in Five Wards
7/29/54	Post-Dispatch	8 Vote Clerks Dismissed Over Loose Canvass

8/17/54	Globe-Democrat	Lopsided Vote Counts Also Exposed in Two 4th Ward Precincts
8/20/54	Globe-Democrat	Carelessness Charged in Directing Primary
9/1/54	Post-Dispatch	Votes Not Counted, Candidate Charges
9/1/54	Globe-Democrat	Election Board Hears Charges of New Vote Fraud
9/12/54	Globe-Democrat	Vote Scandals Get Top Priority In Grand Jury
9/12/54	Post-Dispatch	Grand Jury Will Study Evidence of Vote Fraud
9/15/54	Post-Dispatch	Election Board Fires Six More Poll Officials in August Primary
9/22/54	Post-Dispatch	Vote Recount by Grand Jury To Be Continued
9/24/54	Globe-Democrat	Subpoenas for 8 Absentee Voter Affidavits Issued
9/29/54	Post-Dispatch	Grand Jury Hears Election Officials
10/27/54	Post-Dispatch	Election Board Checks Canvass, Fires 2 Clerks
10/27/54	Globe-Democrat	Election Board Fires 2 Clerks for Carelessness
11/8/54	Globe-Democrat	Grand Jury Here Due to Report on Election Frauds
3/3/55	Globe-Democrat	Spot Checks Disagree With Voter Canvass
3/3/55	Post-Dispatch	Election Board To Discuss Vote Canvass Errors
8/16/56	Globe-Democrat	Absentee Ballot Inquiry Asked by Mrs. Walsh
8/23/56	Post-Dispatch	9 on Voter List at Mrs. Walsh's Home; Only 5 Live There She Says
8/28/56	Post-Dispatch	Vote Board Head to Urge Check on 3 Places in 18th Ward
8/31/56	Globe-Democrat	Registration In 4th Ward Under Inquiry
10/6/56	Globe-Democrat	Voting Lists Padded, GOP Nominee Charges
7/30/57	Globe-Democrat	Election Board on Guard for Illegal Voting
8/8/57	Globe-Democrat	Spot Check Turns Up Voting Irregularities
10/19/58	Post-Dispatch	17,189 Challenged in Canvass of St. Louis Voters
9/3/59	Globe-Democrat	6 Poll Officials Summoned in School Board Reversal
9/14/59	Post-Dispatch	Grand Jury Will Investigate School Voting Discrepancies
7/22/60	Globe-Democrat	Election Board to Recanvass in 22nd Ward
7/22/60	Globe-Democrat	Vote Canvass Fails to Take Off Names
7/30/60	Globe-Democrat	6 Election Clerks Heard in Vote Probe
7/31/60	Post-Dispatch	No Trace of 377 Left on List in 6th Ward Check
8/3/60	Globe-Democrat	Charges 4th Ward Vote Irregularities
8/8/60	Globe-Democrat	Vote Probe in Case of the Mysterious 68
8/9/60	Globe-Democrat	Names Forged on Transfers of Registration, 7 Voters Say
9/13/60	Globe-Democrat	3 Fail to Show as Jury Starts Voting Inquiry
9/13/60	Post-Dispatch	Grand Jurors Hear 7 in Aug. 2 Election Inquiry
2/1/61	Globe-Democrat	Many Fake Signatures Found on Petitions of School Board Aspirants
2/15/61	Post-Dispatch	Charges 6 Voters Do Not Live Where Registered
3/3/61	Post-Dispatch	Suspended Vote Canvass Clerks to Get Hearing
7/25/62	Globe-Democrat	Charmer Uses Ruse to Get Voter Lists
2/27/63	Globe-Democrat	Fourth Ward Voter Found Registered From Razed House
2/28/63	Post-Dispatch	98 Out of 417 Voters Missing at Addresses in One Precinct

2/28/63	Globe-Democrat	18th Ward Voters' Addresses Are Condemned Houses
3/1/63	Post-Dispatch	Board Orders Clerks to Explain Discrepancies in Voter Canvass
3/3/63	Globe-Democrat	Sloppy Job By Precinct Clerks
3/3/63	Post-Dispatch	82 Oversights in Canvass of Sixth Ward
3/19/63	Globe-Democrat	14 Voted, Not Living at Listed Addresses
3/3/65	Globe-Democrat	Voter Canvass in Precinct 2 of 25th Ward
3/4/65	Post-Dispatch	24 Registered in Plaza Square Have Moved Out
3/5/65	Post-Dispatch	Move to Get Villa Off Ballot Fails
3/5/65	Post-Dispatch	60 Registered Illegally, Says 7th Ward Group
3/7/65	Post-Dispatch	5 in 7th Ward Democratic Unit Live Elsewhere
3/28/65	Post-Dispatch	Special Canvass of Voter Rise in 17th Ward Unit
3/31/65	Globe-Democrat	Recanvass Starts in 2nd Precinct of 25th Ward
12/31/68	Globe-Democrat	Two GOP Leaders Charge Illegal Voting Is Overlooked
3/2/69	Post-Dispatch	20 Voters Not at Addresses in One Precinct in 26th Ward
7/29/72	Post-Dispatch	Ruling Put Off In Vote Inquiry
7/30/72	Post-Dispatch	Vote Registration Called Ripe for Exploitation
8/6/72	Post-Dispatch	333 in Ward Face Vote Challenges
9/29/72	Post-Dispatch	Hearing Scheduled In Canvass
10/20/72	Post-Dispatch	Dead Persons on Voter Lists, Candidate Says
11/1/72	Post-Dispatch	Nine are Indicted Over Absentee Votes
11/3/72	Post-Dispatch	Checking Voter-Roll Charge
2/5/73	Post-Dispatch	Two Plead Guilty In Election Fraud
2/8/73	Post-Dispatch	Charges Absentee Ballots Were Issued To Dead
2/9/73	Post-Dispatch	Forgery Added to List of Vote Irregularities
2/10/73	Post-Dispatch	Testifies Two Offered Funds in Vote Fraud
2/12/73	Post-Dispatch	Tells of Setting Up Vote-Fraud Scheme
12/6/73	Post-Dispatch	Critical of Ryan in Vote Case
9/29/74	Post-Dispatch	Voting by Three Goins Employes (sic) to be Investigated
5/25/77	Post-Dispatch	Laber Lists 10 Persons He Says Are Improperly Registered
7/29/79	Post-Dispatch	Campaign Worker Guilty of Fraud
8/23/80	Post-Dispatch	Voting Irregularities Inquiry Schedules 20 Witnesses Today
4/28/81	Globe-Democrat	Peach Plans to Warn 76 Notaries
9/10/82	Globe-Democrat	The Theft of Absentee Votes Threats Used Against Weak, Officials Say
9/11/82	Globe-Democrat	Votes For Sale In St. Louis Politicians Say Absentee Ballots and Election Day Votes Can Be Bought for $5 to $15
9/13/82	Globe-Democrat	Peach to Study Vote Abuse Circuit Attorney Assails 2 Officeholders
9/14/82	Globe-Democrat	Vote "My" Way Or Else Notaries Blow Whistle On Threats
9/15/82	Globe-Democrat	Absentee Vote Fraud Hard To Change

9/17/82	Globe-Democrat	Senator to Act on Vote Fraud
9/18/82	Globe-Democrat	Vote Thieves Thrive on Fear, Confusion
9/28/82	Globe-Democrat	Board To Seek Vote Reform
10/20/82	Post-Dispatch	Volunteer Indicted in Absentee Ballot Case
11/11/82	Post Dispatch	FBI Vote-Fraud Inquiries Reported Here
12/9/82	Globe-Democrat	Minister Pleads Guilty to Signing 13 Absentee Ballot Applications
3/10/83	Post-Dispatch	City Employee Accused of Fraud in 18th Ward
3/11/83	Globe-Democrat	U.S. Prosecutor Is Investigating Vote Fraud Here 11 Subpoenas Served as First Phase of Investigation Focuses on 7th Ward
3/12/83	Post-Dispatch	Roadblock to Voting Inquiry: City's '80 Ballots Destroyed
3/13/83	Globe-Democrat	Inquiry May Derail April 5 Voting
3/25/83	Globe-Democrat	Ballots Lost, Miscounted in Primary, Consultant Says
11/4/83	Globe-Democrat	Sansone Testifies in Vote-Fraud Inquiry
12/9/83	Globe-Democrat	Sentencing in Vote-Fraud Case Is Jan. 19
12/16/83	Globe-Democrat	Webbes Indicted In Vote Fraud
12/18/90	Post-Dispatch	Pamela Bosley Convicted of Vote Fraud
1/11/95	Post-Dispatch	City Official Admits Fraud in Election More Indictments Expected
12/5/95	Post-Dispatch	Witness Says He Had Role In Spoiler Campaign
12/7/95	Post-Dispatch	Banker Guilty In Election Case Jury Finds He Helped Rig Comptroller's Race
10/4/96	Post-Dispatch	Conviction in Election Fraud Case is Upheld Appeals Court Rejects Claim of Jones' Ally

The following is a summary of the voting irregularities and scandals reported in St. Louis:

- 1946. Six clerks of election were fired for careless and negligent performance of duty. Discrepancies were found in their canvass of registered voters. A recanvass showed 941 names of persons not found should have been stricken from the voting lists in the regular canvass.
- 1948. A recanvass of the list of registered voters in the 18th and 5th Wards showed that the original canvassers failed to remove 1,255 names of persons not found at the addresses listed. Four dead persons were found on the voting

rolls in the 6th Ward. A recanvass of two 6th Ward precincts failed to find 132 persons whose names the original canvassers left on the rolls. Investigation revealed that 19 persons registered at a hotel did not reside there.

- 1952. Allegations were made that elections were rigged. Candidates were given zero votes in precincts where voters stated publicly that they voted for the candidates.
- 1954. Eight precinct election clerks were fired after an investigation showed that the clerks had conducted careless and inaccurate canvasses. A grand jury investigation exposed irregularities in election returns of the August primary.
- 1956. Investigations of voter registration at several locations showed that more persons were registered to vote from the locations than actually lived at those locations. Investigation was made into 85 absentee ballots issued to residents in nursing, boarding and old folks' homes.
- 1957. Voting irregularities uncovered.
- 1958. Canvass irregularities uncovered.
- 1959. Grand jury investigated irregularities in a school election.
- 1960. An alderman made allegations of numerous voting irregularities. Election judges entered voting booths and pulled voting machine levers. St. Louis Board of Election Commissioners investigated voter registration irregularities. Voters told the board that their names were forged on cards transferring their registrations to a 6th Ward precinct.

- 1961. Canvass irregularities uncovered. Charges were made that six voters did not live where they were registered. Fake signatures were found on petitions of school board candidates.
- 1963. Discrepancies were found in voter canvasses, including 98 voters found missing on recanvass of one precinct. Some voters' addresses in the 18th Ward were condemned houses. Precinct clerks were accused of doing sloppy jobs in conducting voter canvasses.
- 1965. Allegations were made that more than 60 persons were illegally registered to vote from addresses in the 7th Ward. Investigation revealed that five leaders of the 7th Ward Regular Democratic Organization lived outside the ward. The five included Sorkis J. Webbe and Eugene P. Slay.
- 1968. Two GOP leaders charged that illegal voting is overlooked.
- 1972. A candidate charged that dead persons were on the voter lists. An absentee voting scandal in the August primary resulted in nine persons being indicted. Several campaign workers were induced to participate in a scheme to prepare false voter registration papers and fraudulent applications for absentee ballots through promises of jobs with the Board of Election Commissioners. The leader of the scheme and one other person pled guilty to mail fraud. Three others were convicted of mail fraud, and four persons were acquitted.
- 1979. A campaign worker was found guilty of fraud.
- 1982. A major vote fraud investigation was conducted by the Globe-Democrat. The investigation found that the absentee voter system was fraught with corruption and abuse that was so widespread that such corruption and

abuse had become an integral part of politics in St. Louis. The investigation also found that absentee ballots and election day votes could be bought for $5 to $15 in St. Louis. An election board member stated that absentee voter fraud was the board's biggest problem and it just continued to get bigger every year.

- 1983. Ballots were lost and miscounted in the April primary. The U.S. Attorney launched a federal investigation into absentee vote fraud because city prosecutors reached a dead end in their crackdown efforts. The first phase of the federal investigation focused on 1980 and 1982 Democratic primary elections in the 7th Ward. Alderman Sorkis Webbe, Jr., his father Sorkis Webbe, Sr., and four other members of the 7th Ward Regular Democratic Organization were indicted by a federal grand jury on charges of voting fraud. The charges included the destruction and alteration of absentee ballots, the physical beating of an opponent and multiple voting.
- 1990. Pamela Bosley, the daughter of Alderman Freeman Bosley, Sr. and the sister of former Mayor Freeman Bosley, Jr., was convicted of felony vote fraud. Ms. Bosley and four other people were charged with vote fraud in 1989. Two pled guilty to misdemeanor charges.
- 1993. In the Democratic primary for city comptroller, an illegal scheme was developed to ensure the reelection of Virvus Jones. Jones, who is African-American, was opposed by James Shrewsbury, who is white. Jones, Steve Baker, Kerry Alexander, Craig Walker, John Runyan and Penny Alcott devised a scheme where a second white candidate (Alcott) would enter the race as a stalking horse candidate to draw off votes from Shrewsbury. Part of

the scheme involved Walker, a personal friend of Jones, providing funds for Alcott's campaign. Baker, Alexander, Runyan and Alcott pled guilty in federal court to mail fraud in connection with the scheme, and received probation. Jones pled guilty in federal court to tax evasion and was sentenced to one year and one day in prison. Walker was convicted by a federal jury and was sentenced to thirty-three months in prison.

This long and dubious history of vote fraud and irregularities puts the November 7 election turmoil in perspective and demonstrates that action must be taken to restore integrity to the election process.

VIII. CONCLUSION

Perhaps more important than criminal violations is that every improper vote cast in the November 7 election violated the equal protection rights of every person who cast a legal vote by diluting the strength of every legal vote cast. As set out above, one of the guiding legal principles in our election system is that "Preserving the integrity of the electoral process, preventing corruption, and 'sustaining the active, alert responsibility of the individual citizen in a democracy for the wise conduct of government' are interests of the highest importance. Preservation of the individual citizen's confidence in government is equally important." *First National Bank of Boston,* 435 U.S. at 788-89, 98 S.Ct. at 1422 (citations omitted) (emphasis added). The testimony in the January 12, 2001, hearing of Secretary Blunt's bipartisan commission on election reform in St. Louis made clear that many Missouri citizens "are discouraged by the possibility that the election system is rigged and they're afraid that their votes don't count. We have at a very minimum a crisis in confidence in our election system in the state of Missouri."[82] The conduct of the November 7 election in St. Louis City and County contributed to this discouragement, with good reason. It is essential that the State of Missouri move forward to restore confidence in our election system. Action by federal and local law enforcement authorities to vigorously pursue and prosecute the possible violations of law identified in this Report would go a long way toward restoring that confidence.

[82] Tr. at 20, lines 24-25; at 21, lines 1-3.