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The Detrimental Impact of Florida's “Correct Precinct Requirement” for Provisional Balloting:

An Analysis of Data from Select Florida Counties

**American Civil Liberties Union of Florida
October 12, 2004**

Introduction:

The American Civil Liberties Union (ACLU of Florida) requested records on provisional balloting from fifteen Florida counties. Eleven counties responded and provided information for various elections during 2002 to 2004. Some of the information received was insufficient to include in the totals below.¹ The records received showed that a significant percentage of rejected provisional ballots were rejected because the voter cast the provisional ballot in the wrong precinct.

Background:

The Florida Legislature passed legislation in 2001 allowing voting by provisional ballot when it is not possible to determine if a voter is registered. As a general matter, provisional balloting should be seen as a progressive step. However, the requirement that the ballot be cast in the correct precinct or else rejected as illegal could result in numerous minority voters being disqualified from voting solely due to their use of provisional ballots. Florida Statute 101.048 states, “If it is determined that the person voting the provisional ballot was not registered or entitled to vote ***at the precinct*** [emphasis added] where the person cast a vote in the election, the provisional ballot shall not be counted and the ballot shall remain in the envelope containing the Provisional Ballot Voter's Certificate and Affirmation and the envelope shall be marked 'Rejected as Illegal'.”

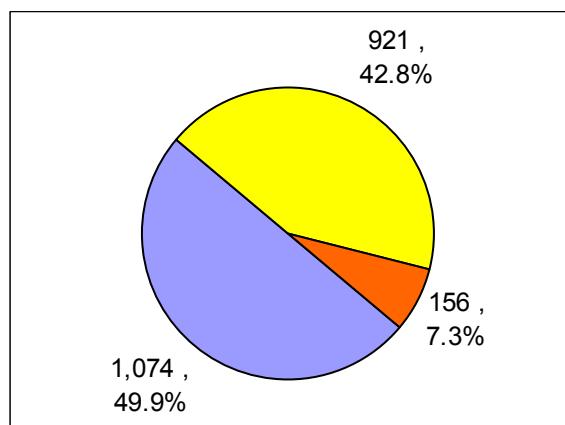
The rejection as illegal of all of portions of provisional ballots (including races for which anyone in any precinct would have been qualified to vote, such as President, U.S. Senate or statewide ballot questions) cast in the wrong precinct robs the provisional ballot of its ability to correct many of the problems it was intended to address, such as when a voter arrives in the wrong precinct and cannot be directed to the correct one or when a location that is usually a polling place is closed and the voter is directed elsewhere. Worse, without proper training to instruct poll workers to direct people to their proper precinct, the provisional balloting process threatens to mislead voters into thinking that they are participating in American democracy by casting a ballot when in fact they are actually being disfranchised.

Our June 2002 testimony before the U.S. Commission on Civil Rights pointed out that poor people, and consequently, the minority population, are more likely to move than the non-Hispanic White population, and that the majority of moves among Blacks and Latinos are within their present county of residence. Thus, such voters remain legally registered to vote within their counties of residence, but may find that they must vote in a new precinct. Areas with rapidly changing populations, which often have disproportionate numbers of minority voters, also have the largest numbers of new precincts and precinct boundary changes. In both scenarios, voters who show up at their old precinct may encounter difficulties in determining their correct precinct, and poll workers may find it easier to give the person a provisional ballot, not realizing that in doing so, the elector will be disfranchised. Unfortunately, the fears that eligible voters would be unjustly disfranchised due to the correct precinct requirement have played out largely as we expected, as you will see below.

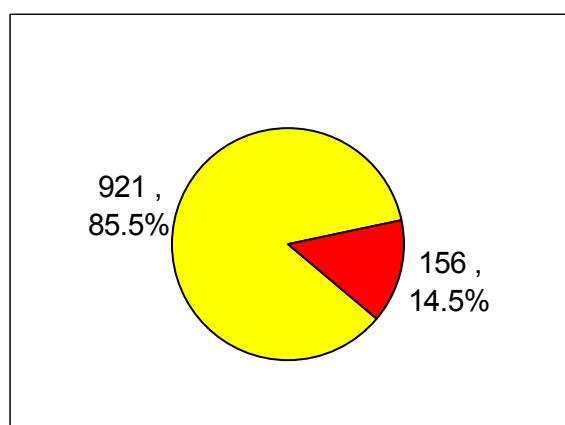
¹ See addendum for additional information.

CUMULATIVE TOTALS FOR TEN COUNTIES² (in all reported elections):

Total provisional ballots cast	Total provisional ballots rejected	Total provisional ballots rejected because voted in wrong precinct
2151	1077	156
	50.1% of all provisional ballots cast were rejected	14.5% of all rejected provisional ballots were rejected because voted in wrong precinct



Total Provisional Ballots Cast	2151
Provisional Ballots Accepted	1,074
Provisional Ballots Rejected Due to Reasons Other Than Incorrect Precinct	921
Provisional Ballots Rejected Due to Incorrect Precinct	156



Total Provisional Ballots Rejected	1077
Provisional Ballots Rejected Due to Reasons Other Than Incorrect Precinct	921
Provisional Ballots Rejected Due to Incorrect Precinct	156

² Monroe County did not provide reasons for why their provisional ballots were rejected. Please see addendum for further information.

TOTALS BY ELECTION:

August 2004 – Primary Election (9 counties reporting)

Total provisional ballots cast	Total provisional ballots rejected	Total provisional ballots rejected because voted in wrong precinct
733	333	32
	45.4% of all provisional ballots cast	9.6% of all rejected provisional ballots

Pasco

Total provisional ballots cast (8 accepted + 0 rejected) = 8
Provisional ballots rejected because voted in wrong precinct = 0

Orange

Total provisional ballots cast (9 accepted + 35 rejected) = 44
Provisional ballots rejected because voted in wrong precinct = 6

Polk

Total provisional ballots cast (13 accepted + 16 rejected) = 29
Provisional ballots rejected because voted in wrong precinct = 1

Hendry

Total provisional ballots cast (0 accepted + 0 rejected) = 0
Provisional ballots rejected because voted in wrong precinct = 0

Volusia

Total provisional ballots cast (72 accepted + 25 rejected) = 97
Provisional ballots rejected because voted in wrong precinct = 8

Brevard

Total provisional ballots cast (9 accepted + 9 rejected) = 18
Provisional ballots rejected because voted in wrong precinct = 0

Hillsborough

Total provisional ballots cast (39 accepted + 45 rejected) = 84
Provisional ballots rejected because voted in wrong precinct = 5

Pinellas

Total provisional ballots cast (41 accepted + 44 rejected) = 85
Provisional ballots rejected because voted in wrong precinct = 3

Duval

Total provisional ballots cast (209 accepted + 159 rejected) = 368
Provisional ballots rejected because voted in wrong precinct = 9

March 2004 – Presidential Preference Primary (6 counties reporting)

Total provisional ballots cast	Total provisional ballots rejected	Total provisional ballots rejected because voted in wrong precinct
160	97	13
	60.6% of all provisional ballots cast	13.4% of all rejected provisional ballots

Pasco

Total provisional ballots cast (16 accepted + 8 rejected) = 24
 Provisional ballots rejected because voted in wrong precinct = 1

Volusia

Total provisional ballots casts (8 accepted + 15 rejected) = 23
 Provisional ballots rejected because voted in wrong precinct = 1

Brevard

Total provisional ballots cast (3 accepted + 6 rejected) = 9
 Provisional ballots rejected because voted in wrong precinct = 0

Orange

Total provisional ballots cast (14 accepted + 36 rejected) = 50
 Provisional ballots rejected because voted in wrong precinct = 8

Polk

Total provisional ballots cast (3 accepted + 11 rejected) = 14
 Provisional ballots rejected because voted in wrong precinct = 3

Pinellas

Total provisional ballots cast (19 accepted + 21 rejected) = 40
 Provisional ballots rejected because voted in wrong precinct = 0

October 2003 – Special Sales Tax Election in Orange County (1 county reporting)

Total provisional ballots cast	Total provisional ballots rejected	Total provisional ballots rejected because voted in wrong precinct
19	6	4
	31.6% of all provisional ballots cast	66.7% of all rejected provisional ballots

Orange

Total provisional ballots cast (13 accepted + 6 rejected) = 19
 Provisional ballots rejected because voted in wrong precinct = 4

April 2003 – Municipal Election in Pasco County (1 county reporting)

Total provisional ballots cast	Total provisional ballots rejected	Total provisional ballots rejected because voted in wrong precinct
0	0	0
	0% of all provisional ballots cast	0% of all rejected provisional ballots

Pasco

Total provisional ballots cast (0 accepted + 0 rejected) = 0
 Provisional ballots rejected because voted in wrong precinct = 0

November 2002 – General Election (5 counties reporting)

Total provisional ballots cast	Total provisional ballots rejected	Total provisional ballots rejected because voted in wrong precinct
805	484	80
	60.1% of all provisional ballots cast	16.5% of all rejected provisional ballots

November 2002 (con't)Pasco

Total provisional ballots cast (4 accepted + 4 rejected) = 8
 Provisional ballots rejected because voted in wrong precinct = 1

Volusia

Total provisional ballots cast (182 accepted + 138 rejected) = 320
 Provisional ballots rejected because voted in wrong precinct = 19

Brevard

Total provisional ballots cast (47 accepted + 63 rejected) = 110
 Provisional ballots rejected because voted in wrong precinct = 21

Orange

Total provisional ballots cast (29 accepted + 176 rejected) = 205
 Provisional ballots rejected because voted in wrong precinct = 31

Pinellas

Total provisional ballots cast (59 accepted + 103 rejected) = 162
 Provisional ballots rejected because voted in wrong precinct = 8

September 2002 – Primary Election (5 counties reporting)

Total provisional ballots cast	Total provisional ballots rejected	Total provisional ballots rejected because voted in wrong precinct
434	157	27
	36.2% of all provisional ballots cast	17.2% of all rejected provisional ballots

Miami-Dade

Total provisional ballots cast (156 accepted + 71 rejected) = 227
 Provisional ballots rejected because voted in wrong precinct = 23

Pasco

Total provisional ballots cast (4 accepted + 0 rejected) = 4
 Provisional ballots rejected because voted in wrong precinct = 0

Volusia

Total provisional ballots cast (79 accepted + 35 rejected) = 114
 Provisional ballots rejected because voted in wrong precinct = 4

Brevard

Total provisional ballots cast (12 accepted + 24 rejected) = 36
 Provisional ballots rejected because voted in wrong precinct = 0

Pinellas

Total provisional ballots cast (26 accepted + 27 rejected) = 53
 Provisional ballots rejected because voted in wrong precinct = 0

TOTALS BY COUNTY:

Brevard County (4 elections reported)

Total provisional ballots cast	Total provisional ballots rejected	Total provisional ballots rejected because voted in wrong precinct
173	102	21
	59.0% of all provisional ballots cast	20.6% of all rejected provisional ballots

September 2002 Election

Total provisional ballots cast (12 accepted + 24 rejected) = 36
Provisional ballots rejected because voted in wrong precinct = 0

November 2002 Election

Total provisional ballots cast (47 accepted + 63 rejected) = 110
Provisional ballots rejected because voted in wrong precinct = 21

March 2004 Election

Total provisional ballots cast (3 accepted + 6 rejected) = 9
Provisional ballots rejected because voted in wrong precinct = 0

August 2004 Election

Total provisional ballots cast (9 accepted + 9 rejected) = 18
Provisional ballots rejected because voted in wrong precinct = 0

Duval County (1 election reported)

Total provisional ballots cast	Total provisional ballots rejected	Total provisional ballots rejected because voted in wrong precinct
368	159	9
	43.2% of all provisional ballots cast	5.7% of all rejected provisional ballots

August 2004 Election

Total provisional ballots cast (209 accepted + 159 rejected) = 368
Provisional ballots rejected because voted in wrong precinct = 9

Hendry County (1 election reported)

Total provisional ballots cast	Total provisional ballots rejected	Total provisional ballots rejected because voted in wrong precinct
0	0	0
	0% of all provisional ballots cast	0% of all rejected provisional ballots

August 2004 Election

Total provisional ballots cast (0 accepted + 0 rejected) = 0

Provisional ballots rejected because voted in wrong precinct = 0

Hillsborough County³ (1 election reported)

Total provisional ballots cast	Total provisional ballots rejected	Total provisional ballots rejected because voted in wrong precinct
84	45	5
	53.6% of all provisional ballots cast	11.1% of all rejected provisional ballots

August 2004 Election

Total provisional ballots cast (39 accepted + 45 rejected) = 84

Provisional ballots rejected because voted in wrong precinct = 5

Miami-Dade County (1 election reported)

Total provisional ballots cast	Total provisional ballots rejected	Total provisional ballots rejected because voted in wrong precinct
227	71	23
	31.3% of all provisional ballots cast	32.4% of all rejected provisional ballots

³ Please see addendum for more information on data received from Hillsborough County.

Miami-Dade County (con't)

September 2002 Election

Total provisional ballots cast (156 accepted + 71 rejected) = 227

Provisional ballots rejected because voted in wrong precinct = 23

Orange County⁴ (4 elections reported)

Total provisional ballots cast	Total provisional ballots rejected	Total provisional ballots rejected because voted in wrong precinct
318	253	49
	79.6% of all provisional ballots cast	19.3% of all rejected provisional ballots

November 2002 Election

Total provisional ballots cast (29 accepted + 176 rejected) = 205

Provisional ballots rejected because voted in wrong precinct = 31

October 2003 Election

Total provisional ballots cast (13 accepted + 6 rejected) = 19

Provisional ballots rejected because voted in wrong precinct = 4

March 2004 Election

Total provisional ballots cast (14 accepted + 36 rejected) = 50

Provisional ballots rejected because voted in wrong precinct = 8

August 2004 Election

Total provisional ballots cast (9 accepted + 35 rejected) = 44

Provisional ballots rejected because voted in wrong precinct = 6

Pasco County⁵ (5 elections reported)

Total provisional ballots cast	Total provisional ballots rejected	Total provisional ballots rejected because voted in wrong precinct
44	12	2
	27.3% of all provisional ballots cast	16.7% of all rejected provisional ballots

⁴ Please see addendum for more information on data received from Orange County.

⁵ Please see addendum for more information on data received from Pasco County.

Pasco County (con't)

Sept. 2002 Election

Total provisional ballots cast (4 accepted + 0 rejected) = 4

Provisional ballots rejected because voted in wrong precinct = 0

Nov. 2002 Election

Total provisional ballots cast (4 accepted + 4 rejected) = 8

Provisional ballots rejected because voted in wrong precinct = 1

April 2003 Election

Total provisional ballots cast (0 accepted + 0 rejected) = 0

Provisional ballots rejected because voted in wrong precinct = 0

March 2004 Election

Total provisional ballots cast (16 accepted + 8 rejected) = 24

Provisional ballots rejected because voted in wrong precinct = 1

Aug. 2004 Election

Total provisional ballots cast (8 accepted + 0 rejected) = 8

Provisional ballots rejected because voted in wrong precinct = 0

Pinellas County (4 elections reported)

Total provisional ballots cast	Total provisional ballots rejected	Total provisional ballots rejected because voted in wrong precinct
340	195	11
	57.4% of all provisional ballots cast	5.6% of all rejected provisional ballots

September 2002 Election

Total provisional ballots cast (26 accepted + 27 rejected) = 53

Provisional ballots rejected because voted in wrong precinct = 0

November 2002 Election

Total provisional ballots cast (59 accepted + 103 rejected) = 162

Provisional ballots rejected because voted in wrong precinct = 8

March 2004 Election

Total provisional ballots cast (19 accepted + 21 rejected) = 40

Provisional ballots rejected because voted in wrong precinct = 0

August 2004 Election

Total provisional ballots cast (41 accepted + 44 rejected) = 85

Provisional ballots rejected because voted in wrong precinct = 3

Polk County (2 elections reported)

Total provisional ballots cast	Total provisional ballots rejected	Total provisional ballots rejected because voted in wrong precinct
43	27	4
	62.8% of all provisional ballots cast	14.8% of all rejected provisional ballots

March 2004 Election

Total provisional ballots cast (3 accepted + 11 rejected) = 14
 Provisional ballots rejected because voted in wrong precinct = 3

August 2004 Election

Total provisional ballots cast (13 accepted + 16 rejected) = 29
 Provisional ballots rejected because voted in wrong precinct = 1

Volusia County (4 elections reported)

Total provisional ballots cast	Total provisional ballots rejected	Total provisional ballots rejected because voted in wrong precinct
554	213	32
	38.4% of all provisional ballots cast	15.0% of all rejected provisional ballots

September 2002 Election

Total provisional ballots cast (79 accepted + 35 rejected) = 114
 Provisional ballots rejected because voted in wrong precinct = 4

November 2002 Election

Total provisional ballots cast (182 accepted + 138 rejected) = 320
 Provisional ballots rejected because voted in wrong precinct = 19

March 2004 Election

Total provisional ballots casts (8 accepted + 15 rejected) = 23
 Provisional ballots rejected because voted in wrong precinct = 1

August 2004 Election

Total provisional ballots cast (72 accepted + 25 rejected) = 97
 Provisional ballots rejected because voted in wrong precinct = 8

Conclusion:

Data from elections that have occurred since implementation of provisional balloting confirms our concerns that the correct precinct requirement has disfranchised significant numbers of voters. Cumulative totals of the information we received indicate that 14.5% of all rejected provisional ballots were rejected because they were cast in the wrong precinct. Of the 2,151 total provisional ballots cast, 7.3% of the ballots were rejected as illegal because they were cast in the incorrect precinct. That means 7.3% of voters casting provisional ballots probably left the polling place feeling as if they had voted when in fact their ballots were rejected as illegal. Even more importantly, those disfranchised voters were duly registered and qualified to vote and had their ballots rejected only because of where the ballots were cast.

Figures rose even higher in some counties and in some elections. For example, in the March 2004 Presidential Preference Primary, among six counties reporting, 13.4% of all rejected provisional ballots were rejected because they were cast in the wrong precinct. In a single election in Orange County, that figure rose to 66.7%. In the September 2002 Primary Election, with five counties reporting, some 17.2% of all rejected provisional ballots were rejected because they were cast in the wrong precinct. Totals for four elections in Orange County indicated that 19.3% of all rejected provisional ballots were rejected because they were cast in the wrong precinct.

The correct precinct requirement becomes even harder to justify when there are figures showing that as much as 4.2% to 21.1% of all provisional ballots cast may be rejected as illegal because they were cast in the wrong precinct. Exacerbating this already evident problem is the fact that voters often do not receive in a timely manner, or do not receive at all, the information they need in order to know where to vote on Election Day, particularly in areas, often minority communities, where people move frequently in the same county, or where population shifts result in frequent precinct changes. When an eligible voter casts a provisional ballot, his or her choices in all the races and ballot questions in which he or she would have been qualified to vote regardless of precinct should be counted.

ADDENDUM:

The following counties provided data that was insufficient to include in this report's preceding totals. The reasons for the insufficiency varied. For example, in one case, the information included the results for one city only, and in another, the numbers of provisional ballots that were rejected were provided, but not the reasons for the rejections. The data not included in the preceding report totals follows below.

Pasco County

County provided incomplete results, including numbers for only the city of Zephyrhills.

April 2004 Election

Total provisional ballots cast for Zephyrhills (0 accepted + 0 rejected) = 0

Monroe County

County did not provide reason(s) why provisional ballots were rejected.

September 2002 Election

Total provisional ballots cast (3 accepted + 1 rejected) = 4

November 2002 Election

Total provisional ballots cast (3 accepted + 5 rejected) = 8

March 2004 Election

Total provisional ballots cast (1 accepted + 0 rejected) = 1

August 2004 Election

Total provisional ballots cast (0 accepted + 2 rejected) = 2

Hillsborough County

County did not provide reason(s) why provisional ballots were rejected.

September 2002 Election

Total provisional ballots cast (19 accepted + 48 rejected) = 67

November 2002 Election

Total provisional ballots cast (47 accepted +142 rejected) = 189

March 4, 2003 Election

Total provisional ballots cast (3 accepted + 9 rejected) = 9

March 25, 2003 Election

Total provisional ballots cast (0 accepted + 1 rejected) = 1

March 2004 Election

Total provisional ballots cast (10 accepted +49 rejected) = 59

Orange County

County disclosure unclear if provisional ballots rejected or accepted, and did not provide reason(s) for rejections.

September 2002 Election

Total provisional ballots cast = 73