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Chief Christopher Coates
United States Department of Justice, Civil Rights Division
950 Pennsylvania Ave NW
Washington, DC 20530

October 5, 2009

Dear Mr. Coates,

I represent Minnesota Majority, a non-profit public policy watchdog group. I am contacting you to request a formal investigation into apparent voter registration and election irregularities in Minnesota. We believe that the Minnesota Secretary of State may be in violation of requirements for voter registration practices as defined by the Help America Vote Act (HAVA). I will begin by providing some background on the situation which prompted this letter. I will then provide my specific complaint and our request of your office.

PRIOR TO THE 2008 ELECTION

As part of Minnesota Majority's issue advocacy activities, we make use of a public version of Minnesota's statewide voter registration system (SVRS), as provided under Minnesota law. It was in the course of utilizing this list in September 2008 that we noticed a number of unusual anomalies in the data.

We presented a summary of these issues in a letter to letter to Secretary of State Mark Ritchie on October 16, 2008. On October 17, the Secretary of State responded by calling a press conference assuring Minnesotans that our state had the best election system in the country. His subsequent formal response letter, received by our office on October 23, was largely dismissive of our discoveries. The Secretary of State failed to respond to our request for a plan on how his office would investigate these issues prior to the election.

When it became clear the Secretary of State was not going to take any action, we initiated our own investigation. A volunteer contacted approximately 25 voters in an effort to confirm the accuracy of information listed on the voter registration system. On October 29, the Secretary of State responded to our investigation by convening a press conference in which he falsely accused Minnesota Majority of engaging in "voter intimidation."

On October 31, Minnesota Majority forwarded its findings to 31 county attorneys, requesting their investigation of these potential irregularities. According to Minnesota Statute 201.275:

A county attorney who is notified by affidavit of an alleged violation of [Minnesota election law] shall promptly investigate. A county attorney who refuses or intentionally fails to faithfully perform this or any other duty imposed by this chapter is guilty of a misdemeanor and upon conviction shall forfeit office.

After numerous follow-ups, we received responses from just 8 of the 31 county attorneys. Approximately half were dismissive of our concerns, citing the Secretary of State's response letter to Minnesota Majority.

AFTER THE 2008 ELECTION

In April 2009, Minnesota Majority requested and obtained an official copy of the statewide voter registration system file. The Secretary of State's office confirmed this to be the final version of the file containing all of the results from the 2008 election. Our review of this file revealed a number of concerning irregularities with the data:

- More Ballots than Voters: Election results certified by the State Canvassing Board included over 40,000 more ballots than 2008 voter history records accounted for in the statewide voter registration system.
- Felon Voters: A comparison of the statewide voter registration system to a list of felons provided by the Minnesota Bureau of Criminal Apprehension generated over 2,800 potential matches. A manual review of a sampling of these matches confirms the majority of individuals on this list do appear to be felons that voted in the 2008 election.
- Deceased Voters: A death suppression match using the statewide voter registration system revealed several thousand potential matches. While a manual investigation of the results has shown that a number of these appear to be false positive matches, we did confirm that a number of these matches do appear to be accurate.
- Non-Citizen Voters: We obtained a list of 14 individuals who, according to the Secretary of State's office, were non-citizens who appeared to have registered to vote. Our review of the 2008 election results shows that at least 3 of these individuals actually voted in the 2008 election. We requested a file from the Department of Public Safety that would enable us to conduct a more complete analysis to determine how many non-citizens may have voted in the 2008 election, but our request has been denied.
- Underage Registrants: Based upon the year of birth provided on the statewide voter registration system, there appear to have been underage individuals who registered to vote in 2008. This is a felony offense according to Minnesota election law.
- Vacant and Non-Existent Addresses: The Minnesota Secretary of State records show over 50,000 returned postal verification post cards (PVC) in 2008. PVCs are the primary tool used to verify the address of newly registered voters. Minnesota Majority also employed a National Change of Address service which identified over 20,000 potential addresses listed on voter registration records as being either "vacant" or "undeliverable". A manual review of a sample of these results showed a significant number of false positive matches. However, we were able to confirm at least some of these were valid matches by visiting and photographing the addresses.
- Double Voting: We found evidence of over 200 cases in which voter registration and voter history records strongly indicate that a single voter may have voted more than once in a single election. We've also identified thousands of additional voter records that merit additional investigation.
- Deficient Voter Registrations: Minnesota law requires voter registrations recorded after August 1, 1983 to include the voter's name, address, date of birth and signature. We discovered thousands of voter registrations that would be considered "deficient" under Minnesota law due to missing or invalid information. Minnesota law requires these deficient registrations to be corrected before an individual is allowed to vote. Records show that many of these voters have voted in recent elections without updating or verifying this required information.

COMPLAINT

We believe that the Minnesota Secretary of State and county election officials may be operating in a manner inconsistent with several sections of HAVA.

It is our understanding that the Secretary of State has been delivered a weekly update from the Minnesota Department of Public Safety (Minnesota's motor vehicle authority) for the past two years, but appears to have failed to use this information to verify the accuracy of the state's voter file as required by Section 303

(a) (5). When this deficiency was made public regarding the possibility of non-citizens voting in Minnesota, the Secretary's office may have completed a one-time check looking for individuals on the voter registration file that had driver's licenses marked "status check" indicating the licensed person is not a United States citizen. But our analysis suggests that this may not have been done.

We understand that according to HAVA Section 303 (a) (2), deceased voters should be removed from voter registration rolls prior to an election. Our review of the statewide voter registration system shows that deceased individuals were allowed to remain on the rolls and some voter history records indicate posthumous votes in the 2008 election.

There also appears to be a violation of HAVA Section 303 (a) (2) relating to individuals with felony convictions that had not yet had their voting rights restored. Our review of voter registration records show that felons under correction department supervision were allowed to vote in the 2008 election. This suggests a lack of adequate coordination with other state agency lists has been done to flag these invalid voter registrations. It does not appear that the required reasonable effort to remove registrants who are ineligible to vote has been undertaken by the office of the Minnesota Secretary of State.

We have identified possible inconsistencies with the HAVA Section 303 (a) (2), including the existence of thousands of potential duplicate voter records on the Secretary of State's voter list. Further, it appears that some of the likely duplicate names have a record of duplicate votes in a single election.

Safeguards to ensure eligible voters are not removed from the voter file also appear to be inadequate. We have received numerous reports of valid registered voters arriving at the polls this year to find that their names had been removed from the voter rolls and were required to complete same-day registrations in order to vote. A comparison of a June 2008 version of voter registration file to an October 2008 version revealed that over 17,000 voter registration records had been removed from the file.

REQUEST

We believe further investigation into these matters is warranted and necessary to ensure fair and transparent elections in the state of Minnesota that are in compliance with the letter and intent of HAVA. The lack of response on the part of Minnesota election and law enforcement officials is troubling. We would therefore ask that the Department of Justice initiate an investigation of the matters described herein. There is precedence for such action in the state of Wisconsin where the US Attorney joined together with the Federal Bureau of Investigation and local law enforcement officials to conduct a formal investigation into irregularities surrounding the 2004 election.

If I can be of any further assistance, please don't hesitate to contact me.

Sincerely,

Jeff Davis
President, Minnesota Majority
612-605-3303 Ext. 702

cc: Governor Tim Pawlenty
Attorney General Lori Swanson
Kimberly Svendsen, Assistant U. S. Attorney, Minnesota Division
Brian Kinney, Special Agent, Federal Bureau of Investigation