

# **Report on Fraudulent Votes Cast by Ineligible Felons in Minnesota's 2008 General Election**

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6/28/2010

## **Executive Summary**

In the course of researching irregularities in Minnesota's 2008 General Election, Minnesota Majority obtained records from the Bureau of Criminal Apprehension listing all persons under the supervision of the Minnesota Department of Corrections. From these records, we extracted a list of individuals charged with felony crimes at the time of the 2008 election. We then compared this list of felons to voter history records from the Secretary of State's statewide voter registration system (SVRS). From this comparison, we compiled a list of 2,803 felons who potentially voted in the 2008 General Election.

The highest concentration of the suspected fraudulent votes was found in Hennepin and Ramsey Counties, so additional research was focused in these areas. We verified sample matches with court documents. We also examined polling place roster signatures and voter registration cards. After completing these verifications, we had a high degree of confidence that we had detected hundreds of fraudulent votes cast by ineligible felons in Hennepin and Ramsey Counties.

On October 14<sup>th</sup> of 2009, Ramsey County Attorney Susan Gaertner announced that 23 individual felons had been charged with election crimes in connection with the 2008 election, characterizing the number as "a handful." Most were only charged with registering illegally, not actually voting. This left the public with the impression that voter fraud issues from the 2008 election were settled and insignificant. News stories about these prosecutions were very different from the information Minnesota Majority had been compiling on felon voters.

On October 16<sup>th</sup> of 2009, Minnesota Majority's submitted affidavits attesting to our findings on felon voters to Hennepin County Attorney Mike Freeman and Ramsey County Attorney Susan Gaertner. In all, 1,359 names of suspected ineligible felon voters were forwarded to these county attorneys for investigation, with supporting evidence. Eight months after Minnesota Majority provided evidence of felon voters to the county attorneys, Hennepin County has charged 3 individuals with fraudulent voting by felons and Ramsey County has quietly charged an additional 6 persons.

Since the Minnesota statute of limitations on election crimes is two years, the County Attorney's ability to prosecute election crimes from the 2008 General Election will expire in November 2010. In many instances, the statute of limitations for registration fraud in 2008 has already passed. In addition, since Minnesota law only requires election records to be retained for 22 months, county election officials will begin destroying election records containing evidence of election crimes in September of 2010.

The apparent unresponsiveness and stonewalling on the part of election and law enforcement officials creates the impression that they may be deliberately dragging their feet on the investigation and prosecution of election fraud in order to maintain the myth of Minnesota as a leader in clean, well-run elections. In reality, we have found Minnesota's election integrity to be lacking in many aspects.

This report explains Minnesota Majority's findings, evidence, methodology, communications with elections and law enforcement officials and the actions taken by these officials.

## **Background**

Minnesota Majority is a state legislative watchdog group. Its purpose is to track and report on public policy issues and provide tools to make citizen involvement in the process easier. To those ends, we obtained a copy of the statewide voter registration system (SVRS) file from the Minnesota Secretary of State's office in 2008 in order to conduct pre-election voter surveys. In the course of this effort, we began to notice anomalies in the SVRS data, including apparent duplicate voter registrations, deceased voters on the active voter rolls, and non-existent and/or invalid voter registration addresses. This prompted us to submit a letter to Secretary of State Mark Ritchie on October 16<sup>th</sup>, 2008 explaining our concerns.

On October 17<sup>th</sup> 2008, Secretary Ritchie called a press conference in response to our letter, defending the integrity of Minnesota's election system. Minnesota Majority did not believe that Secretary Ritchie adequately addressed our concerns, so our research into election system irregularities continued.

On November 3<sup>rd</sup> of 2008, the day before the General Election, KMSP TV aired a story about convicted felons on the voter registration rolls. Tom Lyden reported that he had found about 100 felons newly registered to vote. One of them was inexplicably registered while still in prison. Lyden brought his findings to Secretary Ritchie, who said he was aware of 26 ineligible felons who had registered to vote and he offered his assurances that the felons problem would be addressed.

Following the 2008 election, Minnesota Majority began to investigate whether any felons who were illegally registered managed to actually vote. What we found surprised us, because the data suggested that 20 times more felons than had been identified by KMSP-TV may have actually voted in the 2008 General Election.

## **Research Methodology**

On January 30<sup>th</sup>, 2009, Minnesota Majority, through the Minnesota Data Practices Act requested a copy of the Bureau of Criminal Apprehension's (BCA) Computerized Criminal History Database. It was received on a CD ROM in February of 2009 and was dated current as of February 7<sup>th</sup> 2009.

Unfortunately, the SVRS file was still not updated from the 2008 General Election at that point. Although state statute requires all voter histories to be posted to SVRS within six weeks after an election and the federal Help America Vote Act (HAVA) requires such updates immediately, voter history updates weren't reported as "complete" until April of 2009 – fully six months after the 2008 election.

When the Secretary of State's office finally notified Minnesota Majority that SVRS updates were complete, we obtained a copy of the SVRS file on April 29<sup>th</sup> 2009. We then compared the BCA data to SVRS.

First, the BCA Data was reduced to only records of individuals who had been charged with felonies. All records of individuals without a felony charge were thrown out. The database was further distilled by court dates and sentencing guidelines to eliminate records that would not indicate ineligibility to vote on November 4<sup>th</sup> of 2008. The resulting database was then compared to the April 2009 version of the voter history data, with the following matching criteria:

- First Name
- Middle Name
- Last Name

- Year of Birth (an exact date of birth match is not possible because the public version of SVRS only includes the birth year in accordance with data privacy laws)

Any exact matches between the two databases were compiled into a new file, appending the BCA data to the voter data. The resulting file was filtered to eliminate any records that did not show a vote cast in the 2008 General Election. This file contained 2,803 names, statewide.

Because the BCA data is imperfect for precisely determining the date ranges of active incarceration or parole or probation, a manual status and identity verification was needed in addition to the automated database queries.

Using the Minnesota Department of Corrections' online Offender Locator, we were able increase our confidence that we had correctly matched the identities of ineligible felons who were still "on book" (under the supervision of the Department of Corrections) with the identities of 2008 voters in SVRS. Department of Corrections data is limited in that it only produces records of individuals currently under the supervision of the Department of Corrections. Historical records are not available, so felons who were off probation at the time of the record search, but who may have been on probation at the time of the election would not produce any results.

Because we observed that the highest concentrations of suspected fraudulent felon votes were cast in Hennepin and Ramsey Counties, we decided to focus our research in those two counties. Two lists were compiled of suspected felon voters. 899 names for Hennepin and 460 names for Ramsey. With the help of volunteers, we searched court documents called "registers of actions" for the suspected felon voters in those two counties, with a much larger sample size.

In Hennepin County, 731 court record searches were performed (81% of the file). 289 were deemed to be conclusive identity matches of felons who were not eligible to vote on November 4<sup>th</sup> of 2008. Another 161 records were deemed inconclusive due to incomplete or unclear public data.

For 281 of the names searched, we did not find evidence that the suspected felon was both convicted of a felony and ineligible to vote on November 4<sup>th</sup> of 2008. As examples, a felon may have been charged before the election, but not convicted until afterwards, their sentence was shortened so they were "off book" before the election, their charge was reduced from a felony to a gross misdemeanor in court and other similar situations.

In Ramsey County, 165 court record searches were performed (35% of the file). Of those, 52 were deemed to be conclusive identity matches of felons who were not eligible to vote on November 4<sup>th</sup> of 2008. 32 were deemed inconclusive and for 81 records, evidence of ineligibility was not found in the online court record system.

To date, Minnesota Majority has obtained 341 copies of Hennepin and Ramsey County court registers of actions that document felons' ineligibility to vote on November 4<sup>th</sup> 2008, that are linked to electronic voter history records of people who SVRS indicates voted in 2008.

In addition, we examined and copied a small sampling of original polling place roster pages and voter registration cards. Through the Minnesota Data Practices Act, we requested and were granted on-site inspection of 2008 election documents in the election offices of the cities of Minneapolis, Edina and the county of Ramsey (in Hennepin, the cities maintain election records, while Ramsey County stores all election records for every city in the county). To date, Minnesota Majority has obtained copies of 54 roster pages signed by suspected ineligible felon voters in Ramsey County and 19 copies of signed roster pages in Hennepin County.

## Communication with Law Enforcement Officials

On October 16<sup>th</sup>, 2009, Minnesota Majority submitted affidavits to Hennepin County Attorney Mike Freeman and Ramsey County Attorney Susan Gaertner under Minnesota Statute §201.275, which states:

*“A county attorney who is notified by affidavit of an alleged violation of this [election law] chapter shall promptly investigate. If there is probable cause for instituting a prosecution, the county attorney shall proceed by complaint or present the charge, with whatever evidence has been found, to the grand jury. 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. The county attorney, under the penalty of forfeiture of office, shall prosecute all violations of this chapter except violations of this section; if, however, a complainant withdraws an allegation under this chapter, the county attorney is not required to proceed with the prosecution.”*

The affidavits each explain Minnesota Majority’s findings regarding felon voters and were accompanied by database exhibits of evidence from the BCA data and Voter history files specific to the county submitted to.

Between October of 2009 and June of 2010, Minnesota Majority has made at least 4 requests for a meeting with staff at the Ramsey County Attorney’s office to go over our findings and evidence. Those requests have all been carefully ignored.

On January 20<sup>th</sup> of 2010, the Ramsey County Attorney’s office provided to Minnesota Majority a spreadsheet of voters who had been charged with election crimes. It contained 26 names. 14 of the individuals named in the document were only charged with illegally registering to vote. 12 were charged with voting fraudulently. Some of the accused claimed they registered but did not vote. Ramsey County attorneys apparently took them at their word, because they were not charged for voting (Minnesota Majority has obtained the polling place roster pages bearing their signatures and compared them to the signatures on their registration cards where available and came to a different conclusion, however).

On February 18<sup>th</sup>, 2010, the Hennepin County Attorney’s office sent a letter to Minnesota Majority acknowledging receipt of Jeff Davis’ affidavit and regarding alleged felon voters, stated, “This is a difficult factual element to prove in many cases. All of that being said, the Hennepin County Attorney’s office is investigating the 750 [sic] individuals you presented to determine if charges can be brought for violation of Minn. Stat. §201.014, subd. 3.”

In March of 2010, the Hennepin County Attorney’s office contacted Minnesota Majority for clarification of the meaning of some data provided to them as evidence of election crimes.

On May 11<sup>th</sup>, 2010, Minnesota Majority sent letters to the Hennepin and Ramsey County attorneys requesting an update on the state of the investigations.

On June 2<sup>nd</sup>, the Ramsey County Attorney’s office responded with a list of 5 names of suspected felon voters they’d declined to prosecute due to lack of sufficient evidence, and a list of 7 individuals who’d been convicted of election-related crimes. Of the 7 names, only one was new since January of 2010. After 8 months, out of 460 names, Ramsey County ruled out 5 and convicted one.

On June 24<sup>th</sup>, The Hennepin County Attorney’s office responded to our request for an update stating that they are currently investigating 216 of the individuals identified in the list of 899 submitted to them.

## County Attorney Legal Actions

In Ramsey County, Minnesota Majority is aware of 27 individuals who have been charged with voter fraud or registration fraud.

The following 13 individuals have been charged with ineligible voting by convicted felons (7 have been convicted to date) in Ramsey County:

- Theresa Marie Barslou (convicted)
- Sarah Lynn Hankins (convicted)
- Matthew James Hinman
- Wiley Young Lodge III
- Karen Louise Burrell McKinney (convicted)
- Antoinette Davida Molinar (convicted)
- Erika Denise Taylor
- Shoua Vang
- Bernard Wilson
- Donald James Diamond (convicted)
- Dustin James Norring (convicted)
- Willie Lee Sykes
- Cynthia Rene Clark (convicted)

The following 14 individuals have been charged with voter registration fraud in Ramsey County:

- Kathryn Mary Aslakson (dismissed)
- Karl Edward Bennett (convicted)
- Daniel Tyrell Clark (convicted)
- Jenna Christine Cook (convicted)
- Rocky Jon Easton (convicted)
- Martin Lane Hollins (failed to appear – warrant issued)
- Annette Lorraine Jones (convicted)
- James Keith Lesure (convicted)
- Wayde Charles Minter (convicted)
- Jacqueline Patricia Perry (convicted)
- Raymundo Gonzalo Silva (convicted)
- Ebony Nicole Stevenson (convicted)
- Joseph James Wagner (convicted)
- Thomas Howard Woodward (convicted)

Minnesota Majority has evidence that strongly suggests several of the individuals in Ramsey County who were charged with voter registration fraud also voted in the 2008 election, but have not been charged with illegal voting. Specifically, we have obtained copies of precinct roster pages bearing these suspects' signatures. In some cases, we also obtained copies of the suspects' voter registration cards and were able to compare signatures between the registration card and the roster pages, concluding that they matched.

Minnesota Majority was informed by the Ramsey County Attorney's office that prosecutors were unable to locate signed roster pages for the individuals who were charged with illegally registering but not voting. Minnesota Majority didn't experience that same difficulty.

Minnesota Majority is aware of 3 individuals who have been charged with ineligible voting by a convicted felon in Hennepin County.

## **Penalties**

A total of 20 convicted felons have been found guilty of election crimes in Ramsey County to date. Although voter registration fraud and voter fraud, including voting by ineligible felons is a felony crime punishable by up to a \$10,000 fine and 5 years in jail, in every conviction to date, the offence level has been reduced to a gross misdemeanor by judges hearing the cases. In each conviction, the perpetrator has been fined \$50 (plus \$81 in court fees) and let go after a day in jail. That penalty is roughly equivalent to parking too close to a curb or a minor traffic offense.

A common argument used by those who deny the existence of election crimes in Minnesota is that because the penalties are so severe, no one would risk it, but those supposedly deterring severe consequences are not being applied. Of course, auto theft is also a felony with steep penalties, so by that logic, cars are never stolen, either.

Each of the 20 individuals who've been convicted of election crimes to date is or was a probationer under the supervision of the Department of Corrections. Voting while under such supervision is a violation of their probation agreement, yet no additional penalties appear to have been imposed for those violations other than an extension of probation.

## **Administrative Failures**

Minnesota Statute §201.155 requires the Secretary of State to prepare a monthly list of ineligible felon voters who have become registered to vote and transmit that list to county election officials. County officials are then obligated to change the status of those individuals on the voter rolls to prevent them from casting fraudulent ballots.

Ineligible felons are to have their registration status changed to "Challenged: Felon" and that notation should appear on the polling place rosters so election judges can challenge suspected ineligible voters on Election Day.

In approximately 90% of the pre-printed precinct roster pages of voters who registered in advance of the election and bearing the signatures of convicted felons that Minnesota Majority examined, no challenge notation was present next to the voter's name.

## **Conclusion**

Despite strong evidence of a large number of ineligible felons fraudulently participating in the 2008 election, law enforcement and elections officials have appeared reluctant to examine or acknowledge the problem.

The failure of a county attorney to investigate allegations of election crimes is a misdemeanor, and subjects the county attorney to forfeiture of office under Minnesota Statute § 201.275. Because of this, we believe the Ramsey County Attorney is making a token gesture to investigate Minnesota Majority's allegations. While the Hennepin County Attorney's office recently stated that they were investigating 216 of 899 suspected felon voters and have charged 3, it's taken over 8 months for them to get to that point, when evidence is on the verge of being destroyed and the statute of limitations is running out. It's unknown whether the delays are deliberate or due to a lack of resources. Either way, the integrity of our

election system is clearly broken. With the election records set for destruction in September of 2010 and the statute of limitations on election crimes running out in November, unless swift action is taken, the overwhelming majority of suspected fraudulent voters will never be prosecuted.

Upon finding probable cause, failure to prosecute suspected violators of election law is also a misdemeanor, subjecting the county attorney to forfeiture of office. Between October 2009 and June 2010, Minnesota Majority made numerous requests for a meeting with staff in the Ramsey County Attorney's office to better explain our findings. All such requests have been ignored. Minnesota Majority also offered to provide paper copies of all the evidence we've compiled to date to the Hennepin County Attorney's office. They have politely declined.

It appears that some election officials and law enforcement agencies do not want or are unable to fully investigate and prosecute allegations of election crimes. It also appears that they have been unwilling or unable to detect them. If it should be demonstrated that the county attorneys fully understand the allegations and that there is indeed probable cause, they would be compelled to prosecute each and every instance under penalty of law. Minnesota Majority is concerned that because of slow response on the part of the county attorneys, whether by intent or lack of resources, the clock will be run out on catching and prosecuting fraudulent voters, preserving the illusion that there is no significant election fraud in Minnesota.

In November, anyone who committed voter fraud in the 2008 election and who hasn't yet been prosecuted can rest easy. They will have gotten away with it, their crime unpunished and the damage to our state's election integrity will go unnoticed.

If our election laws are not being enforced and election crimes aren't detected or even investigated when allegations are made, there can be no faith in the integrity of Minnesota's Election system. We believe fraudulent voting by ineligible felons is one of the simplest types of voter fraud to detect and prosecute because of the list of convicted felons that can be compared to the voter rolls. Yet without Minnesota Majority's independent research into the matter, it appears most instances of fraudulent felon votes would have gone undetected. Since there is no equivalent list of people who don't exist, we believe that it is extremely likely that the crime of voting using a false identity would go undetected by election and law enforcement officials.

The administrative election integrity improvements enacted in the 2010 legislative session are meaningless if the laws are not enforced. It will be a gross travesty of justice if fraudulent voting is allowed to continue unimpeded by the law enforcement agencies and public officials charged with upholding the integrity of Minnesota's elections.

Failure to act now sends a signal to potential fraudulent voters that voter fraud is a safe way to influence elections because perpetrators in all likelihood will never be caught or prosecuted. Even those few who have been convicted received only a slap on the wrist: a small fine and part of a day in jail.

The legislature can pass a hundred well intentioned laws to ensure the integrity of our elections, but it will all be for naught if the individuals charged with upholding those laws are either unwilling or unable to perform their duties. Minnesota Majority urges law enforcement and election officials to make investigation and prosecution of election fraud a top priority to preserve the integrity and public confidence in the most sacred cornerstone of our constitutional republic: fair and honest elections.