

Unverifiable Voters in Minnesota's Elections

January 17, 2012

HENNEPIN COUNTY GOVERNMENT CENTER
300 S 6TH ST
MINNEAPOLIS, MN 55487-0060
Phone No: 612-348-5151
Website: www.hennepin.us

Voter I.D.#: 4314623

019560678

First Class Mail
U.S. Postage
Paid
Permit No. 171
St. Paul, MN

Your Precinct: MINNEAPOLIS W-11 P-09

Your polling place for

LAKE NOKOMIS CC
5625 23RD AVE S
MINNEAPOLIS, MN

NIXIE 553 CE 1 06 10/03/08

RETURN TO SENDER
NO SUCH NUMBER
UNABLE TO FORWARD

BC: 55487 *0378-02478-02-44

NSN

Congressional District	Senate District	House District
05	62	62B

Commissioner District	School District
04	001-00

OCT 25 2008

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Report on Unverifiable Voters: Undeliverable Postal Verification Cards Resulting in Voter Challenge in Minnesota's 2008 and 2010 General Elections

Prepared by Dan McGrath – January 17th, 2012

Executive Summary

Minnesota's lax election system, lacking a definite identification requirement to register or to vote, provides a window for fraudulent voting by use of false identities and/or addresses. Undeliverable postal verification cards returned under certain circumstances are strong indicators of this variety of fraudulent voting activity. This report explains postal verification cards (PVCs) and provides an analysis of PVCs returned as undeliverable mail following the 2008 and 2010 general elections in Minnesota.

After every election, newly registered voters are mailed a piece of non-forwardable official election mail commonly known as a postal verification card (PVC). The postcard informs the voter of successful registration and contains information about the voter's polling place location. The card's other purpose, implied in its name, is to verify that the voter actually lives in the precinct, at the address provided on his or her voter registration application.

When a PVC card is returned as undeliverable mail, the voter to whom it was mailed becomes flagged for challenge in subsequent elections. A challenged voter must provide additional information before being allowed to vote the *next time*.

The "regular" election registration procedure requires a voter to register more than 20 days in advance of an election, allowing time for the new voter's addresses to be verified via PVC mailings. For someone registering and voting on Election Day, however, address verification under current statutes and regulations is not performed until *after* a new voter's ballot has been accepted and counted.

The research findings herein demonstrate that in Minnesota's last two statewide general election cycles, thousands of PVC cards sent to Election Day registrants have been returned as undeliverable without a valid explanation available (such as the voter moved). The unverifiable voters were flagged to be challenged in *future* elections, but the ballots they cast on Election Day can't be removed from the election results.

6,224 Election Day registrants provided unverifiable names and/or addresses resulting in challenge due to PVC returns for reasons other than forwarding addresses after voting in Minnesota's 2008 general election (a presidential election year).

1,244 Election Day registrants provided unverifiable addresses when voting in Minnesota's 2010 election (a non-presidential election year). As of March 1st, 2011, 399 of those individuals had been referred to county attorneys for investigation under Minnesota Statute 201.121.

While not all returned PVC cards are the result of fraudulent registrations, the large number of unexplained PVC returns is alarming. Even if only a fraction of these returned cards were the result of fraudulent registrations, the numbers could be significant enough to affect the outcome of several elections. In 2008, Minnesota's US senate race was decided by just 312 votes and a state representative was elected by just 13 votes in 2010.

Unexplainable, undeliverable postal verification cards are the best evidence currently available of voter fraud by use of false names and/or addresses.

Although the PVC system makes it possible to detect fraudulent voting by use of assumed or fictitious identities and/or addresses, prosecution is next to impossible under the current system. A voter using a false name can't be tracked after the fact. By examining the post-election evidence, it is impossible to determine the real identity of a fraudulent voter who may have provided a false name. With suspicious PVC returns in the thousands, it's clear something more needs to be done to prevent and aid detection and prosecution of fraudulent voting via false identity and/or residence. Only a Photo ID requirement would correct this deficiency.

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Background

Minnesota Majority is a state legislative watchdog group. Its main mission is to track and report on public policy issues and provide tools to make citizen involvement in the process easier. Since October of 2008, Minnesota Majority has been researching the integrity of Minnesota's election system, exposing numerous systemic flaws and election crimes. In the past two years, Over 150 individuals have been prosecuted and convicted for election crimes as a direct result of Minnesota Majority's research.

One of the most difficult kinds of voter fraud to detect is false identity voting, which Minnesota's election statutes and regulations enable with relative ease, primarily because of the insecure combination of Election Day registration and vouching.

In an effort to ascertain to what extent false identities may be used in Minnesota's elections, Minnesota Majority employed a data enhancement service to compare the public voter history file with the United States Postal Service address database. The results were shocking. In 2008, nearly 100,000 registered voter addresses in Minnesota's Statewide Voter Registration System (SVRS) were flagged either "vacant" or "undeliverable" by the USPS.

Some of the voter addresses flagged by USPS were explainable by incorrect address formatting and data entry errors. This accounted for about 50% of the flagged addresses, but many were not so easily explained. Volunteers were dispatched to the flagged addresses to see the properties for themselves and to take photographs of what was there. In many instances, flagged voter addresses were in non-residential areas, or simply did not exist. Photographs were taken of suspicious voter addresses, including a warehouse, a swamp, a forest, a freeway and a park. In other instances, the address as listed in SVRS did not exist or was an impossibility under the city's street and house numbering system.

To further the research on undeliverable voter addresses, Minnesota Majority obtained information about undeliverable election mail (Postal Verification Cards) from the office of the Secretary of State under the Minnesota Data Practices Act. This report provides an analysis of what was found in the PVC data obtained.

Postal Verification Cards Explained

After every election, newly registered voters are mailed a piece of non-forwardable official election mail commonly known as a postal verification card (PVC). The postcard informs the voter of successful registration and contains information about the voter's polling place location. The card's other purpose, implied in its name, is to verify that the voter actually lives at the address provided on his or her voter registration application.

If a PVC is returned as undeliverable, the voter's registration in the statewide voter registration system is flagged for challenge. PVC cards may be returned undeliverable because the voter doesn't reside at the address given; because the address given doesn't exist; because the address is non-residential property lacking a mailbox for delivery; and for other similar reasons.

Challenged voters are changed to "inactive" status upon unsuccessful delivery of subsequent PVCs. Inactive voters do not appear on precinct rosters.

Sometimes a PVC is returned because the voter moved shortly after registering to vote. PVC cards returned because of in-state or out of state forwarding addresses (meaning the voter moved) are so noted in the statewide voter registration system, so it's possible to determine the number of PVC cards returned undeliverable for this reason.

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Other unexplained undeliverable PVC cards may be indicative of voter fraud. In fact, when the PVC system was first established in Minnesota Statute 201.12, preventing fraudulent voting was the first reason given for mailing the notices. It stated, "To prevent fraudulent voting and to eliminate excess names, the county auditor may mail to any registered voter a notice stating the voter's name and address as they appear in the registration files."

Voters to whom a PVC card can not be successfully delivered are flagged for challenge and are not allowed to vote until they provide additional proof of, or attest to, their identity and residence in the precinct in accordance with MN Stat. 204C.12. Voters already flagged for challenge, to whom a subsequent PVC is mailed and returned undeliverable are changed to "inactive" status in SVRS under MN Statute 201.12.

Voters who register at least 20 days before an election may be mailed a PVC card before they vote, and additional steps are taken to verify a voters' identity and residence under Minnesota Statute 201.121, so by the time they arrive at the polling place, their residence at the address provided on their registration has been verified. Those who are not verified under the provisions of MN Stat. 201.121 are flagged for challenge at the polling place. Not so for Election Day registrants, however.

Those registering and voting on Election Day do not have their name and address verified until after their ballot has already been accepted and counted.

Findings of Fact

2008

2008 was a presidential election year that also featured an extremely close US Senate Race in Minnesota (Coleman v. Franken). Voter turnout was approximately 2.9 million.

From a dataset extracted from the statewide voter registration system in July of 2010, a total of 38,466 PVC cards mailed to new voters or those who newly updated their voter registrations were returned undeliverable between January of 2008 and July of 2010, resulting in a voter status of either "Challenged" or "inactive." Of those, 11,105 voted in the 2008 general election.

6,224 voters who registered and voted on Election Day were subsequently flagged for challenge or changed to inactive status due to PVC returns for reasons other than in-state or out-state forwarding addresses. The PVC return reasons given in SVRS include:

- Challenge – Name/Address
- Challenge – Postal Return
- Inactive – Postal Return (indicating at least 2 PVCs sent to the voter were returned undeliverable)
- No Such Address
- Other
- Undeliverable

2,607 candidate drive registrations (which may include registration drives by non-candidate entities, such as ACORN) resulted in a challenge flag due to a returned PVC card. Only 51 of the challenged voters who registered in this manner actually voted in 2008, however.

25 voters who were registered by motor-voter had PVC cards returned.

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142 voters' PVC cards were returned as a result of mail-in registration and 179 from regular voter registration completed 20 days or more before the election. 3 voters who registered via FPCAs (Federal Post Card Applications) had PVC cards returned.

109 voters who used same day registration in conjunction with an absentee ballot for the 2008 election were later flagged for challenge due to a returned PVC.

The secretary of state's office differs in their analysis of the data. They reported in a May 1st 2011 memo to the House Government Operations and Elections Committee that 13,363 voters in the dataset who used election day registration on November 4th, 2008 were flagged for challenge or changed to inactive status due to a PVC return, and note, 10,095 were returned because the voter moved either in-state or out-of-state. The secretary of state concluded, "therefore there were 3,262 voter records among the 2008 Election Day registrants for which there is no obvious explanation as to why they were returned."

Depending on the analysis of the data employed, between 3,262 and 6,224 Election Day registrants who voted in the 2008 general election provided addresses that could not be verified, and for which no legitimate explanations have been determined.

2010

2010 was a non-presidential election year with no US Senate race or other statewide race for federal office before the voters. With the exception of Minnesota's 8 congressional district races, there were no elections for federal office. The only statewide races were for the state offices of governor, secretary of state, state auditor and attorney general. Voter turnout was approximately 2.1 million.

From a dataset extracted from SVRS in September of 2011, a total of 3,500 PVCs mailed to new voters, or those who recently updated their voter registrations and who participated in the 2010 general election were returned as undeliverable between November of 2010 and September of 2011. 3,048 of those voters registered via Election Day registration (EDR).

A subset of 120 EDR voters challenged due to PVC returns employed Election Day registration in conjunction with an absentee ballot.

Additional analysis of the available data shows:

1,764 Election Day registrations resulted in returned PVCs due to in-state forwarding addresses (the voters moved). Another 23 had out of state forwarding addresses.

16 PVCs mailed to EDR voters were returned because the voter was temporarily away (i.e. on vacation).

1,206 PVCs mailed to Election Day registrants were returned and noted simply, "undeliverable." The voters' statuses were flagged either "challenged" or "inactive" as a result.

29 PVCs mailed to EDR voters were returned and noted "no such address."

10 PVCs mailed to EDR voters were returned and flagged "other"

Of the Non-EDR voters challenged for PVC returns, 123 were registered to vote via "motor-voter"; 1 via FPCA (Federal Post Card Application); 36 via mail-in registration; 154 via NCOA (National Change of Address cards); 10 via registration drives; 89 via regular voter registration; and 39 via "returned in state" (automatic voter registration updating).

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For several voters to whom a PVC could not be successfully delivered, a subsequent attempt was made. Some of the later PVC cards did not come back undeliverable and in those instances, the secretary of state considers the voter's address verified. In many more cases, the subsequent delivery attempts also failed, however, resulting in a change of voter status from "challenged" to "inactive."

Of those PVC cards returned and noted "no such address," "undeliverable" or "other," 426 secondary mailings to the challenged voters did not come back undeliverable. There are a variety of possible explanations for that, but the secretary of state's office presumes those secondary PVCs successfully delivered. The secretary of state's office differs in their analysis of this data.

A letter from Beth Fraser with the secretary of state's office that accompanied the data as requested states that 604 secondary PVCs have been successfully delivered to the above referenced challenged or inactive 2010 voters.

In total, 1,244 Election Day registrants who voted in 2010 were subsequently mailed undeliverable PVCs for which there is no known valid explanation. Taking into consideration the presumed delivery of 426 to 604 secondary PVC mailings, between 640 and 818 Election Day registrants provided names or addresses that could not be verified, some after two attempts. 399 of those have been referred by election officials to county attorneys for possible criminal investigation.

The number of suspicious PVC returns following the 2010 non-presidential general election is significantly lower than is documented for the 2008 presidential general election. Voter turnout was lower in 2010, but not in proportion to explain the disparity in PVC returns by turnout difference alone. The absence of national campaigns and interest groups may be a factor in explaining the reduction in undeliverable postal verification cards from 2008 to 2010.

2009 Law Change

Data on PVC cards collected before 2009 was treated somewhat differently than newer data. Less information is available about PVC returns from the 2008 election than from the 2010 election. This is because a statutory change enacted in 2009 requires more tracking, investigation and reporting of PVC card returns.

Under Minnesota Statute 201.121, the secretary of state is now required to report on PVC card returns to the legislature and election officials must forward unexplainable instances of returned PVCs to county attorneys for criminal investigation.

The first report to the legislature under the new requirement was issued March 1st, 2011 and included information about 399 returned PVC cards that were referred to county attorneys for investigation as of that date. This first report does not appear to fully comply with MN Stat. 201.121, in that it only covers those PVC cards that were referred to, or requested by, county attorneys for investigation. The statute seems to envision a full accounting of all PVC card returns for the prior election year, but the language is somewhat ambiguous.

Recommendations

The PVC is essentially the only tool that exists to detect and deter fraudulent voting by use of false identities and addresses. Unfortunately, it can't presently be employed to verify Election Day registrants until after they have cast a ballot and in instances where a voter is later suspected of having used a false identity or address, locating the actual voter is impossible. There is no way to tie a false identity to the real

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person voting under it, so prosecution for voting under a fraudulent identity is nigh-impossible. It must be instead be prevented by requiring voter ID and other measures.

1. Require in-person voters to present valid photographic identification including their current address in the precinct.
2. Require absentee voters to provide a valid, verifiable drivers license or ID card number when submitting their absentee ballot.
3. Institute provisional ballots so that Election Day registrants who lack proper identification including their current address in the precinct can be subjected to the same scrutiny as all other voters, including verification of their address by PVC or other means before their ballot is counted.
4. Institute electronic voter registration in the polling places to reduce data entry errors and provide a mechanism for instant voter verification on Election Day.

Conclusion

6,224 voters who employed Election Day registration in Minnesota's 2008 general election were subsequently flagged to be challenged because they provided names and/or addresses that could not subsequently be verified. 819 Election Day registrants likewise provided unverifiable names and/or addresses during Minnesota's 2010 general election.

The PVC is one method employed to prevent and detect voter fraud, but it is an expensive and flawed system. The evidence garnered via PVC returns is indicative of fraudulent voting and fraudulent voter registrations by use of false identities, false addresses, or both.

PVCs provide a gauge of suspicious election registrations but they do not enable prosecution or other remedies when fraud is detected because there is no way to connect a false identity to a real person. For example, if John Doe voted fraudulently under the name Slartibartfast, all investigators would have to go on is the false name, Slartibartfast. Even if it were possible to prove there is no such person as Slartibartfast (a logical fallacy), our election system does not enable a way to connect the false name Slartibartfast to the actual fraudulent voter, John Doe.

At best, the PVC and challenge system as applied to Election Day registrations could deter a fraudulent voter from using the same false identity and/or address again in a subsequent election, but even that isn't certain. Ultimately, all that's required to overcome a challenge by an election judge under Minnesota Statute 204C.12 is to answer questions like, "Are you eligible to vote and a resident in the precinct?" and swear an oath. In other words, lie again.

Minnesota's combination of Election Day registration and vouching allows unverified voters to influence elections. Officials only check after the election is over whether or not hundreds of thousands of Election Day registrants provided true information on their voter registration applications. The evidence suggests that many did not.

The honor system is no longer a viable way to manage Minnesota's Election Day registration system. The only way to guarantee that a voter is who they represent themselves to be and live where they say they live (i.e. in the precinct), is to require voters to present state-issued photo ID when voting.