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MICHIGAN ELECTION CHIEF REFUSES TO MEET WITH GROUP CONCERNING NUMEROUS POTENTIAL ELECTION LAW VIOLATIONS

(Lansing, Michigan, July 10, 2008)— Christopher Thomas, the director of Michigan Secretary of State Terri Lynn Land's Bureau of Elections, refused yesterday to meet with Advancement Project, a national civil rights group that works in partnership with Michigan voter protection groups, and several of its local coalition partners concerning the state's potential violations of the National Voter Registration Act (NVRA), the Help America Vote Act (HAVA), the Voting Rights Act, and Michigan Election Law. Thomas had initially confirmed a meeting with Advancement Project for Wednesday morning; however, on the eve of the scheduled meeting, upon learning more details about Advancement Project's concerns, he abruptly canceled the meeting without rescheduling.

Groups wanted to cover the following:

- The Department of State's Purging of Voters Based on a Statewide Mail Canvassing Conducted in July and August of 2006
- The Department of State's Ongoing and Immediate Purging of Voters Who Are Presumed to Have Moved Out of State
- The Cancellation of Newly Registered Voters Whose Original Voter Identification Cards are Returned as Undeliverable
- The Department of State's Directive Authorizing Election Inspectors to Require Multiple Photo IDs From Voters on Election Day
- The Department of State's Plans (if Any) of Restricting Public Access to Election Administration Materials

"Our goal for this meeting was to achieve resolutions to these issues in a manner that complies with federal and Michigan law; preserves the integrity of the electoral system; and eliminates, to the maximum extent possible, any unnecessary barriers to voting and voter registration," said Bradley Heard, senior attorney, Advancement Project.

"As part of Advancement Project's voter protection efforts, we strive to work collaboratively with election officials to remove potential barriers that would deny voter access to the ballot box," concluded Heard. "Collaboration begins by all parties being willing, at a minimum, to discuss the issues at hand. Therefore, we hope that Mr. Thomas will work with us and others to remedy these problems and do his job to protect the franchise for all Michigan voters."

DESCRIPTION OF CONCERNS

Advancement Project contends that the state has violated federal and state election law in a myriad of ways. For example:

1. Advancement Project believes that Michigan's July-August 2006 purge program violated the NVRA, which prohibits states from engaging in list maintenance activity related to address changes within 90 days of a federal election. The first step in this list maintenance process (i.e., the statewide mailing of the postcards) occurred on July 7, 2006 — 32 days before the federal primary election.

Second, it appears that the Department failed to maintain the required records related to this purge program in accordance with the NVRA. Advancement Project, the Michigan Election Reform Alliance (MERA), and possibly others have previously made specific public records requests for these materials and were advised that the records did not exist in the forms requested.

2. The Michigan Department of State, which administers both driver's license and voter registration records, appears to use a streamlined procedure for immediately canceling the registrations of Michigan voters who receive driver's licenses in other states. On a quarterly basis, upon receipt of notices from cooperating state motor vehicle licensing bureaus of drivers who surrender their Michigan driver's license, the Department immediately cancels those persons' Michigan driver's licenses. In addition, if those persons are also registered voters, the Department immediately cancels those persons' voter registrations and instructs the local city or township clerk to issue a "30-Day Notice of Cancellation (Out of State)" to the affected voters, informing them that their registrations will be canceled in 30 days unless they return the postage-paid return card attached to the notice. According to the Department's own estimations, over 280,000 voters per year are removed from the rolls in this manner.

According to the NVRA and the comparable provision of Michigan law, whenever election officials receive reliable information from the post office or other sources that voters have moved, they are to send confirmation of registration notices to the affected voters. Such voters are then not allowed to be removed from the rolls unless and until two full federal general election cycles pass with no contact or update from the voters. Michigan's procedure truncates that cancellation countdown window to 30 days instead of four years.

3. Federal and state law require local registration officials to issue a voter identification card to any applicant determined to be qualified to vote. However, the Michigan statute also says that if the voter's original identification card is returned as undeliverable, "the clerk shall reject the registration and send the individual a notice of rejection" and that "the person shall be deemed not registered." Advancement Project believes that the removal of voters from the rolls based on the return of their original voter identification cards as undeliverable is a violation of the NVRA and other federal voting rights laws, because it conditions completion of the voter

registration process on external factors outside of the voter's control and completely unrelated to the voter's ultimate qualifications to vote.

4. In September 2007, the Michigan Department of State issued a detailed interpretive document entitled *Picture Identification in the Polls: Instructions to Election Officials*. Of particular concern to Advancement Project is the portion of the directive regarding "What actions should an election inspector take if the photo appearing on the picture identification displayed by a voter does not resemble the voter closely enough to verify the voter's identity?" The directive ultimately allows inspectors to "ask to view any other acceptable forms of picture identification that the voter may have in his or her possession." If the voter does not have a second form of photo ID, the directive states that "the election inspector should issue a provisional ballot to the voter and contact the clerk." There is no option, under the directive, for a voter in such circumstances to complete an affidavit and vote a regular ballot.

Advancement Project believes that the Department's directive does not comply with Michigan Election Law. First, Michigan's photo ID law does not appear to allow the Department of State or any election worker the discretion to require or request a voter to produce a second piece of photo identification or to deny a regular ballot to a voter who complies with the law by producing valid photo ID merely because an election inspector states that he or she cannot discern the likeness of the voter. Also, under Michigan law, provisional ballots are authorized to be issued only when a voter does not appear on the registration rolls in a precinct and that discrepancy cannot be resolved on Election Day.

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