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ACRU Election Integrity Bulletin

LEAD STORY

The Trump Administration Must Defend Citizenship on the 2020 Census

Conservatives support efforts by the Trump administration to include a question about citizenship on the 2020 Census. We urge the administration to actively appeal any efforts by leftist groups and others to have it removed. Questions about citizenship have a long history on the U.S. Census, having appeared regularly from 1820 through 1950, since it was proposed by Thomas Jefferson in 1800. It also appears regularly on the American Community Survey (ACS), which is sent to one out of every 38 households on an annual basis. Contrary to leftist claims, asking such a question will not result in a threat of deportation to respondents, or a downturn in census participation. The question is about citizenship—not legal status—and the Census Bureau is constrained by statute in sharing information about individual respondents. There is also no evidence that it will reduce the count among “had to count” populations. The judge’s ruling will, moreover, hand ever-increasing power to the administrative state, subtracting it from the executive power. We urge the Trump administration to offer a full-throated defense of its citizenship question on the 2020 Census, and urge the Supreme Court to weigh in swiftly on the growing abuse of national injunctions by the District courts.

<http://conservativeactionproject.com/the-trump-administration-must-defend-citizenship-on-the-2020-census-and-oppose-the-overuse-of-national-injunctions/>

FEDERAL

The Hill: Judge Doesn't Accept Privacy as Reason to Immediately Block Census Citizenship Question

A federal judge Friday said privacy concerns were not sufficient reason to immediately block a question about citizenship from the census, declining a request to offer a preliminary injunction. “The Court will deny the plaintiff’s motion for a preliminary injunction,” wrote Judge Dabney L. Friedrich. She argued that the Electronic Privacy Information Center, which requested the injunction, did not sufficiently prove that the government needed to do a “privacy impact assessment” before it could add a question to the census. Commerce Secretary Wilbur Ross first announced in March of last year that he would add a question about citizenship to the 2020 census. “The Bureau did not act contrary to the E-Government Act by deciding to collect citizenship data before conducting, reviewing, or releasing a PIA addressing that decision.” she wrote. “Nor have the defendants ‘unlawfully withheld’ agency action by declining to conduct or release a PIA earlier than they were required to under the statute.” She determined that the government did not have to conduct the assessments until “until the Bureau mails its first batch of Census questionnaires to the public.”

<https://thehill.com/blogs/blog-briefing-room/news/429278-judge-doesnt-accept-privacy-as-reason-to-immediately-block>

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Washington Times: No Impact from Foreign Meddling in 2018 Election

Foreign governments did not sway the 2018 elections, the Justice and Homeland Security departments announced Tuesday, saying the vote came off without any evidence of the kinds of breaches that tainted the 2016 presidential vote. The two departments said they've completed a presidentially ordered report using data compiled by the intelligence community. While the study is classified, the departments said there are no indications of successful interference. "The departments have concluded there is no evidence to date that any identified activities of a foreign government or foreign agent had a material impact on the integrity or security of election infrastructure or political/campaign infrastructure used in the 2018 midterm elections for the United States Congress," the departments said. Officials say they were better prepared this time, conducting vulnerability reviews for state and local elections officials.

<https://bit.ly/2RNrWpO>

Free Beacon: Dems Push National Popular Vote in Newly Controlled 'Trifecta' States

Democrats are reigniting a decade-long push for a constitutionally dubious workaround to the Electoral College, with the most ambitious efforts coming in two western states in which the left gained the political "trifecta" of owning the Governor's seat and both chambers of the state legislature after the 2018 elections. The National Popular Vote Interstate Compact, or NPV, creates an agreement by all states that have entered into it, whereby their Electoral College votes are cast for the candidate who wins the most individual votes nationwide, not who wins the most in that state. Central to the compact is the legal trigger that it would not take effect until the number of Electoral College votes of all the states entered in surpasses 270, the key number required to win the Presidency. With 11 states and the District of Columbia agreeing to participate, the NPV Electoral College vote tally stands at 172.

<https://bit.ly/2TH0cVm>

STATES

Arizona: The Fate of Mail-In Ballot Drop-Offs Still in Debate

The state Senate has given its preliminary OK to a bill that would make changes to the state's early voting system, but its future still remains unclear. Sen. Michelle Ugenti-Rita, a Scottsdale Republican, sponsored Senate Bill 1046, which states voters who get their ballot in the mail can only return it in the mail and may not drop it off at a polling place on Election Day. Under the current system, early ballots dropped off on Election Day are among the last to be counted. This bill, Ugenti-Rita said, would speed the process up. She argued her point on the Senate floor Wednesday. Republican Sylvia Allen of Snowflake, a supporter of the measure, said it's a common-sense change and would put the onus back on the voters. The Secretary of State reports more than 250,000 voters dropped off their early ballots at polling places on Election Day in November. The measure was approved on a voice vote in the Senate Wednesday, but still faces a roll-call vote in that chamber. A pair of Republicans have said they do not plan to support it, which would lead to its defeat.

<http://kjzz.org/content/758694/fate-arizonas-mail-ballot-drop-offs-still-debate>

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California: State Vows to Probe Motor-Voter Troubles

The state of California will investigate and disclose how many voters could not cast ballots in the 2018 election due to problems with its motor voter program and whether the missing votes could have changed the outcome of any races under the terms of a settlement approved Tuesday. In December last year, California Secretary of State Alex Padilla revealed at least 589 people could not vote in the election due to the delays in transmitting voter information from the state Department of Motor Vehicles to his office. On Tuesday, U.S. Magistrate Judge Laurel Beeler approved a new settlement that requires the state to provide monthly updates on its investigation of affected voters and election outcomes. Under the terms of that agreement, the state will also appoint a management-level voting rights coordinator, investigate causes behind the delayed voter ID transmissions, create a detailed corrective plan and roll out new required trainings for DMV employees. Additionally, the state vowed to send letters to all affected voters and tell them how to verify that they are now registered to vote.

<https://bit.ly/2TFfaLS>

Colorado: Mom, Frustrated at Kids' Apathy, Casts Son's Ballot

A Grand Junction woman was arrested on suspicion of misdemeanor voter fraud after she allegedly cast a mail-in ballot for her adult son last fall after becoming frustrated that her adult children didn't seem to be voting, according to the Mesa County District Attorney's Office. Gail Arlene Gray, 66, told an investigator she "did a terrible thing" but she was "really (angry) at my kids for not voting, none of them were voting and then that (ballot) came in the mail and I didn't even think, I thought I am going to vote for him..." according to an arrest affidavit released Thursday. Gray was booked on a "quick book and release" at the Mesa County Jail and handed a \$2,500 personal recognizance bond, meaning she could sign herself out of the jail.

https://www.gjsentinel.com/news/western_colorado/da-mom-frustrated-at-kids-apathy-casts-son-s-ballot/article_2c14a1ae-2b68-11e9-87e0-20677ce05640.html

Florida: Election Debacle Leads to \$15 Million Voting Overhaul in Palm Beach County

The purchases include 975 vote scanners, 525 voting machines for people with disabilities, 10 high-speed tabulators, a new voter registration and check-in system and an assortment of other computers, cabinets, wires and printers. The \$15 million is \$4 million more than former Supervisor of Elections Susan Bucher had requested when she asked for updated equipment. But Link said the higher price was essential to ensure parity with Florida's other counties. "Everything is going to be new," Link said after speaking to the commission. "We want to run a smooth election." The new machines and ballots will be ready for use by the 2020 elections but won't be available for the election scheduled next month. Link has been on the job only two weeks, after Bucher was suspended by new Gov. Ron DeSantis.

<https://www.sun-sentinel.com/local/palm-beach/fl-ne-palm-beach-county-voting-money-20190205-story.html>

Florida: 83,000 Invalid Votes Eclipsed Margin in Governor's Race

Whether they meant to or not, more than 83,000 Florida voters didn't cast a valid vote for Governor, according to a new report prepared by state officials. The combined total of invalid ballots outnumbered Republican Ron DeSantis's margin of victory over Democrat Andrew Gillum by more than 50,000 votes. The race between DeSantis and Gillum was so close that it triggered an automatic statewide recount. More than 8.2 million votes were cast in the high-profile race for Governor that attracted national attention. The total number of "non-valid votes" was 1 percent, which was a lower rate than either the 2016 presidential election or the 2014 Governor's race. These "non-valid votes" include ballots with write-in names such as Mickey Mouse and ballots that were left blank. It also includes those with votes for more than one candidate. More than 50,000 of the invalid ballots were left blank, suggesting that some people opted to skip the Governor's race.

<https://www.tampabay.com/florida-politics/buzz/2019/02/06/83000-voters-cast-ballots-that-didnt-count-in-november/>

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Georgia: Secretary of State Investigates Voter Fraud in 28th District Race

More controversy in the Georgia House District that has had election returns thrown out twice. Secretary of State Brad Raffensperger is now investigating potential voter fraud in the 28th District. The FOX 5 I-Team was there when a judge voided the second election after finding four citizens cast illegal votes.

<http://www.fox5atlanta.com/news/secretary-of-state-investigate-voter-fraud-in-28th-district-race>

Maine: Clean Election Funding Didn't Work. It Shouldn't Be Used Nationally.

Sold under the false premise that it would “get outside money out of politics,” a 2012 study by Duke University found the Maine Clean Elections Act did nothing to accomplish this goal. In the eight years analyzed by the study, outside independent expenditures to influence Maine state elections increased more than 400 percent after the institution of taxpayer-funded political campaigns. And it's easy to understand why. Well-known Maine Democratic lobbyist, Jim Mitchell, “gave the majority of his donations to candidates in 1998 and 2000 [before implementation of the program], but from 2002 on, he directed his donations to the Maine Democratic Party and the Maine Democratic House and Senate Campaign Committees,” the report said. In short, since the inception of the program, Maine taxpayers have been forced to funnel \$40 million into a program to end special interest influence and the result is just as much special influence in these campaigns as there was before.

<https://bangordailynews.com/2019/02/09/opinion/contributors/clean-election-funding-didnt-work-in-maine-it-shouldnt-be-used-nationally/>

Mississippi: More Charges in Canton Voter Fraud Case

Another former official has been charged with voter fraud in an unfolding investigation in a Mississippi town. Three indictments issued in January against retired Canton City Clerk Valerie Smith were unsealed this week. She's charged with 15 separate

felony counts of falsely claiming a voter had sworn a registration application before her when they did not. Smith's lawyer didn't immediately respond to a phone call and email seeking comment. Smith faces up to a year in prison and a \$1,000 fine for each violation if she's convicted. Smith is the eighth person charged since December with misconduct in Canton's 2017 elections. Charges against others include bribing voters, improperly helping people fill out absentee ballots, voting despite being convicted of disqualifying felonies and voting while living outside the city or voting district.

<https://www.washingtontimes.com/news/2019/feb/7/more-charges-in-voter-fraud-inquiry-in-mississippi/>

Nevada: GOP Seeks Voter ID Measure on 2020 Ballot

The Nevada Republican Party intends to place a voter ID measure on the 2020 ballot during the presidential election, a move that would likely generate turnout for the party. The party's website says it's forming a Special Committee to look at initiatives in other states and produce “solid recommendations so that we can take action as soon as the law allows us to start collecting signatures.” “Once the Special Committee presents their report, the process of filing with the Secretary of State and gathering the required signatures will begin later in 2019.” “With the vast majority of Americans supporting a voter identification requirement, protecting our elections shouldn't be a partisan issue,” NVGOP Chairman Michael McDonald said. “However, with the current Legislature unwilling to pass commonsense reforms, Nevadans have been left with no choice but to do it ourselves.”

<https://www.nevadacurrent.com/blog/nevada-gop-seeks-voter-id-measure-on-2020-ballot/>

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New Hampshire: State Supreme Court Denies Access to Voter Database in Suit Over Registration Law

A request to produce a voter database that was ordered by a lower court as evidence in a lawsuit was denied by the New Hampshire Supreme Court. Chief Justice Robert Lynn issued a 10-page ruling on Jan. 24, vacating the New Hampshire Superior Court's order in the lawsuit filed by the League of Women Voters of New Hampshire, the New Hampshire Democratic Party, and several individuals in a challenge to a voter registration law. The high court concluded that the Superior Court erred ordering the state's secretary of state and attorney general to produce the New Hampshire Centralized Voter Registration Database, concluding that the list is "exempt from disclosure by statute." Despite proposed limitations on what information could be used, the state authorities filed for a petition for original jurisdiction at the Supreme Court, which vacated the order.

<https://legalnewsline.com/stories/511755359-new-hampshire-supreme-court-denies-access-to-voter-database-in-suit-over-registration-law>

North Carolina: Election Official Sentenced for Urging Mexican Citizen to Vote in U.S.

Federal prosecutors won a two-month prison sentence this week against a North Carolina elections official who pushed a Mexican citizen to register and vote in the 2016 election. Denslo Allen Paige, 66, who had worked as a precinct official in Wake County, pleaded guilty to aiding and abetting Guadalupe Espinosa-Pena to sign up. Prosecutors said Paige was aware Mr. Espinosa-Pena wasn't eligible to vote but told him that "if he wanted his voice to be heard, he needed to vote." She then helped him fill out his form—but had him leave the box for citizenship blank. Paige submitted the form, and, at some point the box for citizenship was checked, prosecutors say. "When a non-citizen votes in a federal election it serves to dilute and devalue the vote of American citizens and places the decision-making authority of the American

electorate in the hands of those who have no right to make those choices," said Robert J. Higdon Jr., the U.S. attorney for the Eastern District of North Carolina.

<https://bit.ly/2BuBccU>

North Carolina: State Board of Elections Plan to Implement New Voter ID Law

Starting May 1, those who don't have a photo ID will be able to get one for free from their county's board of elections. The new Voter ID law enacted at the end of last year requires voters to show IDs when casting a ballot. The mandate also includes a wider variety of acceptable IDs, including state-issued IDs and student IDs at state colleges and universities. Voters will have until the end of the early voting period to get a photo ID from their county's board of elections office.

<https://bit.ly/2RSglpq>

Pennsylvania: State Admits Thousands Illegally Registered to Vote in Elections

Last week, Pennsylvania was forced to admit that it had illegally registered approximately 11,200 noncitizens to vote, and election officials have been ordered to immediately purge all those names from the state's voter rolls. Pennsylvania state Rep. Daryl Metcalfe told *The Washington Times* that the state's Democratic governor, Tom Wolf, has finally acknowledged the illegal registration after a back-and-forth legal fight.

<https://bit.ly/2N0wB74>

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REDISTRICTING

Idaho: GOP Lauds, Dems Attack Redistricting Plan

Representative Steven Harris, R-Meridian, has proposed adding a seventh member to the committee that draws legislative district lines. The seventh member under Harris' proposal would be chosen by the Governor, Lieutenant Governor, Treasurer, Controller and Superintendent of schools. Idaho voters passed a constitutional amendment in 1994 creating the current Commission for Reapportionment, which consists of three members appointed by Republicans and three by Democrats. Harris' proposal to change it is also a constitutional amendment, meaning it would need two-thirds support in both chambers of the Legislature and then would also have to be approved by a majority of voters.

<https://bit.ly/2MXni7P>

North Carolina: Do NC and TX Face More Election Lawsuits than all Other States Combined?

In the last few years, state legislators have been sued multiple times, accused of drawing unlawful maps. And, in some cases, judges have ordered redraws. "North Carolina and Texas have more (redistricting) litigation than the other 48 states, combined," State Rep. David Lewis said.

<https://www.politifact.com/north-carolina/article/2019/feb/08/do-nc-texas-face-more-election-lawsuits-all-other/>

SCOTUS Blog: Much Ado About Partisan Gerrymandering

For more than 30 years, the Supreme Court has struggled to articulate a standard for evaluating partisan-gerrymandering claims. The reason is simple: There is no workable standard. Redistricting is a quintessential lawmaking function, one that the Constitution reserves to the states. Court intervention should be reserved for the most egregious of violations, not political disagreements. Yet challengers keep knocking at courthouse doors asking for a standard. These challenges tie up the lower courts in extensive and expensive fact-finding and litigation, which predictably begins anew following each round of redistricting. After sidestepping the issue in 2018, the Supreme Court decided to hear two partisan gerrymandering cases this March. One case, *Lamone v. Benisek*, involves a challenge to a single Maryland congressional district. The other case, *Rucho v. Common Cause*, involves a challenge to North Carolina's congressional map. These cases present an opportunity for the Supreme Court to put an end to the flurry of unmerited litigation following the enactment of a new redistricting plan in a given state. The timing could not be better as the 2020 census approaches.

<https://www.scotusblog.com/2019/02/symposium-much-ado-about-partisan-gerrymandering/>