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In 5-Year Effort, Scant Evidence of Voter Fraud

By [ERIC LIPTON](#) and [IAN URBINA](#)

WASHINGTON, April 11 — Five years after the Bush administration began a crackdown on voter fraud, the Justice Department has turned up virtually no evidence of any organized effort to skew federal elections, according to court records and interviews.

Although Republican activists have repeatedly said fraud is so widespread that it has corrupted the political process and, possibly, cost the party election victories, about 120 people have been charged and 86 convicted as of last year.

Most of those charged have been Democrats, voting records show. Many of those charged by the Justice Department appear to have mistakenly filled out registration forms or misunderstood eligibility rules, a review of court records and interviews with prosecutors and defense lawyers show.

In Miami, an assistant United States attorney said many cases there involved what were apparently mistakes by immigrants, not fraud.

In Wisconsin, where prosecutors have lost almost twice as many cases as they won, charges were brought against voters who filled out more than one registration form and felons seemingly unaware that they were barred from voting.

One ex-convict so unfamiliar with the rules that he provided his prison-issued identification card, stamped “Offender,” when he registered just before voting.

A handful of convictions involved people who voted twice. More than 30 were linked to small vote-buying schemes in which candidates generally in sheriff’s or judge’s races paid voters for their support.

A federal panel, the Election Assistance Commission, reported last year that the pervasiveness of fraud was debatable. That conclusion played down findings of the consultants who said there was little evidence of it across the country, according to a review of the original report, according to a review obtained by The New York Times and reported on Wednesday.

Mistakes and lapses in enforcing voting and registration rules routinely occur in elections, allowing

thousands of ineligible voters to go to the polls. But the federal cases provide little evidence of widespread, organized fraud, prosecutors and election law experts said.

“There was nothing that we uncovered that suggested some sort of concerted effort to tilt the election,” Richard G. Frohling, an assistant United States attorney in Milwaukee, said.

Richard L. Hasen, an expert in election law at the Loyola Law School, agreed, saying: “If they found a single case of a conspiracy to affect the outcome of a Congressional election or a statewide election, that would be significant. But what we see is isolated, small-scale activities that often have not shown any kind of criminal intent.”

For some people convicted, the consequences have been significant. Kimberly Prude, 43, has been jailed in Milwaukee for more than a year after being convicted of voting while on probation, an offense that she attributes to confusion over eligibility.

In Pakistan, Usman Ali is trying to rebuild his life after being deported from Florida, his legal home of more than a decade, for improperly filling out a voter-registration card while renewing his driver’s license.

In Alaska, Rogelio Mejorada-Lopez, a Mexican who legally lives in the United States, may soon face a similar fate, because he voted even though he was not eligible.

The push to prosecute voter fraud figured in the removals last year of at least two [United States attorneys](#) whom Republican politicians or party officials had criticized for failing to pursue cases.

The campaign has roiled the Justice Department in other ways, as career lawyers clashed with a political appointee over protecting voters’ rights, and several specialists in election law were installed as top prosecutors.

Department officials defend their record. “The Department of Justice is not attempting to make a statement about the scale of the problem,” a spokesman, Bryan Sierra, said. “But we are obligated to investigate allegations when they come to our attention and prosecute when appropriate.”

Officials at the department say that the volume of complaints has not increased since 2002, but that it is pursuing them more aggressively.

Previously, charges were generally brought just against conspiracies to corrupt the election process, not against individual offenders, Craig Donsanto, head of the elections crimes branch, told a panel investigating voter fraud last year. For deterrence, Mr. Donsanto said, Attorney General [Alberto R. Gonzales](#) authorized prosecutors to pursue criminal charges against individuals.

Some of those cases have baffled federal judges.

“I find this whole prosecution mysterious,” Judge Diane P. Wood of the United States Court of Appeals for the Seventh Circuit, in Chicago, said at a hearing in Ms. Prude’s case. “I don’t know whether the Eastern District of Wisconsin goes after every felon who accidentally votes. It is not like she voted five times. She cast one vote.”

The Justice Department stand is backed by [Republican Party](#) and White House officials, including [Karl Rove](#), the president’s chief political adviser. The White House has acknowledged that he relayed Republican complaints to President Bush and the Justice Department that some prosecutors were not attacking voter fraud vigorously. In speeches, Mr. Rove often mentions fraud accusations and warns of tainted elections.

Voter fraud is a highly polarized issue, with Republicans asserting frequent abuses and Democrats contending that the problem has been greatly exaggerated to promote voter identification laws that could inhibit the turnout by poor voters.

The New Priority

The fraud rallying cry became a clamor in the Florida recount after the 2000 presidential election. Conservative watchdog groups, already concerned that the so-called Motor Voter Law in 1993 had so eased voter registration that it threatened the integrity of the election system, said thousands of fraudulent votes had been cast.

Similar accusations of compromised elections were voiced by Republican lawmakers elsewhere.

The call to arms reverberated in the Justice Department, where [John Ashcroft](#), a former Missouri senator, was just starting as attorney general.

Combating voter fraud, Mr. Ashcroft announced, would be high on his agenda. But in taking up the fight, he promised that he would also be vigilant in attacking discriminatory practices that made it harder for minorities to vote.

“American voters should neither be disenfranchised nor defrauded,” he said at a news conference in March 2001.

Enlisted to help lead the effort was Hans A. von Spakovsky, a lawyer and Republican volunteer in the Florida recount. As a Republican election official in Atlanta, Mr. Spakovsky had pushed for stricter voter identification laws. Democrats say those laws disproportionately affect the poor because they often mandate government-issued photo IDs or driver’s licenses that require fees.

At the Justice Department, Mr. Spakovsky helped oversee the voting rights unit. In 2003, when the Texas Congressional redistricting spearheaded by the House majority leader, [Tom DeLay](#), Republican of Texas, was sent to the Justice Department for approval, the career staff members unanimously said it discriminated against African-American and Latino voters.

Mr. Spakovsky overruled the staff, said Joseph Rich, a former lawyer in the office. Mr. Spakovsky did the same thing when they recommended the rejection of a voter identification law in Georgia considered harmful to black voters. Mr. Rich said. Federal courts later struck down the two laws.

Former lawyers in the office said Mr. Spakovsky's decisions seemed to have a partisan flavor unlike those in previous Republican and Democratic administrations. Mr. Spakovsky declined to comment.

"I understand you can never sweep politics completely away," said Mark A. Posner, who had worked in the civil and voting rights unit from 1980 until 2003. "But it was much more explicit, pronounced and consciously done in this administration."

At the same time, the department encouraged United States attorneys to bring charges in voter fraud cases, not a priority in prior administrations. The prosecutors attended training seminars, were required to meet regularly with state or local officials to identify possible cases and were expected to follow up accusations aggressively.

The [Republican National Committee](#) and its state organizations supported the push, repeatedly calling for a crackdown. In what would become a pattern, Republican officials and lawmakers in a number of states, including Florida, New Mexico, Pennsylvania and Washington, made accusations of widespread abuse, often involving thousands of votes.

In swing states, including Ohio and Wisconsin, party leaders conducted inquiries to find people who may have voted improperly and prodded officials to act on their findings.

But the party officials and lawmakers were often disappointed. The accusations led to relatively few cases, and a significant number resulted in acquittals.

The Path to Jail

One of those officials was Rick Graber, former chairman of the Wisconsin Republican Party.

"It is a system that invites fraud," Mr. Graber told reporters in August 2005 outside the house of a Milwaukeean he said had voted twice. "It's a system that needs to be fixed."

Along with an effort to identify so-called double voters, the party had also performed a computer crosscheck of voting records from 2004 with a list of felons, turning up several hundred possible

violators. The assertions of fraud were turned over to the United States attorney's office for investigation.

Ms. Prude's path to jail began after she attended a Democratic rally in Milwaukee featuring the Rev. [Al Sharpton](#) in late 2004. Along with hundreds of others, she marched to City Hall and registered to vote. Soon after, she sent in an absentee ballot.

Four years earlier, though, Ms. Prude had been convicted of trying to cash a counterfeit county government check worth \$1,254. She was placed on six years' probation.

Ms. Prude said she believed that she was permitted to vote because she was not in jail or on parole, she testified in court. Told by her probation officer that she could not vote, she said she immediately called City Hall to rescind her vote, a step she was told was not necessary.

"I made a big mistake, like I said, and I truly apologize for it," Ms. Prude said during her trial in 2005. That vote, though, resulted in a felony conviction and sent her to jail for violating probation.

Of the hundreds of people initially suspected of violations in Milwaukee, 14 — most black, poor, Democratic and first-time voters — ever faced federal charges. United States Attorney Steven M. Biskupic would say only that there was insufficient evidence to bring other cases.

No residents of the house where Mr. Graber made his assertion were charged. Even the 14 proved frustrating for the Justice Department. It won five cases in court.

The evidence that some felons knew they that could not vote consisted simply of a form outlining 20 or more rules that they were given when put on probation and signs at local government offices, testimony shows.

The Wisconsin prosecutors lost every case on double voting. Cynthia C. Alicea, 25, was accused of multiple voting in 2004 because officials found two registration cards in her name. She and others were acquitted after explaining that they had filed a second card and voted just once after a clerk said they had filled out the first card incorrectly.

In other states, some of those charged blamed confusion for their actions. Registration forms almost always require a statement affirming citizenship.

Mr. Ali, 68, who had owned a jewelry store in Tallahassee, got into trouble after a clerk at the motor vehicles office had him complete a registration form that he quickly filled out in line, unaware that it was reserved just for United States citizens.

Even though he never voted, he was deported after living legally in this country for more than 10 years because of his misdemeanor federal criminal conviction.

“We’re foreigners here,” Mr. Ali said in a telephone interview from Lahore, Pakistan, where he lives with his daughter and wife, both United States citizens.

In Alaska, Rogelio Mejorada-Lopez, who manages a gasoline station, had received a voter registration form in the mail. Because he had applied for citizenship, he thought it was permissible to vote, his lawyer said. Now, he may be deported to Mexico after 16 years in the United States. “What I want is for them to leave me alone,” he said in an interview.

Federal prosecutors in Kansas and Missouri successfully prosecuted four people for multiple voting. Several claimed residency in each state and voted twice.

United States attorney’s offices in four other states did turn up instances of fraudulent voting in mostly rural areas. They were in the hard-to-extinguish tradition of vote buying, where local politicians offered \$5 to \$100 for individuals’ support.

Unease Over New Guidelines

Aside from those cases, nearly all the remaining 26 convictions from 2002 to and 2005 — the Justice Department will not release details about 2006 cases except to say they had 30 more convictions— were won against individuals acting independently, voter records and court documents show.

Previous guidelines had barred federal prosecutions of “isolated acts of individual wrongdoing” that were not part of schemes to corrupt elections. In most cases, prosecutors also had to prove an intent to commit fraud, not just an improper action.

That standard made some federal prosecutors uneasy about proceeding with charges, including David C. Iglesias, who was the United States attorney in New Mexico, and John McKay, the United States attorney in Seattle.

Although both found instances of improper registration or voting, they declined to bring charges, drawing criticism from prominent Republicans in their states. In Mr. Iglesias’s case, the complaints went to Mr. Bush. Both prosecutors were among those removed in December.

In the last year, the Justice Department has installed top prosecutors who may not be so reticent. In four states, the department has named interim or permanent prosecutors who have worked on election cases at Justice Department headquarters or for the Republican Party.

Bradley J. Schlozman has finished a year as interim United States attorney in Missouri, where he filed charges against four people accused of creating fake registration forms for nonexistent people. The forms could likely never be used in voting. The four worked for a left-leaning group, Acorn, and reportedly faked registration cards to justify their wages. The cases were similar to one that Mr. Iglesias

had declined to prosecute, saying he saw no intent to influence the outcome of an election.

“The decision to file those indictments was reviewed by Washington,” a spokesman for Mr. Schlozman, Don Ledford, said. “They gave us the go-ahead.”

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