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Racial discrimination lawsuits indicate Voting Rights Act still needed

ANN ARBOR, Mich.--Forty years after Congress outlined provisions to prevent racial discrimination in electoral practices, a new report released today (Nov. 10) by the University of Michigan indicates violations persist.

The Voting Rights Act of 1965 guaranteed equal opportunity for all Americans in the voting process, and Congress reauthorized provisions in 1970, 1975 and 1982. With the central provisions of the Voting Rights Act expiring in 2007, Congress must determine whether it should renew these provisions, make substantive alterations to them or simply let them lapse. To make this determination, Congress needs information about the past and present status of minority participation in the political process--which is the impetus for the U-M report.

“Four decades after the enactment of the Voting Rights Act, racial discrimination in voting is far from over,” said Ellen Katz, U-M law professor and faculty director of the Voting Rights Initiative, a cooperative student/faculty research effort.

The findings are released as the Judiciary Committee of the U.S. House of Representatives held Voting Rights Act renewal hearings this week. The U-M report is entitled “Documenting Discrimination in Voting: Judicial Findings Under the Voting Rights Act Since 1982” and is available online at: www.votingreport.org.

The report provides the first catalogue of findings of voting discrimination made by federal judges in published lawsuits brought under Section 2 of the Voting Rights Act since 1982. It also provides a snapshot of complex cases under this provision, representing a larger set of lawsuits filed, since only an estimated one in five Voting Rights Act lawsuits filed ended in a court decision that may be analyzed.

More than 100 law students examined Section 2 cases nationwide and identified 323 lawsuits, encompassing 748 decisions that addressed Section 2 claims. While some plaintiffs failed to pursue their claims, many settled, and others saw their cases go to judgment, the courts involved did not issue any published opinion or ancillary ruling posted on the electronic databases surveyed.

Since last summer, the students have entered court cases into a database, which is accessible to the public. Anyone can review the database for a single finding of discriminatory results and view its prior and subsequent history of related cases.

“Many U-M law students collaborated on this project, and we hope that our report and Web site will serve as a useful resource to Congress, practitioners and the public,” said Emma Cheuse, the project’s lead student director.

The findings included examples of persistent racial discrimination in voting during the last 23 years. Courts found 114 instances where electoral laws and practices must be changed to remedy discrimination against racial and language minorities, including a higher number of statutory violations in jurisdictions subject to Section 5.

Section 5 suspends changes in election practices or procedures in certain states until the new procedures have been determined, either after administrative review by the United States Attorney General, or after a lawsuit before the U.S. District Court for the District of Columbia.

Some examples of voting discrimination:

- The 2004 decision in a South Dakota lawsuit documents how county officials have purposely blocked Native Americans from registering to vote and from casting ballots.
- The Charleston County litigation in South Carolina reveals deliberate and systematic efforts by county officials to harass and intimidate African American residents seeking to vote.
- A Philadelphia lawsuit describes a deliberate and collusive effort by party officials and city election commissioners to trick Latino and African American voters into casting illegitimate absentee ballots that would never be counted.
- Other cases tell of state and local authorities drawing district lines for the express purpose of diminishing the influence of minority voters, or to protect partisan interests knowing that doing so will hinder minority voting strength.

Other significant findings in the report include racially polarized voting, or “bloc voting,” persists today, with 91 cases since 1982 that ended in a court decision finding racial polarization. In addition, federal judges have identified racial prejudicial campaign tactics in 31 lawsuits nationwide, such as manipulating photographs to darken the skin of opposing candidates, allusions or threats of minority group “take-over” or imminent racial strife, and cynical attempts to increase turnout among voters perceived to be “anti-black.”

The courts have also found significant racial polarization in voting at partisan primaries, which can affect the results in the general election.

Congress must include an assessment of the conduct of political party primaries, not just general election outcomes, in considering the reauthorization of the Voting Rights Act, the study indicated.

For more information:

Voting Rights Initiative: <http://www.votingreport.org>

U.S. Department of Justice Voting Section: <http://www.usdoj.gov/crt/voting/>

National Commission on the Voting Rights Act: <http://www.votingrightsact.org>