

**Statement of Reggie J. Mitchell, Florida Legal Counsel,
People For the American Way, before the Committee on Ethics and Elections
Tuesday, January 23, 2007**

Good morning. Thank you Chairman Constantine and other Committee members for the opportunity to speak today. My name is Reggie J. Mitchell, and I am the Florida Legal Counsel for People For the American Way (PFAW), a national non-partisan, nonprofit organization formed more than 25 years ago to promote the civil rights and civil liberties of all Americans. I am speaking today on behalf of 79,000 People For the American Way members and supporters in Florida, but also for hundreds of thousands others who believe every American enjoys the same rights and responsibilities in our democracy, and that every American deserves equal access to the ballot box.

The right to vote is among the most fundamental and precious rights of citizenship in our self-governing democracy. The problems in recent elections – 2000, 2004, and 2006 – underscore the urgency with which we must resolve issues with electronic voting machines, voting rights for former felons, and deceptive and misleading practices in Florida. The now-legendary problems in Sarasota County are perhaps the most egregious example of the 2006 elections, but there are many more threats to the integrity of our voting system.

- ◆ In 2004, the infamous purge list was front page news. Florida's purge list included nearly 48,000 voters to be blocked from voting because they were supposed to be former felons whose rights had not been restored. The list was deeply flawed. You'll hear today from Sam Heyward, whose name was on that list despite the fact that his voting rights were restored in 1986. In fact, of nearly 700 supposed Leon County felons that were to be taken off of the voter rolls in the 2004 election, Leon County Supervisor of Elections Ion Sancho could only confirm that 34 were actually felons ineligible to vote.
- ◆ Florida is one of the last states in the nation that permanently disenfranchises voters who have committed felonies. It's time for this Jim Crow-era holdover to be abolished.
- ◆ Also in 2004, Election Protection volunteers received reports from voters in Polk and Palm Beach Counties who'd received calls telling them to vote on November 3, the day before the actual election. In Duval County, voters reported a group telling voters that they had until November 18th to vote. An Orange County voter reported that someone told her she had voted in the wrong location and that she would be arrested and fined. Several voters of color reported that they were harassed and intimidated while trying to vote. Voters across the country have been subjected to deceptive practices, including intimidating letters, deceptive flyers, and harassing robocalls.
- ◆ Voters in Sarasota County continue to rely on voting equipment that has not been properly examined or certified, that cannot be properly audited, and appears to be fundamentally flawed. And now, Sarasota County is scheduled to hold elections in March on the same flawed technology, and seeks to wipe most of the evidence away. This is simply unacceptable. These machines are

evidence in a pending lawsuit. We must find and fix the problem that disenfranchised some 18,000 voters in the election for Florida's 13th Congressional District in November, and destroying the evidence would make it impossible to seek justice.

Florida's voters deserve election reform that makes voting machines more reliable and accessible, enables former felons who have paid their debt to society to once again participate in our democracy, and prevents unscrupulous fraud designed to mislead and disenfranchise voters.

People For the American Way believes action by legislators and election officials should be guided by the following principles:

- Voting technology in Florida must comply with standards recently announced by the National Institute for Standards and Technology, and include the following elements:
 - a) Voters must be able to review and verify their own votes at the polls, either with paper ballots (optical scan), or through an independent audit trail (most likely on paper);
 - b) Any independent (paper) audit trail should be defined as the ballot of record for purposes of any recount;
 - c) A system for regular, random audits must verify that any technology used is accurately recording votes;
 - d) An adequate number of emergency paper ballots, in multiple languages where necessary, must be provided to each polling place to be used in any circumstance where voters cannot vote on the voting machines due to power failure, machine breakdown, etc., that will be counted as regular ballots, not provisional ballots.
- Former felons should be automatically re-enfranchised upon release. Once a citizen has paid her or his debt to society, it is morally and practically just to restore an individual's most fundamental civil rights.
- Deceptive practices and false statements which mislead or deceive voters as to when or where voting takes place, voter qualifications or registration status, or the political party of a particular candidate should be made a crime.

It is essential that these reforms take place *this year, as early as possible*, so they can be in full effect to protect Florida's voters during the presidential election season of 2008. Florida, and the nation, can not afford to repeat the problems we saw in 2000, 2004 and 2006. Florida voters deserve to have full faith and confidence that the votes they cast will be accurately counted. Thank you.