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NEW BARRIERS TO PARTICIPATION: APPLICATION OF NEW MEXICO'S VOTER IDENTIFCATION LAW

LONNA RAE ATKESON
LISA A. BRYANT
UNIVERSITY OF NEW MEXICO

THAD E. HALLL
UNIVERSITY OF UTAH

KYLE L. SAUNDERS
COLORADO STATE UNIVERSITY

R. MICHAEL ALVAREZ
CALTECH

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Lonna Rae Atkeson
University of New Mexico

Lisa A. Bryant
University of New Mexico

Thad E. Hall
University of Utah

Kyle L. Saunders
Colorado State University

&

R. Michael Alvarez
California Institute of Technology

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Abstract

In democratic societies there is a tension between maximizing ballot access and minimizing voter fraud. Since the 2000 presidential election, this tension has been central to discussions about election reform, at the national and local level. We examine this tension by focusing on the implementation of voter identification laws in one state that has experienced significant issues in recent elections, and that is now implementing significant attempts at election reform: New Mexico. We hypothesized that Hispanic voters were more likely to show some form of identification than other types of voters. Using a voter data set from New Mexico's First Congressional District in the 2006 election, we find that Hispanic, male and Election Day voters were more likely to show some form of identification than non-Hispanic, female and early voters. In addition, using an overlapping study of Bernalillo County 2006 poll workers, we find no evidence that certain groups of poll workers were more likely to ask for voter identification. Our findings suggest that broad voter identification laws, which may be applied unequally, may be perceived as discriminatory.

Elections are at the heart of democratic governance. Citizens, through the ballot, are asked to communicate preferences through their selection of elected officials, and in many cases, by directly deciding on policy matters through ballot measures and initiatives. From a normative perspective, this suggests that the state should make voting easily accessible to all qualified voters. However, legal and administrative restrictions must also be in place to ensure an efficient, honest, and fair election that, in turn, promotes voter confidence by its integrity. If non-citizens, ineligible or dead voters are casting votes then voter fraud exists—and the integrity of the election outcome will be cast in doubt.

Clearly there exists a tension in the administration of elections between maximizing ballot access and minimizing voter fraud.[1] This policy debate hit center stage after the well-known 2000 Election debacle and one aspect of that debate has focused on the issue of voter identification. On one side are those who claim voter fraud is a large problem and, to ensure the integrity of our election system, we need to impose voter identification policies including the requirement of voter photographic identification. Others, however, point out that there is little *systematic* evidence of voter fraud and argue that voter identification requirements are restrictive and create institutional barriers to voter participation—especially for the poor, minorities, young people, the elderly and those with disabilities (Baxter and Galloway 2005; Electionline.org 2002; Jacobs 2005; Overton 2006; Young 2006; Hood III and Bullock III 2007).

Equally important to this debate is a long American history of voter disenfranchisement of minority populations by using poll taxes, education tests, voter registration regulations, and other intimidation techniques. This history suggests that barriers to participation, though often procedurally justified, have been used specifically to disenfranchise certain groups of voters

[1] Reviews of the historical and contemporary debates about fraud can be found in Campbell (2005), Fund (2004); Gumbel (2004); Harris (1929); Keyssar (2000).

from participating in the political process. For example, literacy tests were applied differently to black and white voters as a way of preventing blacks from gaining political power (Wirt 1971; Matthews and Prothro 2006; Keyssar 2000). Voter identification laws may result in similar barriers to participation or may be important safeguards protecting the system against voter fraud.

The federal government mandated minimal voter identification requirements with the passage of the Help America Vote Act (HAVA) but many state legislatures, as well as the US Congress, have implemented or are attempting to implement stronger voter identification laws, possibly requiring proof of citizenship or proof of identity at the polls. The purpose of both the federal and state measures is to limit voter fraud and increase voter confidence in the integrity of the process. If, however, voter civil rights are jeopardized, especially the rights of minorities who have historically been denied access to the system, then those measures would pose a policy dilemma. Unfortunately, there is little or no empirical research to bring to this debate to assist policy makers, political elites, political pundits, and political scholars in addressing the tension between access and fraud and obtaining the correct political balance on voter identification issues. Moreover, although identification laws have been studied in the aggregate for their effect on turnout (e.g., Alvarez, Bailey, and Katz 2007; Lott 2006; Vercellotti and Anderson 2006), the implementation of these laws has gone unstudied. This paper seeks to rectify this deficiency by examining how new voter identification laws were implemented in the 2006 New Mexico general election and asks if minority voters were treated differently than whites at the polls. New Mexico is an excellent case study in voter identification laws because the state voter identification law is similar to those found in many states, offering a complicated system of varying identification requirement depending on voter mode (e.g. Election Day/early or

absentee), voter history (e.g. first time voter), and type of identification allowed (verbal or photo). As such, these findings are likely to be important and applicable to many other state contexts.

Theoretical Framework

Vote fraud and concerns about vote fraud were especially pertinent to early 20th century electoral reforms. The image of urban machines committing blatant voter fraud by stuffing ballot boxes and buying votes was one of the primary reasons for progressive reforms such as voter registration procedures (Keyssar 2000). Some scholars have argued that the many electoral reforms adopted around the turn of the century were responsible for a decline in voter turnout (Burnham 1965; Kleppner 1982; Kousser 1974; McGerr 1986; Lapp 1909) and that vote fraud prior to the reforms resulted in an increased turnout of between 5 and 10 percentage points (Converse 1972: 268-297; Ginsburg 1986). Indeed, one of the very early published works in the *American Political Science Review* discussed new voter identification requirements beginning in 1909 in cities in New York State with over 1 million inhabitants (Lapp 1909). The new registration requirements included asking a series of personal questions about a voter's residence, making each voter sign his name or asking each voter a series of personal questions related to his residency, family history, and employment. On Election Day, a voter's signature and/or personal history questions had to match or the voter was challenged. The impact was quite large; registration rolls dropped by 11,000 voters in the counties studied.

However, other scholars have argued that electoral fraud even during this period was for the most part isolated events (Jensen 1971). These scholars suggest that the goals of elections reformers were not simply to prevent fraud, but were also meant to disenfranchise specific groups of voters such as certain immigrant groups or the poor (Reynolds 1993; Allen and Allen

1981; Burnham 1986; Gienapp 1982). In the most notorious example of procedural voter disenfranchisement, blacks and immigrants were subject to literacy tests prior to registration, disenfranchising many otherwise eligible voters. After the passage of the Voting Rights Act voter rolls saw huge increases in black registration. For example, in Mississippi in 1962, only 5% of the black voting age population was registered to vote. Ten years later black voter registration surged with three in five (59%) members of the black voting age population on the voter rolls (Wolfinger and Rosenstone 1978).

Interestingly, all of our election requirements, including residency requirements, poll taxes, literacy tests, and voter registration deadlines have been barriers to participation that happen prior to Election Day, prohibiting a potential voter from registering. Indeed the point of registration laws was to prevent voter fraud, especially by preventing a voter from making multiple trips to the polls (Lapp 1909). Today's voter fraud debate, however, centers on confirming voter identity at the polls by what are essentially an army of volunteer poll workers who have minimum training and little legal expertise (Alvarez and Hall 2006; Hall, Monson, and Patterson 2007).

Poll workers play an important role in the election process as the street level bureaucrats who interface and assist with voters (Hall, Monson, and Patterson 2007). Studies repeatedly show that the quality of the voter-poll worker interaction is one of the most important factors affecting voter confidence and satisfaction in the voting process (Hall, Monson, and Patterson 2007; Atkeson and Saunders 2007). Understanding voters as street level bureaucrats is appropriate given their direct contact with voters and influence over the administration of the process. There are numerous examples of how poll workers—through sabotage, shirking, or

simply working to implement a complex process—help to manufacture problems on Election Day.[2]

Street-level bureaucrats and their role in policy implementation has been of great interest to scholars for some time (see for example, Kelly 1994; Keiser, Mueser and Choi 2004; Maynard-Moody, Musheno and Palumbo 1990; Scott 1997). The classic works by Lipsky (1980) and Prottas (1978; 1979) examined street level bureaucrats and how they affect decision making and make policy in organizations. Lipsky (1980, xii) argues that "public policy is not best understood as made in legislatures or top-floor suites of high-ranking administrators, because in important ways it is actually made in the crowded offices and daily encounters of street workers." It is the actions of the front line worker *interacting with the public* that represents the face of government and implements the policy decisions for government. As Brehm and Gates (1997, 10-21) note, government workers can implement policy, undermine policy, or avoiding work altogether.

Poll workers bear the primary responsibility for implementing the new voter identification requirements that became mandatory in all states and localities in federal elections after the passage of HAVA. Specifically, HAVA mandated that states require voter identification for first-time voters who register by mail and do not provide identification verification with their registration. In 2006, 24 states adopted this standard, but states also have the right to set stricter limits and many have or are considering such legislation.[3] As Alvarez, Bailey, and Katz (2007) show, three states have requirements that all voters show some form of photo identification; other states limit the types of acceptable identification that can be used or allow the poll worker to verbally identify the voter. For example, Arizona passed and

[2] See http://electionupdates.caltech.edu/2006_11_05_archive.html for examples of such events on Election Day.
[3] For 2006 state voter identification laws see: http://www.electionline.org/Default.aspx?tabid=364.

implemented a voter identification law that required voters to present evidence of citizenship to register to vote and that they then present photo identification at the polls to obtain a regular ballot (Associated Press 2006). Voters without government issued identification could vote provisionally and then provide identification to local authorities within 5 days for their ballot to be counted. Thus, there is a great deal of variance across states, but even within states HAVA has created varying minimum and/or maximum requirements for different sub groups of voters because of the provisional and first-time voter requirements.

The national and state political debate on this issue has been highly partisan, with each party framing the debate differently. Republicans tend to focus on the prevention of voter fraud while Democrats tend to focus on voter access and voter rights (Liebschutz and Palazzolo 2005). Interestingly, the Commission on Federal Election Reform in their report, *Building Confidence in US Elections* (2005), chaired by former President Jimmy Carter and former Secretary of State James Baker, found little systematic evidence of voter fraud but nonetheless endorsed voter identification rules as a way of promoting the integrity of the election process.

In 2002, the Bush Administration made voter fraud a justice administration priority. Yet there have been only 87 voter fraud convictions (Fessler 2007), an extremely small fraction of votes in an electorate where literally hundreds of millions of vote are cast each presidential election. And, federal US attorneys in Washington state and New Mexico suggest they were fired because they did not prosecute vote fraud cases where they contend no evidence warranted such a prosecution (Fessler 2007).

Most recently, on September 25, 2007, the Supreme Court agreed to hear the Indiana voter identification case. The Indiana law is considered to be one of the strictest in the country requiring a voter to present a state or federal issued identification card. Without ID, the voter

must use a provisional ballot, which is counted only if the voter within 10 days provides the required ID or signs an affidavit that he or she is indigent and cannot obtain proof of identification without paying a fee. The 3-person appellate court decision was a 2/1 decision along partisan lines. Although the Republican appointed judge who wrote for the majority agreed with the Democratic plaintiffs that the voter ID requirements injured the Democratic Party, he indicated that few people who really wanted to vote would be deterred, but argued that the more important claim was that "voting fraud impairs the right of legitimate voters to vote by diluting their votes."[4] The dissenting Democratically appointed judge, however, said: "Let's not beat around the bush. The Indiana voter photo ID law is a not-too-thinly-veiled attempt to discourage Election Day turnout by certain folks believed to skew Democratic."[5] Very restrictive laws in Georgia, Arizona and Michigan have been upheld, but a similar law in Missouri was struck down by the courts (Lauck 2006). Thus, this issue has major political and policy ramifications.

The minimal amount of research on voter identification suggests two things. First, there is some evidence to support the position that certain types of voters do not have access to government- issued identification and therefore suggest that such laws restrict access. Very recent research compared the Georgia state voter registration database with names in the Georgia Department of Motor Vehicle records and found that younger, older, and minority voters were less likely to have a state issued driver's license or identification card (Hood III and Bullock III 2007).

Second, recent research that has looked at the direct effects of voter identification requirements on voter participation has provided mixed results. In an examination of aggregate-

[4] William Crawford, et al. v. Marion County Board of Elections, January 4, 2007. 6. See: http://moritzlaw.osu.edu/electionlaw/litigation/documents/Rokita-Judgment.pdf
[5] Crawford v. Marion County, 11.

level data for 2004 only, Lott (2006) found no evidence that voter identification laws affected participation. Another study using individual level 2004 election data suggested that compared to simply stating your name, voters in states with stronger voter identification laws decrease turnout between 3 and 4 percent; this study also suggested that the effect increases for minority voters to as much as 5.7% for blacks, as much as 10% for Hispanics, and 8.5% for Asians (Vercellotti and Anderson 2004). A third recent study, combining both aggregate and individual analyses, spanning the federal elections from 2000 to 2006, found a smaller direct effect on turnout, but did not find that voter identification requirements (even those of the strictest variety, requiring the presentation of a photo ID) were more likely to affect nonwhite relative to white registered voters (Alvarez, Bailey and Katz 2007).

The problem in assessing the policy and its impact on voters is that discrimination can come in multiple forms. Strong voter identification laws, such as those requiring government issued photo identification, may hinder participation of those least likely to lack these types of IDs including the young, elderly, disabled and minorities. But discrimination and/or intimidation could also come through unequal implementation of whatever identification law exists in the state, if certain groups of eligible voters are more frequently asked for identification.[6] This can be the case regardless of whether the actual voter identification laws exist in a particular state. Even in a state that only implemented the minimum voter identification requirements mandated by HAVA, some poll workers in some locations may ask for a photo identification of all voters, but others may ask only voters in certain descriptive categories. This implementation could

[6] These efforts range from explicit attempts to impose unequal identification requirements at the polls to more subtle attempts to misinform voters about the requirements for voting. An example of the former efforts occurred in Orange County, California, in 1988: uniformed private security guards were stationed at heavily Latino polling places (PFAW, n.d., page 11). A recent example of the latter also occurred in Orange County, California in 2006, where approximately 14,000 letters were mailed to Latino registered voters containing what has been alleged to be misinformation about the citizenship requirements for voting (see http://electionupdates.caltech.edu/2006/10/more-on-latino-voter-intimidation.html).

create a situation where the voter identification laws depress participation and be potentially discriminatory under state and federal law. If an actual decline in turnout did occur, the perceived discrimination could undermine confidence in the election. In such instances, discrimination could be more covert than overt, with poll workers choosing when and from whom to ask for voter identification. Voters in these cases could be intimidated or be required to vote provisionally when, in fact, they did not need do to do so. Allowing discretion or choice on the part of actors changes the structure of the game. For example, recall how literacy test were applied unequally across racial groups resulting in the disenfranchisement of tens of thousands of citizens. Our research focuses on this second way that voter identification laws might affect voter participation, as we look not at how the voter identification laws, as written, affect voter behavior; rather we study how voter identification requirements might affect voter behavior as those requirements are interpreted and implemented in polling places.

Based upon the current elite debate on this issue and prior instances in American history where barriers to voting were primarily used to disenfranchise minorities, we hypothesize that minorities are more likely to be asked to show voter identification at the polls. This has been a critical concern of those opposed to voter identification requirements (Overton 2006). Hispanics in particular may be perceived as a more likely group of voters who might be engaging in fraud, given the larger immigration debate and their perceived potential status as non-citizens. Indeed, part of the debate surrounding voter identification involves the potential illegal ballots from non-citizens (Fessler 2007, Stein 2006, Leonard 2003).

Data & Methods

We use the 2006 New Mexico Registered Voter Election Administration Survey and the 2006 New Mexico Tricounty Poll Worker Survey for our analysis. The voter survey was based

upon a random sample of registered voters in New Mexico's First Congressional District.[7] Just before Election Day, we sent out letters to our sample of respondents requesting their participation in our Election Administration Survey. The letter provided the respondents with a URL and explained that respondents could also request a mail survey and a return self-addressed stamped envelope by contacting us via a toll free number or by calling our offices. Registered voters in the sample who did not respond were re-contacted three times with a postcard. The response rate for the sample was 15.3% (n=471), 4 in 5 of respondents (79%) chose to answer the Internet survey and the remaining 1 in 5 respondents (21%) chose to answer the mail option.[8] Post election analysis of the sample showed it accurately reflected many voter sample population characteristics including gender, region, partisanship and the election outcome (Atkeson et al 2007).[9] Voter age characteristics were slightly younger than our respondents (52 versus 55 years old), but the difference is substantively small and the mean difference is smaller than many RDD designs. Thus, our sample analysis suggests our study is reflective of the 2006 CD1 electorate. We restrict our multivariate analysis to in-person early voters and Election Day voters and exclude absentee voters, who were not in a position to be required to show voter identification.

We supplement our voting data with the Tricounty New Mexico Poll Worker Survey that was conducted between January 30, 2007 and March 15, 2007 in Bernalillo, Doña Ana, and Santa Fe counties. We randomly sampled precincts in each county and then sent mail surveys to each poll worker on January 30 in a selected precinct. Before the first wave of the survey was

[7] Methodologies for both studies can be found in The *New Mexico 2006 Election Administration Report* (Alvarez, Atkeson and Hall 2007) and Atkeson and Saunders (2007).
[8] The response rate was calculated as the number of surveys returned to us, either through web submission or returned mail, divided by the total number of survey respondents that were eligible. This response rate is the maximum response rate (RR6) as defined by the American Association for Public Opinion Research (AAPOR 2000).Due to the poor quality of both states' voter registration file over 22% of our sample was unreachable.
[9] For a full description of the instrument, resulting frequency report, the Colorado executive summary and a paper assessing the sample please go to: http://vote2006.unm.edu. This paper can also be found at: http://vote2006.unm.edu.

sent out, the county clerk sent each poll worker in the sample an invitation letter informing her of the survey and encouraging her participation in it. A reminder postcard was sent on February 6, 2007. All individuals who had not returned a survey at that time were sent a new survey on February 13, 2007 and a second follow up post-card was sent on February 27. The response rate was 77.1 percent. We rely on the Bernalillo portion of our poll worker survey (n=402, response rate=76.0%) to address our question here because the First Congressional District encompasses nearly all of Bernalillo County and its voters make up over 90% of First Congressional District voters (Atkeson and Tafoya 2008). Thus, the voter survey data overlaps with our poll worker survey data, providing us with an unusual opportunity to explore the possible characteristics of those who showed identification at the polls but also the characteristics of those who asked for it.

New Mexico is an excellent context to examine the application of voter identification laws and procedures. The state has had on-going debates at the state and city level about the proper role of voter identification (Guzman 2007, Fonseca 2006, and Lenderman 2005). The city of Albuquerque offered a voter referendum that easily passed in 2005, that required all voters show photo and address identification. The law was immediately challenged and the federal courts struck down the measure for being too vague and violating the equal protection clause of the Constitution (McKay 2007). Since 2000, the GOP state legislative minority has been sponsoring strong voter identification laws and the Democratic legislative majority has succeeded in watering down those bills each session.

The law in effect in the 2006 election required some form of voter identification, broadly defined, and the minimum requirement included a simple written or verbal statement attesting to a voter name, year of birth, and the last four numbers on their social security number. Voters could also show photo identification with or without an address or non-photo identification, such

as a utility bill or voter registration card, that also included an address. Addresses did not have to match the voter registration file. When the first author of this paper went to the polls, she stated her name and the poll worker confirmed her address and gave her a ballot. She was not asked for her unique identifier (the last 4 digits of her social security number) or her birth year. Thus, although the voter presented herself to the poll worker, her identity was not authenticated. Therefore, the law allows a wide variety of choices; however, poll workers, when asking for identification, may not provide all the options to the voter or may treat different types of voters differently, requiring some voters to present stronger forms of identification than others. This law is similar to many state laws requiring different criteria of different types of voters and a wide array of options for voter ID.

In addition to the broad nature of the New Mexico statute, New Mexico is an excellent choice because of its large Hispanic population: whites (46%) and Hispanics (43%) represent nearly equal proportions of residents and both groups dominate the political arena.[10] Our sample of voters is 19% self-identified Hispanic and our sample of poll workers is 37% Hispanic and 50% white.[11] Finally, the 2006 First District congressional election was extremely competitive, ultimately being decided in favor of the Republican incumbent by a mere 816 votes (Atkeson & Tafoya 2008). Concern about potential election fraud was a regular point of discussion (Jones and Jennings 2006) and voters and poll workers alike were aware of the high stakes involved in the outcome of the race.

To address our question, we asked voters who voted early or on Election Day, "What type of identification did you have to show?" Responses included: (1) I did not have to show

[10] These data are taken from the census website, http://www.census.gov/acs/www/Products/Profiles/Single/2003/ACS/Narrative/155/NP15500US3502000001.htm, 15 December 2004, and are accurate for Bernalillo County, which represents most of CD01.

[11] The poll worker demographic characteristics compare well with census data that shows that voting age citizens are 39% Hispanic.

any identification, (2) registration card, (3) driver's license, (4) utility bill, and (5) other. Table 1 shows that although nearly two-thirds (65%) of early or Election Day voters indicated they provided some form of identification, one-third (35%) indicated they did not. In comparison, we also did a similar survey in Colorado's Seventh Congressional District where the law was much more specific, stating that all voters were required to show some form of non-photo or photo identification, and here the law was applied equally as nearly all the voters (95%) indicated they provided some form of voter identification. This suggests that New Mexico's broad voter identification law was not applied similarly.[12]

(Table 1 about here)

In the poll worker survey we asked, "How often did you ask voters to present identification before allowing them to vote?" Table 2 shows that responses included: (1) all of the time, (2) most of the time, (3) only some of the time, (4) hardly at all, and (5) never. Not quite a majority (46%) of poll workers indicated they asked for identification all or most of the time, see the farthest column, but 44% indicated they asked for it only some of the time, hardly at all, or never. This piece of data confirms there was quite a bit of variance in how the law was applied. Although some poll workers were vigorously requiring some form of voter identification, others were not. We also asked a follow up question, "What is the most common reason why you asked voters to present identification before they voted? Please select only ONE." As Table 2 shows in the second to last row, not quite a majority of poll workers indicated they asked for identification because it was required by law, but many other reasons are articulated.

(Table 2 about here)

[12] Of course, it could be that voters did a verbal identification and did not realize they were providing voter identification. However, poll worker data and anecdotal evidence by an author suggest this is not the case.

These frequencies attest to the general confusion regarding application of New Mexico's voter identification laws. Poll workers were required to verify a voter's identity but in the end over 50% of them formally asked a voter to present identification, most often for some other reason besides the law. To clarify the importance of this finding, we crosstabulate in Table 2 how often poll workers asked for identification with why they did so. Of those poll workers who indicated they were required to ask for voter identification because it is the law, only 67% did so all of the time, once again suggesting a lot of poll worker latitude in its application. For poll workers who asked for identification only some of the time, most did so for the HAVA mandated reasons, to verify the identity of first-time voters and to verify the identity of provisional voters.

To test our hypothesis that minorities were required to show voter identification more often than other types of voters, we use a binary logistic regression, where the dependent variable is whether the voter was asked to show identification (see Table 1 for the frequency distribution). Showing identification scores a 1, not showing identification scores a 0. We examine variation in responses to our voter identification question across a series of variables that capture voter demographics and other attributes. We include as covariates in our model the following demographic characteristics: race, education, income, gender, and age (see Appendix A for details).[13] We define race using dummy variables capturing Hispanics, other and white; we use whites as the comparison category in our model. Because our sample was from a voter registration file, we were able to identify all voters in our sample that had a Hispanic surname.[14] Given the sensitivity of the question of how race plays into voter identification requirements, we test models using both Hispanic self-identity and Hispanic surname. In our sample 75% of those

[13] We also tried modeling age as dummy picking up young, middle age and older voters. We found no effect and so have just included the continuous measure here.

[14] We used voter the census Hispanic Surname to list to identify Hispanic surnames. We modified the list somewhat to include Hispanic Surname variations that are commonly seen in New Mexico. These often substitute the letter s for the letter z.

with Hispanic surnames also self-identified as Hispanic or Latino; however, 25% did not. In addition, 6% of those with non-Hispanic surnames identified as Hispanic or Latino. Surname offers a strong cue to ethnic identity and as such may be a better representation of how poll workers and others determine Hispanic ethnicity. If poll workers were applying the law differently and the elite debate has some merit, we expect to find that self-identified Hispanics and especially the clearer cue of Hispanic surname would provide supporting evidence.

With regard to the other variables in our model, we remain agnostic on our expectation, but normatively speaking none of these variables should influence who shows voter identification, including race. Given what we know about voters, we might hypothesize that younger, older, or disabled voters might be more affected, however, research in this area focuses on who has access to identification and how restrictive laws might influence turnout (e.g. Hood et al. 2007) not on implementation. We control for the proportion of Hispanics in each precinct to determine if precinct characteristics mattered in the implementation process.[15] We also include the following voter characteristics in our model, all coded as dummy variables: whether or not a voter voted early (1= early voter), whether or not a voter was a first time voter (1=first time voter), and whether the voter was a registered Democrat (1=registered Democrat) or was not registered with one of the major parties (1=not registered with major party).[16] Controlling for early voting is important so we can to capture the different structural properties of the balloting process. Although such differences should not matter, there are fewer early voting locations than precincts (12 versus 426 in Bernalillo County) that may be staffed with fewer, but perhaps more experienced, poll workers. This difference may affect the operations management

[15] For early voters we set this variable to the mean.
[16] We leave out of our model the category registered Republican and use it as the basis of comparison. These variables are taken from the voter registration file and represent the actual party registration of each voter, not their psychological attachment. We use these data because it is also available to the poll workers.

of early voting, leading to different rates of requests for voter identification, although we are agnostic as to how. Voters who were voting for the first time who registered by mail are required by federal law to show a photo identification with or without an address or non-photo identification such as a utility bill that includes an address. Therefore, theoretically we expect this relationship to be positive. We do not anticipate that party registration matters but, if poll workers choose how to apply the law, we could see differences.

Attitudes toward Voter Identification?

We begin by assessing voter attitudes on questions of voter fraud and voter access. Although some research has examined the elite debate on this question, no research has focused on public attitudes toward voter identification, especially how the two arguments square off against one another. Most public reports on the question focus only on the voter fraud frame and not on the voter access frame. Because the debate has been highly partisan, in Table 4 we present the total frequency and the frequency by party for each question of interest.[17]

We first asked two independent questions about voter identification. The first focused on the voter fraud frame and asked, "Do you think that voter identification rules help prevent voter fraud?" Seven in ten registered voters thought voter identification rules help to prevent voter fraud, about one in seven (16.7%) do not think that voter identification rules help prevent voter fraud, and over one in ten are not sure. Although still a majority opinion, both Democratic and independent identifiers are much less likely to believe that voter identification rules do not prevent fraud.

(Table 3 about here)

[17] Independent leaners are included with partisans.

We then asked voters, "Do you think voter identification rules prevent some voters from casting their ballot at the polls?" Table 4 shows that about one-quarter (25%) of registered voters agree that voter identification rules may prevent some voters from casting a ballot at the polls. About half (51%) of respondents disagreed with this statement and nearly another one quarter (23%) were not sure, ; this rather high margin of "don't know" or "no response" responses may illustrate a relatively high level of public ambivalence regarding the impact of identification laws or a lack of understanding about the impact of implementation of such laws. However, we find strong partisan polarization in attitudes, with only a little more than one in ten Republican voters (13%) believing that voter identification rules prevent some voters from casting ballots, but over one-third (34%) of Democrats and nearly one quarter (24%) of independents feeling feel the same way.

When we pitted the two debates against one another, we asked, "Some people argue that voter identification rules prevent some voters from going to the polls, while others argue that voter identification rules prevent voting fraud. Which is more important? Ensuring that everyone who is eligible has the right to vote or protecting the voting system against voter fraud?" We find that just over half (52.2%) supported voter identification but over two in five voters (41.4%) thought it was more important to ensure everyone who is eligible has the right to vote. Moreover, this is a very polarizing and partisan issue. Democrats feel stronger about ensuring everyone has the right to vote and Republicans, and to a lesser extent independents, feel stronger about protecting the system against voter fraud. These are substantial partisan differences in terms of attitude preferences. Interestingly, this is the only variable where we see bivariate differences between self-identified Hispanics and others with Hispanics more likely to believe election systems should err on the side of voter access (57% versus 43%, $p < .05$). Thus,

though clearly well over a majority of voters believe that voter identification rules help prevent fraud, their preferences are much more mixed with regard to whether or not voter identification prevents some voters from casting ballots and even more mixed on how the tension between voter access and voter fraud should shape public policy.

Given these differences in perceptions, we want to consider whether the individuals who enforce identification laws on Election Day—the poll workers—implement these laws without bias. The findings in Table 2 suggest that there is variation in how the law is implemented by poll workers. However, the effects of this varied enforcement could be random—equally distributed across the population—or more systematic, creating biases in the system. We address this question using a multi-variate analysis where we have as the dependent variable whether the individual showed identification (see Table 1). If we see Hispanics, the largest minority group in New Mexico, differentially treated, then we will know that there are systematic variations in the enforcement of the law, as implemented by the poll workers on Election Day.

Who Was Required to Show Identification?

The results of our logistic regression model are shown in Table 5. Column 1 shows the model using Hispanic self-identity and column 2 shows the model substituting Hispanic surname for Hispanic self-identification. Although most of the demographic characteristics show no influence, both models show significant effects for Hispanic voters as hypothesized and show significant effects for early and male voters. Early voters, women, and non-Hispanics were less likely to show some form of identification. We also see that substituting Hispanic surname for Hispanic self-identification creates a somewhat stronger coefficient. Given we are working with a relatively small data set in terms of our N, these are very interesting findings, especially with regard to Hispanics.

(Table 4 about here)

Because it is difficult to assess the logit estimates, we have graphed the difference in the probabilities that a given voter would be required to show identification at the poll. We focus our attention on those variables that have a significant influence on showing identification: early or Election Day voting, and race and gender. Figure 1 shows the change in probabilities from a base, median Election Day voter in the first set of graphs and the results of the change in the model probabilities when we examine early voters. Both sets of figures use the results derived from Model 2 in Table 4, the Hispanic surname model.[18] The base category represents the probability that the median voter in our sample showed identification at the poll. The median voter is a white, college educated, female, about 55 years old, with a family income of between $60,000 and $69,000. The base probability for the median voter showing identification was .69.

(Figure 1 about here)

To examine how a change in demographics affects the probability of being asked for identification, we varied the independent variables of interest from the minimum to the maximum while setting all other variables to their medians. For example, in Figure 1 when we compare the probability of a male voter being asked for identification as opposed to the median female voter we can see an increase in the probability of being asked for ID to .83 (.69 + .14). Figure 1 also shows that the probability of a Hispanic voter showing identification is .85 (.69 + .16) and the probability for a male Hispanic is a virtual certainty at .92. We see the same pattern, of course, for early voters, who were less likely to show voter identification. The difference in the probabilities between the median voter and Hispanic males is even greater for early voters

[18]We chose Model 2 because Hispanic surname is theoretically a better measure of a Hispanic voter in this case because surname offers a clear cue to a voter's ethnicity. We used the software program Clarify for calculating the first differences (Tomz, Wittenberg, and King 2000).

than it is for the median Election Day voter. The difference between early and precinct voters may occur for many reasons. For example, Election Day poll workers may be more concerned about fraud than are traditional poll workers.

Our findings suggest that there is strong evidence that men and Hispanics show identification much more often than women and non-Hispanics. Hispanics and men are far more likely to show identification than any other group in the sample; in fact, it is highly unlikely that they will not show identification. This suggests that on some level discrimination at the polls is occurring, even if only in an unbalanced application of the voter identification law. If poll workers are using surname as a cue to ask for voter identification, this may suggest that poll workers are more suspicious of Hispanics and men in particular of committing voter fraud. If Hispanics, men or Hispanic men are cued into this subtle and quasi-legal form of discrimination, it may deter them from going to the polls, especially if they lack proper identification or are unclear about their voting rights.

Asking for Identification: Poll Worker Attributes

We now turn to an examination of poll workers. Recall that the results from Table 2 show that some poll workers asked for identification all of the time and some asked for identification never. Our question is this: did certain types of poll workers apply the law differently than other poll workers? For example, given GOP partisans preferences for strong voter identification laws, they might be more likely to ask for voter identification all of the time. Alternatively, did White poll workers ask for identification more than their Hispanic counterparts? In Table 5, we show the results of an ordered logit model that examines the demographic influences on Bernalillo County poll workers asking for voter identification. We see in the model that none of the factors that we would theorize might make a difference achieve

statistical significance and the model fit is very poor. Republican poll workers do not ask for identification more than Democratic poll workers. Hispanic poll workers do not ask for identification less often than white poll workers. Even an examination of the descriptive frequencies shows that Republican and white poll workers are not different from Democratic and Hispanic poll workers regarding when they asked voters to present identification. The two interesting findings in the frequency statistics (data not shown) are that poll workers who work in their own precinct seem to overcompensate for familiarity and ask for identification more often than those working out of precinct. Second, although Hispanics ask for identification "all of the time" less often than do non-Hispanics, Hispanics ask for identification "most of the time" more often than do others, leading to no differences between groups in the mean time they asked for voter ID ($p=.67$). We conclude that the variance in asking for identification is neither the result of demographic characteristics nor partisan attributes of the poll workers.

(Table 5 here)

Discussion and Conclusion

Our results suggest an interesting patchwork of attitudes toward, and application of, voter identification laws in New Mexico. First, we examined public attitudes regarding voter identification and the tension in our election system between access and voter fraud. We found that when we pitted the two arguments against one another, Republican voters were overwhelmingly in favor of voter identification but that a majority of Democratic voters felt that access was more important. Second, we showed that nearly two-thirds of voters showed identification at the polls, but a large minority of voters did not. We then found that self-identified Hispanics—as well as individuals with Hispanic surnames—men, and Election Day voters were more likely to show some form of voter identification than non-Hispanics, women

and early voters. Third, we showed that poll workers did not ask for identification from all voters and when they did it was often primarily for other reasons besides, "it was the law."

In our multivariate analysis, we found that there are systematic biases in the application of the identification statute across racial lines. When we consider both Hispanic self-identification as a variable and whether or not the voter had a Hispanic surname, we find a bias in the implementation of the statute. A voter's surname offers a strong cue to ethnic identity and as such may be a better representation of how poll workers and others determine Hispanic identity. Substituting this variable for self-identification provided stronger results. The fact that Hispanic surname is a stronger predictor of showing voter identification than self-identification, which includes respondents with non-Hispanic names, suggests that voter names may have been used to identify possible illegal voters and subsequent identity checks were performed. We, however, cannot find any evidence that a particular type of poll worker applied the law differently. Our models show no significant differences across poll worker demographics and political characteristics. It appears that both Hispanic and non-Hispanic poll workers equally applied or misapplied the law.

Of course, we do not know how many survey respondents understood that voter identification included a verbal testimony option. Many voters could have been "identified" and never known that they were being "asked." However, if this was the case, then voters should be randomly distributed between showing some form of identification or not and therefore we should not find any statistically significant patterns regarding who was asked for identification. However, we do find significant patterns in our data. In addition, when we substitute Hispanic surname for Hispanic self-identification, we see a stronger coefficient, which again suggests that voter identification rules were not randomly applied across voters. We also know that poll

workers themselves indicated they applied this rule differently and for different reasons, providing further support for the notion that voter identification laws were not applied equally across voters. Finally, we also know that with the identical question and research design in a sample of Colorado voters, where the law was very explicit and required non-photo or photo identification with an address, that 95% of voters showed identification at the polls. All of this strongly suggests that our results provide tangible evidence that the law was applied differently.

When a law or policy is applied unequally across groups, it is discrimination. We find that men and Hispanics were discriminated against at the polls, potentially violating their civil rights. From a normative perspective this is unacceptable. We do not want racial profiling of voters. From a policy perspective, this suggests that laws that require clear forms of physical identification or those that require relatively nothing are better suited for equal application than laws that offer both. This is because laws that offer a clear criterion will be the easiest to implement in voter sittings with literally hundreds of volunteer bureaucrats—poll workers.

Many states have hybrid policies that offer a wide range of choices in voter identification and these may be likely to promote voter and poll worker confusion and allow volunteer administrators to set their own standards and potentially treat different types of voters differently, even if unconsciously. As legislators and policy makers grapple with this issue, they should consider how and who applies laws and what that means for the kind of restrictions that should be enacted. Voters should perceive that they were, individually and collectively, treated equally by their election administrators. Certain voters should not feel that they have to jump through more and more restrictive hoops than other voters. Such discrimination might have the effect of preventing a voter from casting a ballot because they lack "proper" identification, especially because evidence suggests that minorities are less likely to have state issued ID cards (Hood III

and Bullock III 2007). Such discrimination might also have the effect of reducing voter confidence. Research indicates that experiences at the polling location influence voter confidence (Atkeson and Saunders 2007; Hall, Monson and Patterson 2006).

Finally, further research on this very important public policy question is necessary. Although our study is a good first step, larger studies are necessary to confirm the results here and to look for other problems that might affect the enfranchisement of citizens. Many of these studies will likely have to be within election jurisdictions to obtain enough variance in a single context to address the question. These studies, though limited in scope in some ways, will be important testaments to how we apply laws and treat citizens, a fundamentally important question in democratic societies. The cumulative effect of these individual studies will say something much larger about the fairness and integrity of the election process in America. Voting access is a fundamental right, but voting must also be perceived as being free from voter fraud to promote voter confidence and system legitimacy. The tension between these debates will continue and it is paramount that political scientists play a contributing role in understanding how policy changes the rules of the game so that the correct balance between these goals can be achieved.

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Table 1. Voter Survey: What type of voter identification did you have to show?

I didn't have to show any identification	35.3
I did have to show identification	64.7
Total	100.0
Identification shown:	
Driver's License	33.8
Voter Registration card	58.4
Other form of ID	3.4
Driver's license & Other form of ID	.5
Driver's license & Registration card	3.9

Table 2. Bernalillo County Poll Worker Survey: Crosstabulation of Poll Worker Asking for Identification by Most Common Reason Why They Asked for Identification before they Voted

	Trouble hearing/ Easier to read name	Verify identity of first time voter	Verify identity of provisional voter	It's required by law to verify the identity of the voter	To prevent voter fraud	Full Row % N=384
Never	0.0	0.0	0.0	0.0	0.0	7.0
Hardly at All	13.3	22.1	30.2	2.5	4.5	11.4
Some of the time	36.7	42.6	47.2	13.0	18.2	25.7
Most of the time	26.7	17.6	9.4	17.3	22.7	16.6
All of the time	23.3	17.6	13.2	67.3	54.5	39.2
Full Column % N=357	8.8	19.9	15.5	47.8	6.5	
N	30	68	53	162	22	

Note: Voter was challenged and did not recognize voter were removed from this analysis because of their extremely small Ns (n=5).

Table 3. Voter Survey: Voter Attitudes towards Voter Identification by Party

	Total	Democrat	Independent	Republican
Do you think that voter identification rules help prevent voter fraud?				
Yes	69.9	62.6	63.3	81.6
No	16.7	22.7	18.4	8.0
DK/NS	13.4	14.7	18.4	10.3
N	462	238	49	174
Do you think voter identification rules prevent some voters from casting ballots?				
Yes	25.5	34.3	24.5	13.3
No	51.2	42.3	53.1	63.0
DK/NS	23.3	23.4	22.4	23.7
N	462	239	49	173
Some people argue that voter identification rules prevent some voters from going to the polls, while others argue that voter identification rules help prevent voting fraud. Which is more important?				
Ensuring that everyone who is eligible has the right to vote	42.8	56.1	37.5	25.3
Protecting the voting system against voter fraud	52.2	38.0	54.2	71.8
DK/NS	5.0	5.9	8.3	2.9

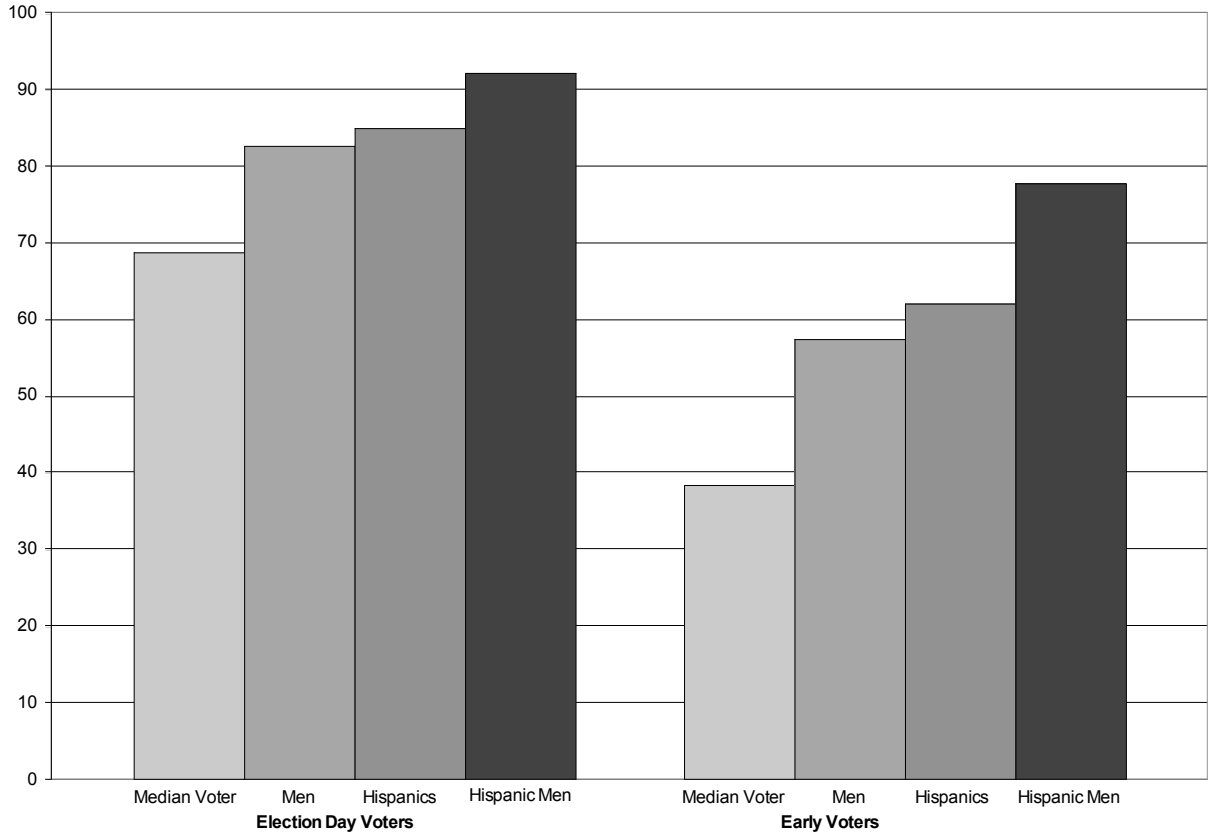
Table 4. Logistic Regression: Demographic and Voter Characteristics on Voter Identification

	Model 1 Self Identification	Model 2 Surname Identification
Demographics:		
(Race) Hispanic/Latino	.805*	1.011*
	(.380)	.402
(Race) Self-Identification	.869	.875
Other	(.680)	.683
Gender (Female)	-.761**	-.794**
	(.269)	.271
Age	.009	.009
	.009	.009
Education	.029	.054
	.141	.143
Income	.037	.044
	.041	.041
% Hispanic Precinct	.241	.177
	1.111	1.110
Voter characteristics:		
Early Voter	-1.21***	-1.288***
	.286	.292
First Time Voter	-.444	-.496
	1.020	1.014
Registered Democrat	-.143	-.172
	.292	.294
Registered No Major Party	-.332	-.337
	.407	.407
Constant	1.402	1.365
	.946	.943
% Correctly Predicted	68.8	68.1
LR chi-square	33.39***	35.45***
Cox and Snell R Square	.107	.113
N	295	295

Table 5. Ordered Logit Model of Demographic Influences on Bernalillo County Poll Workers Asking for Voter Identification

	Coefficient	Standard Error
Republican	.132	.225
Independent	-.223	.540
Race (white)	.118	.235
Race (Other)	.187	.427
Income	-.032	.075
Gender (Male)	-.067	.116
Education	-.052	.061
Age	-.005	.008
Cut 1	-3.316***	.652
Cut 2	-2.18***	.626
Cut 3	-.803	.614
Cut 4	-.183	.613
Log Likelihood	-456.527	
Likelihood Ratio Chi-Square	2.85	
N	372	

Figure 1: Probability of Showing Voter Identification for Election Day and Early Voters



Appendix A. Model Variable Descriptive Statistics

Variable	Median	Mean	Min	Max
Voter identification (DV) (dummy, presented=1)	1	0.65	0	1
Hispanic self-identification (dummy, Hispanic=1)	0	0.18	0	1
Hispanic surname (dummy, Hispanic surname=1)	0	0.16	0	1
Other (dummy, non-Hispanic, non-White=1)	0	0.05	0	1
Proportion of Hispanics registered in voter precinct	.25	0.25	0.03	.72
Early voting (dummy, early=1)	0	0.42	0	1
First time voter (dummy, first time=1)	0	0.02	0	1
Registered Democrat (dummy, Democrat=1)	0	0.49	0	1
Registered other (dummy, other=1)	0	0.15	0	1
Gender (dummy, 1=female, 2=male)	1	0.54	0	1
Chronological age	56	54.15	18	84
Education (high school or less, some college, college, advanced degree)	3	2.86	1	4
Income (categorical: 16 categories in 10,000 increments to $100,000 and then at $15,000 increments, the measures begins at under $10,000 and ends at over $175,000))	7	7.53	1	16