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BACKGROUND SHEET

September 12, 2012

Overall Summary:

In this election year, when the Iowa Secretary of State seems bent on discouraging voters rather than encouraging every eligible Iowa voter, the ACLU of Iowa is committed to protecting the Constitutional voting right of every Iowa citizen.

In late July, the ACLU of Iowa found out that Iowa Secretary of State Matt Schultz had been working to make two new administrative rules that would 1) allow him to attempt a purge of Iowa's highly reliable, accurate voter registration list and 2) make it easier for people to make allegations of voter fraud with fewer consequences for making false allegations.

Schultz said he is hunting for non-citizens who want to vote. Advocacy groups say there is no indication of this type of voter fraud and Schultz has been unable to show any. Further, his actions will have a chilling effect that will intimidate Latino citizens who are perfectly eligible to vote.

The ACLU of Iowa has taken a series of legal and legislative steps to prevent this from happening.

Legal and Legislative Summary:

The ACLU of Iowa has been fighting these two administrative rules legislatively.

Here's the time line:

Late July: The ACLU of Iowa was the first to sound the alarm when it found out that Iowa Secretary of State Matt Schultz had been working in secret and illegally to make these two new administrative rules.

The first rule allows Schultz to use unspecified state and federal lists – which are likely to be outdated or inaccurate – to purge voter registration lists. The other rule allows unreliable allegations that another voter is committing voter fraud – without the person making the allegation first swearing in to its truth (violating this type of oath carried criminal penalties). This new rule conflicts with existing Iowa law.

August 28: We submitted formal comments with five organizations, including LULAC of Iowa and the League of Women Voters of Iowa, objecting to the rules. At that same time, we requested an administrative hearing with the Secretary of State, which he has not yet set, but tentatively reported to the Rules Committee will be held in October. Unfortunately, the Administrative Rules Review Committee seems to be awaiting that before taking any action either on the emergency or regular rules.

September 6: We had a court hearing on Schultz's enacting the same rules as *emergency* rules. That hearing resulted from our August 10 request for an injunction, with the League of United Latin American Citizens of Iowa joining us as a plaintiff. The injunction asks the judge to order Schultz to halt his efforts to purge Iowa voter registration lists.

September 11: A hearing was held by the Iowa legislature's Administrative Rules Review Committee, which dealt both with Schultz's attempts to make two new *regular* administrative rules that would violate existing Iowa law and intimidate Latinos from voting, as well as his decision to proceed with the rules on an emergency basis.

Other Concerned Groups:

The following groups have either formally joined in our legal or legislative actions or formally supported them:

The League of Women Voters
The League of United Latin American Citizens
Local chapters of the NAACP
The Interfaith Alliance of Iowa
The American Friends Service Committee, Midwest Region
The National Association of Social Workers, Iowa Chapter.

Several county auditors have also expressed concern (1) to the Associated Press about Schultz's actions on intimidating and suppressing voters. As the Jones County auditor was quoted in the AP story as saying "I want our elections to be clean, just like every other county auditor wants. But this is what frustrates me: we weren't even told about this and it's an administrative rule that's been in effect since July 20."

Our Concerns:

Some of our objections to Schultz's actions include:

- **Schultz wants to use unspecified state and federal lists to check against Iowa's highly reliable, well-maintained voter registration list.** The ACLU of Iowa and others are concerned when Schultz starts to throw out the numbers (sometimes he says more than 1,000; sometimes he says more than 3,500) of potential non-citizens he's identified. (But has yet to determine that even one is not eligible to vote.) He has declined requests from county auditors who want to see the lists so they can investigate further. Schultz also so far has declined to respond to our motion filed formally requesting that he produce a list of suspected non-citizens.

And no matter what happens with the legislature's Rules Committee, or the court case, Schultz indicated in a public meeting on September 11 that the investigation of the suspected noncitizens by a specially appointed DCI special agent is ongoing and he plans to continue it – without even cross-checking the data with SAVE (2); without getting rules approval; and without waiting for a decision on our lawsuit.

Schultz wants to send intimidating letters out to such Iowans, who are registered voters, giving them 14 days to file documentation of citizenship and threatening them with felony charges.

- **Schultz's actions violate existing Iowa law and he implemented them without legal authority and virtually in secret.** Schultz's new rules conflict with existing Iowa law. Also, he did so without public notice and without consulting with county auditors, who are responsible for registering voters and overseeing elections in their counties.

- **He has timed these highly controversial actions immediately before the November general election.** Schultz has been in office for nearly two years, and has repeatedly stated that voter fraud is a top priority and that requiring voters to have a valid ID is important. He then takes this action just a few months before the November general election. He first started requesting lists from the Department of Transportation back in March, and was challenged only starting in late July when the ACLU of Iowa first heard about his changing the rules

Other Key Points:

- **Voter impersonation fraud is a not a problem.** Matt Schultz came into office stating his commitment to unearthing and eliminating voter fraud. Two years (and the hiring of a DCI agent specifically to dig up cases of voter fraud) later, he has yet to produce *a single valid case of anyone impersonating another in order to cast a vote*. Nationally, a Carnegie-Knight project (3) found that voter impersonation fraud is virtually non-existent. Meanwhile, efforts like Schultz's produce a chilling effect that prevents eligible Iowa voters – especially Latinos and new U.S. citizens – from exercising their Constitutional right to vote.

- **Protecting the rights of Iowa voters against this purge is a bi-partisan issue.** While it's true that attempts to suppress the vote disproportionately affects the elderly, students, the poor and minorities, who tend to vote for Democrats, both Republican and Democratic elected officials have spoken out against Schultz's efforts to purge the voter registration lists. Also important: Democratic Attorney Tom Miller last month attended a joint news conference with Schultz, a Republican. However, since the Attorney General is required by Iowa law to defend Iowa officials such as Schultz in legal actions, this should not be construed as his political support for Schultz's actions.

(1) AP story:

<http://hispanicohio.northcoastnow.com/2012/08/09/iowa-to-check-citizenship-status-of-1000-voters>

(2) The U.S. Department of Homeland Security database, Systematic Alien Verification for Entitlements (SAVE), has been requested by some states to use in distinguishing between foreigners living in the U.S. on visas, green cards or other permits, and others who have become naturalized citizens and now have the right to vote.

(3) Carnegie Knight project information:

<http://www.kansascity.com/2012/08/13/3760122/voter-fraud-found-to-be-rare-survey.html>

