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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Maria M. Gonzalez, et al.,	)	No. CV 06-1268-PHX-ROS
	)	No. CV 06-1362-PHX-ROS (cons)
Plaintiffs,	)	No. CV 06-1575-PHX-ROS (cons)
vs.	)	<b>ORDER</b>
	)	
State of Arizona, et al.,	)	
	)	
Defendants.	)	
	)	

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Pending before the Court is a request by the ITCA Plaintiffs that observers be allowed inside polling locations on election day. The request will be denied but Defendants will be directed to compile the information the ITCA Plaintiffs seek.

It appears no records are currently kept of individuals that do not have acceptable identification and choose to leave a polling place without casting a conditional provisional ballot. Information on these individuals is clearly relevant to the ITCA Plaintiffs' claims regarding the impact of Proposition 200. The ITCA Plaintiffs propose that they be allowed to post observers inside polling locations to track these individuals. Arizona law, however, allows only certain individuals inside polling locations. A.R.S. § 16-515. This law does not automatically bar the discovery sought by the ITCA plaintiffs. See Kelly v. City of San Jose, 114 F.R.D. 653, 656 (N.D. Cal. 1987) ("It obviously would make no sense to permit state law

1 to determine what evidence is discoverable in cases brought pursuant to federal statutes . .  
2 . ."). But "[a]s a matter of comity, federal courts should attempt to ascertain what interests  
3 inspire relevant state doctrine and should take into account the views of state authorities  
4 about the importance of those interests." Id.


5 Pursuant to Federal Rule of Civil Procedure 26(c), the Court may order that  
6 "discovery may be had only by a method of discovery other than that selected by the party  
7 seeking discovery." In this case, directing Defendants to compile the requested information,  
8 rather than allowing the observers requested by the ITCA Plaintiffs, is an appropriate  
9 compromise. This will allow the ITCA Plaintiffs access to the information they seek while  
10 avoiding the evils the statute seeks to prevent.

11 Accordingly,

12 **IT IS ORDERED** the Motion to Permit Observers (Doc. 234) is **DENIED**.

13 **IT IS FURTHER ORDERED** the State of Arizona and County Defendants are  
14 directed to track the number of prospective voters that do not have appropriate identification  
15 and choose to leave the polling location rather than cast a conditional provisional ballot. The  
16 Defendants must then turn over this information to the ITCA Plaintiffs.

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18 DATED this 1<sup>st</sup> day of November, 2006.

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23 Roslyn O. Silver  
24 United States District Judge  
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