



"The Way  
Democracy Will Be"

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March 11, 2009

U.S. Senate Committee on Rules and Administration  
305 Russell Senate Office Building  
Washington, DC 20510

Dear Committee Members:

Thank you for holding this timely and important hearing, *Voter Registration: Assessing Current Problems*. As you will certainly hear from those invited to testify, our current voter registration system is riddled with problems and susceptible to breaking down at several points throughout the process—from filling out a registration form to voting on Election Day. In the November 2008 General Election, voters across the country were denied their right to vote because of bureaucratic hassles, unclear directions and a system in need of a major overhaul.

Leading up to the November election, FairVote surveyed hundreds of local election officials in counties in states of particular focus to the presidential candidates in order to better understand the problems voters might face on Election Day. (See attached final report.) Among other key findings, we determined nearly all of the jurisdictions prepared their machine and poll booth allocation plans several weeks or months in advance of their states' voter registration deadline. Since many voters register in the weeks leading up to the deadline, local officials were unprepared for the surge in turnout, compared to previous election cycles. This problem, and others, could have been avoided if the government took the position that it anticipates voter participation—and is not surprised by it.

Instead of anticipating participation, our current system expects voter apathy. Unlike most democratic countries around the world, the U.S. has a self-initiated, opt-in system of voter registration where voters themselves are solely responsible for ensuring accurate and complete voter rolls. We urge this committee to explore options that will move toward a system of automatic voter registration, where citizens have the opportunity to opt-out of the process if they so choose. Policies like systematically pre-registering 16-year-olds in high schools, automatically registering any eligible voter who interfaces with a government agency and allowing citizens the opportunity to correct any voter registration error on Election Day will dramatically improve our system, reduce burdens on local officials and bring the United States into the international mainstream in this important area.

Thank you again for holding this hearing. I hope this will be the first of many opportunities the voting rights community will have to move our voter registration system into the 21<sup>st</sup> Century.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Rob Richie".

Rob Richie  
Executive Director

## **Uniformity in Election Administration: A 2008 Survey of Swing State County Clerks National Edition**

By Allison McNeely and Adam Fogel  
October 27, 2008

### **Introduction**

The Democracy SOS Project aims to increase transparency in election administration and to monitor the actions of election officials, starting with Secretaries of State. This series reports the results of surveys of county clerks in 10 “swing states” during the 2008 presidential election. FairVote staff and interns surveyed nearly every county clerk in Missouri, New Mexico, Colorado, Pennsylvania and Virginia, as well as election officials in counties with at least 500,000 residents in Ohio, Florida, Minnesota, Michigan and Wisconsin.

We asked questions designed to shed light on the practices of the county, as well as their interpretation and compliance with state law. We asked questions regarding the allocation of voting machines and poll booths in order to assess the county clerks’ preparedness in ensuring that there would not be long lines and everyone would be able to vote on Election Day. We asked every county clerk if they planned to put together a written allocation plan of their machines/booths to assess if these plans have been well thought out. We inquired as to when draft and final versions of the ballot would be ready to assess their clarity and ensure the public has time to review the ballot before Election Day, which helps cut down the amount of time voters spend in the voting booth. Finally, we asked about the number of post-secondary institutions in each county and if they had on-campus polling locations to evaluate accessibility for youth voters.

For our national survey, we phoned counties in the 10 states with populations over 500,000. In total, we attempted to contact 35 counties – spanning from 11 counties in Florida to just 1 in Virginia and Wisconsin. Unfortunately, we were unable to reach 9 counties out of the 35 called. These counties include Miami-Dade, Florida; Broward, Florida; Hillsborough, Florida; Pinellas, Florida; Volusia, Florida; Jefferson, Colorado; Wayne, Michigan; Macomb, Michigan; and Kent, Michigan. For a complete list of counties, see Appendix A.

## Type of Voting Equipment and Number per Precinct

The first question we asked each county clerk clarified the voting equipment used in the county as well as the number of machines per precinct. We looked up the machines used in each county and whether or not they had central or precinct-based count on the website *verifiedvoting.org*, and then compared the information to responses by the county clerks. All the county clerks we spoke with were able to successfully state which types of voting equipment they used and the number of machines per precinct. The most common types of machines used are the optical scan and the DRE for accessible voting. A few counties opted to use the automark, an accessible ballot marker instead of the DRE touch screens. The number of machines per precinct varied greatly – some counties had 1 optical and 1 DRE per precinct,<sup>1</sup> but each county had at least two machines of some kind per precinct.

*Voting Equipment Used in Counties with Populations over 500,000*

	Optical Scan	DRE TS/PB/Dial	Automark
Number of Counties*	18	19	7

\*Out of 26 surveyed

The Help America Vote Act (HAVA) of 2002 does not specify what kind of voting equipment states must use. Furthermore, there are no requirements for the number of voting machines they have to put in each precinct. Requirements surrounding accessible voting state there must be some kind of accessible voting machine available to voters at each polling location, but not much more is required of the election official. The lack of specificity in HAVA may explain why we found such varied results for the type of voting machine used in the states and the numbers they allocated to each precinct. In short, insufficient federal guidelines address the issue of voting system uniformity and their allocation.

## Allocation of Poll Booths in each Precinct

The next question sought to address how county clerks determine the number of poll booths needed for the upcoming presidential election. This question was difficult for many election supervisors to answer due to several states' upcoming primaries; they were not thinking that far ahead.

In general, election supervisors cited experience, past voter turnout, current voter registration, and precinct population most frequently as factors that they use to determine the number of booths needed. Some of the more promising responses included references to a specific number of registered voters per voting booth or DRE. Summit, Ohio and Oakland, Michigan will allocate 1 booth per every 100 voters. El Paso, New Mexico will allocate 1 booth per every 400 registered voters. For the counties that only used DRE systems, Montgomery, Ohio will have 1 machine per

*Officials “did not say how they used [voter registration and previous turnout] to determine an effective allocation.”*

<sup>1</sup> Hamilton, Orange, Lee, Polk, and El Paso counties

160 voters, Montgomery, Pennsylvania will have 1 machine per every 600 voters, and Fairfax, Virginia will have 1 machine per every 150 voters.

Overall, not a single election official surveyed could refer to a specific scientific formula that they use for calculating the number of booths needed. They did make reference to empirical data such as past voter turnout or current voter registration, but they did not specifically say how they use such numbers to determine an effective allocation.

## Written Allocation Plan

We then asked election officials if they would be preparing a written allocation plan of their poll booths for the upcoming November election as a means of gauging their organization and planning. The plan would simply state how many poll booths each polling location in each county will receive on Election Day.

*Only 16 out of 26 counties surveyed were preparing a written allocation plan of voting machines and booths.*

Our survey found that the majority of election officials do have a written plan for poll booth allocation, but a fair number of counties will not. Out of 26 administrators surveyed, 16 expected to create a written booth allocation plan before Election Day.<sup>2</sup>

The most common reasons cited by county clerks for not creating a written allocation plan were that the allocation of booths is based on what has been done in the past and that the booths are stored at polling locations, so allocation does not change. Furthermore, Oakland, Michigan, plans at the city level, so we cannot be certain of municipal level preparation.

## Readiness of Rough and Final Drafts of the Ballot

Next, we asked election supervisors when the rough and final draft of their ballot for the presidential election would be ready as a means of understanding their election planning timeline, as well as to find out when we would be able to see a copy of the ballot to

*Dates for when the final ballot would be ready varied by several months across the counties surveyed.*

evaluate its clarity. We wanted to determine which ballots were made available to the public for comment and which ballots went through multiple drafts or edits. In addition, giving voters the opportunity to see the ballot before Election Day encourages them to prepare to vote. This preparation

leads to voters spending less time in the booth, which in turn leads to shorter lines on Election Day.

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<sup>2</sup> Cuyahoga, Franklin, Hamilton, Montgomery (Ohio), Palm Beach, Duval, Lee, Brevard, Montgomery (Pennsylvania), Bucks, Bernalillo, Arapahoe, St. Louis, Jackson, Fairfax, Milwaukee

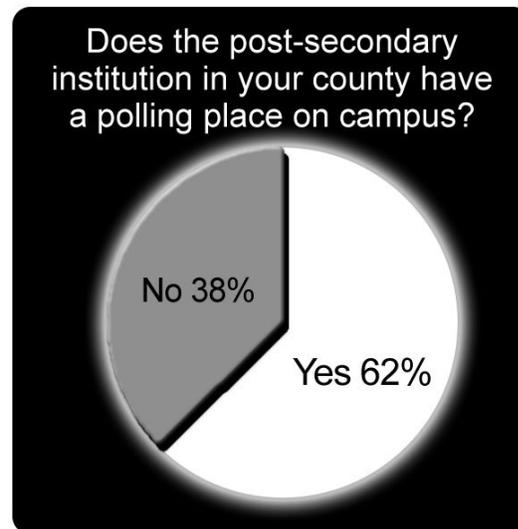
In general, we found that many officials were confused by the concept of a rough draft. It appears that many election supervisors send the information for their ballot to the printer after the certification date and then receive their ballots anywhere from a week to a month after they are submitted. They consider these to be the final version of the ballot. Those officials that did understand the difference between a rough and final draft of the ballot were vague as to when a rough draft would be ready. Responses ranged from “after the certification date”<sup>3</sup> to “no idea – probably September.”<sup>4</sup> Some clerks did not know at all.<sup>5</sup> It is also possible that clerks did not understand the concept of a rough draft of the ballot because they only print their ballots once.

All election officials were aware of when the final draft of their ballot for the presidential election would be ready. Around absentee voting, 6 weeks prior and 30 days prior were the most common answers. Dates for when the ballots would be ready spanned a significant range of time, the earliest answer was August 11<sup>th</sup><sup>6</sup> and the latest answer was the day of the election.<sup>7</sup>

## College Campuses and Polling Locations

The final question in the survey was intended to determine which counties had a post-secondary institution, and whether or not there was a polling place on campus. We were curious about the placement of polling locations on campus because in recent election cycles, on-campus polling locations have had the longest lines in the country.

Of the 26 counties surveyed, 24 have a university, college, community college or junior college in it. Of the 24 with a post-secondary institution, only 15 counties reported that they plan to have a polling location on campus.<sup>8</sup> In general, counties that had post-secondary institutions had more than one type of institution. Most do not put polling locations on all of the post-secondary institutions in the county, only some of them.



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<sup>3</sup> Orange County

<sup>4</sup> Philadelphia County

<sup>5</sup> Franklin, Summit, Polk, Brevard, Philadelphia, and Jackson Counties

<sup>6</sup> Palm Beach County

<sup>7</sup> Delaware County

<sup>8</sup> Cuyahoga, Franklin, Hamilton, Montgomery (Ohio), Palm Beach, Orange, Duval, Hennepin, Allegheny, Bernalillo, El Paso, St. Louis, Jackson, Fairfax, Milwaukee

Officials provided a range of rationales as to why they put polling locations on certain campuses but not others. Brevard County, Florida reported not having any polling locations on campuses because they wanted to stay away from schools due to logistics concerns. Hamilton County, Ohio had to move its polling location off of the University of Cincinnati campus due to campus construction. St. Louis County, Missouri will have one polling location on a college campus but the official was unsure about the rest of the campuses in its county. The official said that it just depends on the issues on the ballot.

## **Conclusions**

We have concluded that in the largest counties of the swing states surveyed, there is much work to be done to create uniform standards for the conduct of elections at the local level. At a minimum, state and federal officials should implement policies encouraging pre-election transparency and post-election accountability. Allowing for public input at every stage of the election process—from ballot design to poll booth allocation plans—would lead to far greater credibility in the electoral process and could prevent serious oversights that impact voters. Post-election accountability should include a full review of election preparation, quantitative measures tracking ease of voting (i.e. average time waiting in line, average time to cast a ballot, etc.) and recommendations to improve future elections.

First, voting machines specifications, at least in terms of the way votes are counted, should be standardized across the country. The lack of uniformity could create numerous problems that can and likely will arise from a lack of standardization of voting equipment such as faulty programming and use, lack of accessibility, and concerns over legitimacy of the results. The Help America Vote Act should require, at a minimum, that all states standardize their voting equipment for every county in their state.

Second, a standard formula for the allocation of voting machines and poll booths should be implemented. All election officials should prepare written allocation plans so they are able to accurately and effectively communicate their election plans to poll workers. We believe that the lack of written allocation plans in some counties, as well as the responses given for the rationale behind poll booth allocation, demonstrate insufficient preparation for the upcoming election. Election officials should be required to draft a written allocation plan for poll booths, to be finalized by a specified date well in advance of the election.

Third, all election officials should receive a draft of their ballot before printing a final version. This draft should be available for scrutiny by NGOs and public interest groups, and also so that voters are able to see at least a draft of the ballot before Election Day. States should establish a widely known release date for copies of the draft and final ballot to ensure the ballot is clearly understood by voters.

Fourth, post-secondary institutions should have polling locations on campus and students should not be subjected to allocation decisions that discriminate against them. That means counties should determine poll locations based on the number of registered voters

in each precinct, voter turnout in previous elections and other neutral factors. We recommend every post-secondary institution with student housing have a polling place on campus.

In the days leading to the November election, officials at the local level should make every effort to ensure transparency by publicizing Election Day plans. Officials should also support measures in the future that increase accountability and preparedness in an effort to build public confidence in the election process. In addition, secretaries of state should push their state legislatures to introduce bills standardizing election procedures statewide. In the meantime, secretaries should promulgate administrative rules for county officials using whatever power is currently at their disposal.

At the federal level, the Election Assistance Commission (EAC) should release election management guidelines setting uniform standards and best practices for the all of the topics covered in this report, including machine and poll booth allocation, election preparedness, public input in ballot design and on-campus polling locations. Finally, Congress should give the EAC rule-making authority and the necessary resources to implement their recommendations.

## Appendix A

<b>State</b>	<b>County</b>
Ohio	Cuyahoga
Ohio	Franklin
Ohio	Hamilton
Ohio	Summit
Ohio	Montgomery
<i>Florida</i>	<i>Miami-Dade</i>
<i>Florida</i>	<i>Broward</i>
Florida	Palm Beach
<i>Florida</i>	<i>Hillsborough</i>
Florida	Orange
<i>Florida</i>	<i>Pinellas</i>
Florida	Duval
Florida	Lee
Florida	Polk
Florida	Brevard
<i>Florida</i>	<i>Volusia</i>
Minnesota	Hennepin
Pennsylvania	Philadelphia
Pennsylvania	Allegheny
Pennsylvania	Montgomery
Pennsylvania	Bucks
Pennsylvania	Delaware
New Mexico	Bernalillo
Colorado	Denver
Colorado	El Paso
Colorado	Arapahoe
<i>Colorado</i>	<i>Jefferson</i>
Missouri	St. Louis
Missouri	Jackson
<i>Michigan</i>	<i>Wayne</i>
Michigan	Oakland
<i>Michigan</i>	<i>Macomb</i>
<i>Michigan</i>	<i>Kent</i>
Virginia	Fairfax
Wisconsin	Milwaukee

*Italicized* counties declined participation or did not respond to repeated requests for participation in the survey.

## **Acknowledgements**

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FairVote is a non-partisan electoral reform organization seeking fair elections with meaningful choices. Our vision of “the way democracy will be” includes an equally protected right to vote, instant runoff voting for executive elections and proportional voting for legislative elections.

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