

TESTIMONY



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Testimony of R. Doug Lewis for Senate Government Affairs
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It is impossible in just five or six minutes to tell you all of the items we can recommend to fix the worst ills of Election 2000. In just a matter of a few more weeks The Election Center's National Task Force on Election Reform, composed of representatives of the nation's elections administrators, will present a report to you and to the public a series of more than 30 specific issues for action with more than 80 specific recommendations.

Until we have finalized those recommendations, let me paraphrase a bit by saying to you that the notices of imminent death of democracy have been somewhat exaggerated.

Yes, there were problems. And some of those problems were new to all of us. And some of those problems were all too familiar.

We get a far better administration of elections in America than we deserve and certainly a lot better than we pay for. There has been an almost criminal neglect of the infrastructure of elections in about 75 percent of our jurisdictions. One-quarter of our elections offices are as well funded as other parts of government, but the other three-quarters are not. By any measure or means of evaluation, the sad fact is that we have so ignored the elections function of government that we simply have not kept up.

Whether you measure by population growth; or by the increasing complexity of laws and rules affecting elections; or by comparisons of functions and staff with other governmental

units; or just by the enormity of the task, our elections offices have remained understaffed and under funded in most of America.

Policy makers and budget authorities don't understand the complexities of elections administration and most will not take the time to truly understand how the process works. Our elections officials have tried program budgets to explain the process only to be told by budget and administrative authorities that they don't have time to listen to the explanations.

Because voting equipment is expensive to replace, and because it is a major policy decision for any community to consider, it is rare that local budget authorities are willing to face up to the calls for newer or more modern equipment.

We read much about voting equipment in Election 2000 and much of what was written and reported was either inaccurate or mistaken analysis. But they have been so pervasive that much of the misinformation is believed today. And I will not spend your time or mine trying to defend punchcard systems. But the real culprits appear not to be punchcards but central counting systems. And, we now know that precinct counting systems help to significantly decrease voter error. But it took four months from Election Day of constant speaking to anyone who would listen, that we needed to look at reality and not myths if we want to repair the system, before the media and policy makers began to understand the real issues.

And the same is correct now on other issues related to this election if we are to make improvements. So let me say something that is true but not necessarily popular to hear right now. America's election system is not in a crisis. We have discovered flaws and we are on our way to fixing those. Most of America's elections were well conducted and fair to the citizens of the states. In 98.5 % of our elections, things went well. But the image of the election, based almost entirely on one state and then individual pockets of problems in a relative handful of areas. It is important that we not base all of our decisions and our analysis of Election 2000 on the events and outcomes of what happened in Florida. Because that is an oversimplification and can lead to terribly wrong judgments when we try to repair the parts of the process that have the greatest needs. And because some of the reporting of problems about voting equipment and voters and their experiences in

Florida do not hold up under examination in other parts of the country.

Most of the most egregious errors in this process won't take vast sums of money to fix. It will take calm reflection and attention to the process itself to handle the systemic problems which are generally problems that take longer to fix.

It doesn't take vast sums of money to fix a situation in which there are insufficient laws, procedures and rules. Florida was a perfect example of how lack of understanding about the process can lead to a disaster. Clearly there was a failure of law in Florida. There was no definition of what constituted a vote before the counting of votes began and so the contestants tried to define votes in their own interest. No one can blame them for that.

Clearly there were no uniform counting procedures. No uniform recounting procedures. No standards of conducting the process so that each county did the process the same way. And a state law governing portions of that process was designed strictly for state legislative races and had never been considered for its impact on a statewide race, let alone a presidential race.

Fixing those problems doesn't take vast sums of money. It takes legislative action by state legislatures.

My advice to you to is to move very cautiously and judiciously in this process. It is popular and easy to focus on the technology of voting equipment and to believe that we can throw money at such a situation and that the problem will be resolved.

I am NOT defending the status quo. As the nation's leading organization for the training and professionalization of election administrators, we teach those administrators to constantly re-look at the process, to find ways to eliminate barriers, to make changes and improvements. And, in some cases, to make significant alterations to the methods used to conduct elections.

And, as a former owner of a computer business, I have been an advocate for modernization of office equipment and voting equipment. I know how those improvements have paid off for business, for government and for nonprofit organizations.

In my role as director of the voting systems program for the National Association of State Election Directors, I know more about the technology improvements that are available for use in elections than most. But had the best technology available been in use all over Florida, does anyone really believe that a tie vote for president wouldn't have created problems?

If we do believe that technology is a piece of the answer, and I too believe that it is in a limited way, then let's focus on all of the older technologies. Let's not just focus on punchcard machines, but also all the earlier versions of optical scan (because the newer technology of optical scanners today are infinitely better), and let's also eliminate lever machines (which were last manufactured in 1982 and last parts made in 1988). Let's also eliminate the earliest versions of Direct Recording Equipment (DRE) which have been dramatically improved in just the last two years.

Let's be careful about reacting to well-intentioned but unknowledgeable institutions and organizations who write public reports with data that can lead to wrong conclusions -- all because of the haste to make news and capitalize on the intensity of the subject of elections. Some of the conclusions drawn by a myriad of organizations and then announced to the public can have the impact of leading us to make faulty policy decisions.

It is important to hear the viewpoints of all who feel a need to express themselves on this subject. But as a Congress, you folks are going to have to determine how best to react to what happened in November of 2000.

And our advice to you is to be reluctant to over react. Be reluctant to wade in with both guns blazing. Be reluctant to tamper with the process so that it favors one party or one group of Americans over the other parties or over the best interests of all Americans. Partisan answers and solutions become impediments to real bipartisan reforms.

Election administration is not a partisan process. We act as the referees of the system. Don't put us in the position of having to become partisan participants. Be careful about being pressured to action. Be careful about seeking simplistic solutions that appeal to a popular notion of national uniformity when that is exactly the opposite of what would be best for the electoral

process.

Is there a level of involvement for the federal government in elections? Sure there is and we would welcome your involvement in the following areas:

Voluntary Federal Voting Systems Standards – these are an ongoing part of the reason there hasn't been a national disaster involving voting systems all over America. And you need, as a Congress, to make these standards a permanent part of the Office of Election Administration (whether in the FEC or some other agency) and fund them sufficiently that we can keep those standards a dynamic and "living" document.

Establish in law the need for voluntary Operational Voting Standards, so that the best practices related to use of voting equipment for the conduct of elections can be established and published for the states to adapt and adopt as their own.

Research: Give the Office of Election Administration (OEA) the responsibility for tracking over- and undervotes by each voting system. Give the OEA the responsibility for knowing which jurisdictions have which voting systems and what problems they experience in each election cycle.

Publications: Beef up the staff and the funding of OEA with earmarked funds so they can continue to publish instructional manuals that can assist in improving the election administration process. The OEA now publishes the Innovation Series which is an exemplary product that cannot be offered often enough because of lack of funding.

New Elections Class of Mail: Fund a new elections class of mail so that states and locales can improve voter contact. The rate of the new elections class of mail would be pegged at one-half of the then current First Class mail and would include all of the first class delivery and handling (including endorsements and supplementary services of First Class Mail). Let jurisdictions use a rate that is one-half of First Class rate at each level of automation offered by the Postal Service. We recommend that Congress provide for perpetual funding of this (rather than asking the Postal Service to fund it). At roughly three pieces of mail per voter per year (more in some jurisdictions per year and less in others), the US Postal Service has estimated the cost of this rate of mail to be \$80 million a year (an amount equal to what the Congress already funds for

mailings for the blind per year). We believe that this will grow to \$125 million as more jurisdictions offer sample ballots and voter guides.

Education, Statewide Databases, Training: And, provide an amount of money that can be used at the discretion of the states to distribute to the local elections offices (and earmarked so that a jurisdiction can not lower its local funding when receiving federal funds) to be used for replacing voting systems, for administrator education, for pollworker recruitment and training programs, and building statewide voter databases.

In 225 years, the federal government has let the local elections jurisdictions fund all of its elections—and the federal government hasn't spent one dime of its money for the conduct of elections. Isn't about time that the federal government pays its fair share of the process?

Most of the other real improvements that are needed are the roles of the states and the local governments and can be best resolved at the local level rather than through any federal mandates.

Provisional Ballots: We must make voting fair for all Americans and assure Americans that their votes will have an equal opportunity of being counted within the process. One step in the right direction would be to authorize provisional ballots for states who do not have Election Day registration or voter affidavit process. It becomes a significant administrative burden after the election. But it can help to assure inclusion the votes of those who should have been on our voter rolls and still protect against those who were not properly registered.

I have faith in the ability and the professionalism of the local elections administrators to accomplish those tasks. However, it will also require more local and state resources to assure that we make it possible for the disabled, the elderly, for racial minorities and for our military and overseas voters to be treated fairly.

Those are our citizens – they live among us and with us. And we want to reassure them that this process is concerned about them and for them. And we will do everything in our power to make them feel welcome and dignified in this process.

I guess my statement to you is to have faith in us as competent elections administrators and to allow us to work on most of the solutions at the state and local level. We want a fair process also. We are concerned also. And we will be asking for greater support and resources from you for major items, but mostly from states and local governments.

And look for the report of the National Task Force on Election Reform for very specific recommendations to make this process better for all Americans.

We have served as a resource to the U.S. Department of Justice, the General Accounting Office, the U.S. Postal Service, and to the court appointed masters chosen to oversee the Teamsters election.

Our work with the U.S. Postal Service resulted in the Postal Service establishing a **postal logo** for identifying "**Official Elections Mail**" to the only organization outside of the postal service in its history.

We have trained election officials from other governments throughout the world and, additionally, they have attended conferences and workshops sponsored by us.

We also offer a **Professional Education Program** in conjunction with **Auburn University** in Alabama where the Auburn master's in public administration faculty teaches most of our 12 core courses which leads to certification of elections professionals with the highest designation that can be earned in our profession: **Certified Elections/Registration Administrator (CERA)**.

We started a program six years ago to recognize the best professional practices with our **Professional Practices Papers** program, copies of which can be obtained through our Houston offices.

The Election Center serves as the day-to-day management organization for the **National Association of State Election Directors (NASD) voting systems program**. We work with the voting systems manufacturers and the states to test voting equipment and its software used for tabulating votes and reporting results. We don't do the actual testing, we find and work with Independent Testing Authorities (ITAs) to perform

this testing so that voting systems in America meet or exceed the **Federal Voting Systems Standards**. Hardware and firmware testing are performed by Wyle Laboratories in Huntsville, Alabama. Software testing was performed previously by Nichols Research Labs and all the people who were performing that service at Nichols Research have since moved to PSINet, also in Huntsville, which is our current software testing lab although with all the same people who did the work for the last four years.

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