



## Public Statement before the Voting Rights Institute

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Good morning and thank you for this opportunity to discuss election reform. While I am a task force director for the National Commission on Federal Election Reform, I am not speaking on behalf of the Commission. Like you, I am a student of the big civics lesson that was the 2000 presidential election. What did we learn?

Let's begin with ballot designs. So-called "human interfaces" with voting systems are likely the largest sources of voter confusion and error. The big bugaboo of the 2000 elections was not punch cards. Silly and sloppy ballots confused voters. This is especially true for new voters who have little training in the vagaries of election machines.

For example, voting twice for the same office is a more widespread problem than under-voting. Under-voting may be a conscious choice, but over-voting is a mistake. Consider optical scan ballots used by 28 percent of voters. There are two types of ballots. One in which voters fill in circles, similar to standardized tests, and one in which voters connect two points with a solid line. In both cases a single vote is cast for the presidency, but at the bottom of a column is something that sounds like a command: "write in candidate." Inexperienced voters, first-time voters, voters whose first language is not English, are disproportionately likely to read this as a command and write in their candidate's name, apparently confirming their vote but nullifying it in practice. If the same candidate's name is listed twice, voter intent is clear and should be counted.

The butterfly ballot was a disaster, albeit designed with the best intentions. There are other simple fixes that will make it easier for voters to understand what they're doing.

Fourteen states and the District of Columbia have uniform ballots. So a ballot in Hot Springs, Arkansas looks the same as one in Pine Bluff. Thirty-seven states and the District of Columbia have minimal standards for ballots, although the most common requirements go no farther than font sizes and ink colors.

Designs have consequences. Consider opti-scan ballots, again. The roll-off rate on a ballot is the proportion of voters who stop voting before the bottom of the page. It comes from fatigue, from the pressure of long lines, and from a voter's lack of information about down-ballot candidates. But did you know that ballots that look like standardized tests are filled out by voters as if they *are* tests? We are taught to fill in all the answers and take best guesses with our number two pencils. When ballots look like the Scholastic

Aptitude Test, voters roll off at a much lower rate than when ballots come with levers to pull or buttons to push or lines to connect.

I am focusing so much of my time on this because, as I said, poorly designed ballots – not poorly maintained machines – are probably the largest sources of voter confusion and error. And ballot design issues are easily solved. It costs the same to print a good ballot as it does to print a poor one. The federal government does not *have* to get involved.

I'll turn to a quick list of elements that have widespread support within the community of election administrators.

First, states need to establish, either through legislation or administrative rules, coordinated statewide databases of voter rolls. Twenty-four states have statewide databases. Twenty-six do not, and this makes it exceptionally hard to maintain clean voter roles. Indeed, in Alaska today there are more registered voters than there are citizens of voting age. In state after state, voting lists are a mess.

Second, when voters show up at the polls, they should be allowed to vote even if they do not appear on preliminary voting lists. Nobody should be turned away, and provisional ballots – which are counted only after election officials can be certain that a voter was properly registered to vote *somewhere* in the state – can be used to repair voter lists. Last November, for example, 101,000 people cast provisional ballots in Los Angeles County. 70,000 of those voters were later judged valid, but without provisional ballots they would have been turned away at the polls. Like better ballot designs, no federal legislation is needed and the costs are minimal. I strongly encourage you to recommend universal provisional ballots.

Third, states need to adopt statewide standards for what constitutes a vote and statewide standards for recounting votes.

Fourth, polling places need to be accessible to the disabled. Here I sense a need for stronger support from the federal government, as local jurisdictions are sometimes loath to pay for the substantial costs of making polling places compliant under the Americans with Disabilities Act.

Fifth, beware voting machine vendors who promise the moon, and be especially wary of schemes to vote over the Internet. The Internet is a seductive option, but there is consensus among election administrators that no current system gets around security concerns, despite promises to the contrary.

Finally, let me close by saying something about the political climate in Washington. It has become fashionable over the last month to declare election reform "dead" on Capitol Hill. While it will be hard for Congress to pass big election-spending bills in time for the 2002 elections, reform is very much alive.

In my hometown this week, we are planting gardens. Some seeds will germinate. Some plants that survive will be well cared for throughout the summer. We will prune. We will water. We will spread manure. And come this fall, the strongest will bear fruit.

Likewise on Capitol Hill. The House budget resolution (H Con Res 83), while including no money for election reform, did call for Congress to "make every effort" to help election jurisdictions "modernize their voting equipment" before the next elections. That is a start, and not a bad one.

Personally, I hope that no states expect the federal government to spend a lot of money on election reform, although it is likely that either Congress or the Courts will develop much better standards for voting systems.

There will be some kind of election reform harvested in Washington this fall. But I encourage the Voting Rights Institute to focus on the states as well. Help them tend to their gardens. Over 1,500 election reform bills have been planted in state legislatures. Please, be an active gardener. Weed out initiatives that cost too much money unwisely, that make voter fraud easier to commit or that embrace Internet voting too quickly. Focus on provisional ballots, on access to the polls, on statewide voter lists, on recruiting poll workers, and on better ballot designs.

Thank you.

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