

# Introduction & Purpose of the National Task Force

No one who observed the November 2000 general election can deny that it is in need of improvements. We must state, however, that in our professional opinion, America's election system is **NOT** in crisis.

A thoughtful analysis of the issues surrounding the 2000 general election reveals that most of the problems were the result of poorly written, conflicting or nonexistent laws, rules, regulations and policies which are the necessary foundation for standard operating procedures.

Only a small percentage of the problems were directly related to any failure by vote tally devices themselves. The problems were created by people, not machines, and any reform of substance will deal with what people do or don't do, rather than focusing on a machine that can only do what it is designed to do.

It is the purpose of this National Task Force to identify the issues that must be addressed by reform efforts at the local, state and federal levels. Along with identification of those issues, this report discusses the facts and assumptions that are relevant to the issues, as well as dispelling some of the popular myths about the elections process. We then offer a recommendation or range of recommendations for each issue.

What the world saw last November were the blemishes of a process that has for decades been overlooked and under valued, over tasked and under funded, and whose complexities have been under estimated and misunderstood by those for whom the system is designed.

Most of the public's attention is given to the politics of elections rather than to the operational aspects of registering voters, preparing ballots, organizing polling sites, providing poll workers, determining voter eligibility and distributing and counting ballots. Therefore, it is no wonder that these complex elements of actually conducting elections are not well understood by the public, those elected by the system, nor the academics who are often looked upon as the experts.

The process by which we elect our leaders at the local, state and national levels, the most fundamental of all of the elements of our republic, must operate in a manner and environment which commands the trust, support and confidence of the American public. That confidence has been somewhat eroded as a result of the November election.

Whether this erosion is based on reality or on a perception created by the media is a matter for discussion; however, perception often drives a new reality.

Allegations of systematic disenfranchisement of some citizens by election officials have been made, though hard evidence of this happening has been difficult to find. However, any such actions, if they did occur, must be deplored by the elections community and those responsible should be held accountable.

The impression left with the American voters during the unprecedented around the clock coverage of the events following election day in November of 2000, is that one particular counting system (computer punchcard) is the cause of all of the problems encountered during this unique election. This leads some to the conclusion, therefore, that by replacing the “problem” counting system, we will eliminate the problem, and we will avoid the problem in the future by mandating a uniform system across America.

We, America's elections officials, respectfully disagree.

Such a conclusion represents an instant solution to an improperly identified problem. Unfortunately, in clamoring for such an “instant” solution, it creates a false expectation by the American public that such a solution exists and is desirable.

This quest for an “instant” solution follows a pattern established and promoted by the media, which values speed over accuracy or thoughtful analysis. The demand for such a solution parallels the expectation for instantaneous election results on election night: an expectation which the media creates then seeks to fulfill by misrepresenting their own polling data as election results.

The National Task Force was appointed by the Board of Directors of The Election Center, a non-profit organization committed to the professionalization and improvement of America’s election process, including extensive training of the professionals who conduct elections.

The bipartisan National Task Force is comprised of 37 elected and appointed professional election officials from throughout the nation representing, not only a geographic diversity, but a balance of state and local level perspectives. These experienced officials represent the diverse communities, cultures, histories and traditions of the jurisdictions, states and regions from which they are drawn. These members also bring a wealth of knowledge and experience drawn from public service, leadership in the private sector and/or excellence in academe.

While we recognize and applaud the contributions made by a multitude of committees, task forces and commissions appointed throughout the country to examine the 2000 presidential election, we feel that this task force's recommendations are of particular importance in the discussion of election reform because of the composition of the National Task Force.

While America's diversity is represented within its membership, this National Task Force is comprised exclusively of people with operational or oversight responsibilities for conducting America's elections. Because of its focus on the operational issues involved in conducting elections, the recommendations of this task force are aimed at making specific, practical changes in the elections system of the U.S to improve the process in measurable ways for America's voters.

The conduct of elections has historically been a state and local concern because of the constitutional separation of powers found in the federal constitution and most state constitutions.

Almost without exception, states have constitutionally or legislatively given the authority to conduct elections to county and, in some cases municipal, officers. What this means is that, intended or not, election law, policies, processes and systems have been developed around elections at the local level.

Accompanying local governments' authority and responsibility to administer elections has been the obligation to bear the costs of elections and voter registration. The federal government bears no cost for the election of federal offices. Generally, state governments bear no cost for the election of legislatures, governors, state officers and judges. When local public policy makers are confronted with decisions such as buying new fire trucks, disposing of garbage, adding police officers or building and paving roads, etc., or to buy new voting equipment, pay election workers adequately or fund additional training, the decision usually does not favor the election improvements.

When one looks at America's election system, one cannot help but be impressed with how well it works, given the enormous complexity, the lack of resources and the extremely high expectations. To illustrate, the 2000 election produced a turnout of approximately one hundred million (100,000,000) voters and ended in a statistical tie for the most visible contest on the ballot, the Presidency. Ballots were counted using five different technologies and dozens of different products. Voting was conducted at approximately two hundred thousand (200,000) polling precincts, staffed by approximately one point four million (1,400,000) poll workers who were recruited from the local citizenry to work one day in performing America's most important public function. The vast majority of these poll workers received little training, worked 14 or more hours on the job and were paid minimum wage or less. While the dedication and commitment of these citizens is unquestionable, the reality is that they are plucked from their daily lives and jobs to perform a task a few times a year for which they have little expertise. The election process was supervised by approximately twenty thousand (20,000) election administrators.

Cumbersome as it may be, this is the process by which we perform the function which is the heart of democracy – a function in which even the smallest of error rates is considered unacceptable. And there seems to be no tolerance for any number greater than a zero error rate – when that is impossible in the news media, it is impossible in Congressional offices, it is impossible in health care, it is impossible in public education – when, in fact, it is impossible in any other segment of society.

In this report, the National Task Force takes an unprecedented leap in recommending a more active federal involvement in developing standards for the processes involved in conducting elections. It is with some trepidation that we make these recommendations. However, we recognize that without a partnership with the federal government, and the resources it may bring, our system may continue to contain inconsistencies produced by the vagaries of local economies or politics.

What national standardization that has existed in the elections process heretofore has been limited to establishment of minimum requirements for voter eligibility and voter access produced by the Voting Rights Act and the subsequent National Voter Registration Act.

Voluntary standards for vote tally systems have been collaboratively developed by the National Association of State Election Directors (NASSED) and the Office of Election Administration in the Federal Elections Commission and managed for NASSED by The Election Center. These standards have been adopted by approximately three-fourths of the states but have not been updated on a consistent basis by the Federal government.

In a major departure from an historic “hands-off” attitude towards the federal government, this Task Force recommends an active involvement in development, and maintenance of, not only vote counting system standards, but operational standards and guidelines as well. While we do not advocate federal control of elections, we recognize that it is imperative that we have consistent standards that recognize and accommodate differences between voting systems and elections processes at the state and local level. Standards, which should be developed in conjunction with state and local officials, must lead to consistent processes within states, preserving the power of the states to conduct elections while generating and maintaining the public’s confidence in an accurate, fair and consistent election result in every state in our nation.

It is to the end of recommending state and national standards as the primary mechanisms for improving America’s elections that this task force has identified the issues contained in this report and makes its recommendations.

To conduct this review in a timely manner, the National Task Force divided itself into three committees: Elections Governance and Administration, Election Systems, and Voter Registration.

The full National Task Force met in Washington D.C. in January, in Savannah, Georgia in February and in Houston, Texas in March. Much of the work was done by the committees via telephone, email and fax during the periods between the task force meetings. A summary of each committee’s findings is included in this report and each contains the detailed discussions of the issues and recommendations, within its purview, which were adopted by the full task force.

The National Task Force submits for consideration the following more than 80 recommendations based on 34 issues that the Task Force considered.



# HOW TO USE THIS REPORT

The National Task Force on Election Reform designed this document to meet the needs of most who are seriously concerned about Election 2000 and what needs and need not be done to improve the process.

The Report's recommendations can be quickly read and extracted if the reader wants to go to the Executive Summary and read the issues and actions suggested. Each of the issues is numbered in the Executive Summary and those same issue numbers are matched in the detailed discussion of the National Task Force's subcommittee reports.

For the researcher, election official, Congressional or legislative member who wants to delve into the complete considerations, this document also gives a full discussion of the concerns that lead to the specific recommendations. To facilitate the ease of finding the issues in both the Executive Summary and the detail reports, they contain matching numbers.

Even if you want only the highlights or the thorough discussion, you should take the time to read the Introduction to the Task Force; the Preface by the co-chairs of the National Task Force; the letter from The Election Center's Board of Directors on the reasons for creation of the Task Force; and the Code of Ethics of the elections profession -- which guides elections administrators in the performance of their duties.

In the Appendix is a sample copy of regulations of the states of California and Oklahoma, as well as Snomish County, Washington, about how to define a vote and what should be counted as a vote under what conditions. Also in the Appendix is the outline of the next important document that needs to be created nationally, which would become the Operational Guideline for the conduct of elections and would accompany the Federal Voting Systems Standards. The full resolution of the nation's elections organizations endorsing creation of a national elections class of mail so that voters can be contacted more often with official elections materials, is also included here.

Following the Appendix is a description of The Election Center, the national non-profit organization through which the National Task Force was created and this report was funded.

Whether the reader has a little time or a lot of time, this report should be a valuable resource for many months and years to come. Comments can be directed to:

The Election Center  
12543 Westella, Suite 100  
Houston, TX 77077-3929  
E-mail [electioncent@pdq.net](mailto:electioncent@pdq.net).

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# Civil Rights and Voting

Members of the National Task Force on Election Reform, all of whom are elections professionals at the state and local level, recognize the protection of civil rights as fundamental to the democratic process.

Because of the nation's history in the area of voting rights, it has become the opinion of some that the process is designed to keep certain citizens from participating. The system, many believe, has been used to discriminate against anyone who could change the power structure of local communities.

Since the passage and implementation of the Voting Rights Act of 1965, the nation has become enlightened and responsive to the rights of others. The elections profession itself has changed dramatically. Present day elections administrators manage the process without regard to its partisan influences so it can be fair for all Americans.

The elections profession has evolved and the administrators role is clearly that of the voter registration and elections administration functions. Elections professionals help ensure a fair and equitable process, to protect the rights of others, and to assure full access for all eligible voters. The process now establishes elections officials as the referees of this system. They look to give no political advantage to any party and to protect the process for all citizens. Election officials view as their role the responsibility to nurture and protect the democratic process.

But the impact of the past still lingers in the minds of voter groups traditionally denied access to the system. There is still suspicion that when something goes wrong in the election process that it may have its roots based in intentional discrimination. And even when the irregularity is unintentional it still may have the effect of being unequal for certain segments of the voting population. That can still lead to the suspicion that there is intentional manipulation to keep out certain voters.

The Election Center has taken the forefront of training election administrators to assure all voter groups that this process will be fair to **every** qualified voter. Those in the elections profession want full voter participation. All qualified voters must be able to participate. Any qualified voter must have not only the opportunity to vote, but to have that vote counted. The election must be an accurate reflection of the intention of those who voted. There must be instruction for those who do not know how to properly vote so they have every opportunity to cast a vote that can be counted.

Election 2000 revealed new data about unintentional consequences when working with voters. It is clear that much still needs to be done to make the process fair for all. Allegations reported to the National Commission on Civil Rights during their hearings on Election 2000 are serious and must be investigated.

Some allegations were that a systematic process occurred in Election 2000 which -- either intentionally or unintentionally -- had the effect of disqualifying voters or discouraging voters

from participating in the electoral process. Others claim there is no substantiated evidence to suggest that the majority of allegations have basis in fact.

Elections administrators of the National Task Force and of The Election Center believe this issue is too important to allow it to go uninvestigated. The U.S. Department of Justice should interview all voters who made complaints to the U.S. Civil Rights Commission and determine the veracity of the allegations.

The Election Center will work with voters and voter groups to implement solutions to assure that no systematic exclusions can occur in the future.

If an investigation by the U.S. Department of Justice or other agencies prove the allegations to be groundless, then voters may know that the process is fair and equitable. All voters can be reassured that American electoral democracy is working to make the process open and responsive.

Since the allegations are so serious and can have such a major impact on any proposed Congressional legislation affecting elections, it is critical that the U.S. Justice Department appoint investigators immediately. The investigators should be advised by the U.S. Civil Rights Commission, representatives of the national political parties, and the elections administrators in each and every location where such an alleged action occurred.

Elections administrators will stand with the civil rights community when there are situations where voters are being denied access to the process. And elections administrators will also seek legislative remedies if any substantial portion of the allegations prove to be true.

If the allegations prove to be limited to a few locations, then it must be assumed that the states should have the opportunity to resolve their own problems. For instance, the Florida Task Force on Election Reform appeared to face its own problems and recommended substantial remedies. It becomes perilous to develop national policy and laws based on data principally from a handful of instances and then assume that the data applies to all parts of the nation..

Should Congress react to the events of Election 2000, it must insure against unintended consequences – that could have a devastating effect on democracy.

Election officials are willing to dismiss any poll worker or any staff member in any situation where voters will state what discrimination occurred and by whom and the evidence shows there was wrongdoing by the worker or staff member. There can be no tolerance for those who would discriminate against any qualified voter in this process.

# **EXECUTIVE SUMMARY**

## **NATIONAL TASK FORCE RECOMMENDATIONS**

### **Governance & Administration Recommendations**

#### **1. Issue: Standard Election Certification Schedule**

- A. That every state review and modify its election laws to guarantee the orderly conduct of certification duties after each election. These duties include canvassing and certifying official election results. They may also include retabulations and recounts.
- B. That since each state must certify its presidential electors by a specific date, each state must provide sufficient time between election day and that statutory date to execute all duties in an orderly manner.
- C. That when a state provides for either judicial or administrative recounts, it must provide sufficient time to reasonably complete the recount, whether by hand or by machine.
- D. That each state amend any election laws requiring adjustment to meet these criteria.

## **2. Issue: Standardize Recount Components**

- A. That each state have a recount process.
- B. That all states enact, or at least do not preclude, an administrative recount process as an addition to or replacement for a judicial recount.
- C. That each state enact laws specifying the vote margin that will trigger an automatic recount.
- D. That recounts for federal offices, statewide offices and other offices, as determined by each state, shall be conducted by the local election official with oversight by the state's chief election official.
- E. That hand recounts should be used to verify the accuracy of voting machine counts or to count votes unable to be counted by machines.
- F. That prior to a machine recount, each paper or punch card ballot be reviewed to insure that valid votes can be accurately read by the tabulating equipment. Such ballots, whether as a result of damage or voter error, shall either be hand counted or be duplicated (with adequate audit trail for original ballot) so that they may be processed by the tabulating equipment.
- G. That each state develop and publish a contingency plan that documents the requirement for conducting a recount for any office within the time frames and under the standards prescribed by law.

## **3. Issue: Bipartisan/Nonpartisan Canvassing Boards**

That each state examine the make up of canvassing boards and give consideration to restructuring them into bipartisan or nonpartisan bodies. These boards may take any number of forms and replace existing partisan canvassing boards, partisan recount boards or partisan officials.

#### **4. Issue: Military and Overseas Ballots**

- A. That the Congress amend current law to require the states to provide absentee ballots for delivery no later than 30 days before an election. A statutory remedy should include the extension of ballot acceptance and counting for the requisite number of days necessary to provide overseas voters with 30 days transit time.
- B. That the Congress amend the law to allow military and overseas voters to vote by the Federal Write-In Absentee Ballot regardless of whether the voters make application for an absentee ballot at least 30 days before an election.
- C. That the Congress amend the law to require the Department of Defense to use all available military and government mail delivery from overseas to the continental United States for the purpose of moving election mail back and forth for overseas and military voters.
- D. That each state enact laws or adopt procedures such as accepting facsimile applications and sending ballots by facsimile to voters to ensure that the 30-day deadline is complied with.
- E. That each state assess its election process to determine whether late primaries and/or runoff elections are detrimental to overseas voters in the following general election and whether administration of the general election and the post election certification functions are adversely affected by their current schedule.
- F. That each state enact laws dropping the 30-day close of registration for overseas and military voters. The Federal Post Card Application (FPCA) should serve both as a voter registration application and an application for an absentee ballot.

#### **5. Issue: Valid Ballot Markings/Voter Intent**

- A. That each state establish uniform standards or rules for determining valid ballot markings and voter intent for each voting system in use in the state.
- B. That state law specifically state what a valid vote is for each voting system certified for tabulating ballots in the state.
- C. That all ballot instructions contain clear and concise instructions to the voter on how to cast a valid vote on the particular ballot and instructions regarding voter errors and mistakes.

- D. That ballot marking instructions be uniform within each state for each type of ballot.
- E. That standards for a valid vote, to the extent possible, be uniform across voting systems.
- F. That state law provide consistent standards for the discernment of voter intent.

**6. Issue: Ballot Preparation**

- A. That each state enact laws specifying the layout of all election ballots and the order of offices on those ballots.
- B. That the states determine ballot layout standards that minimize voter confusion.
- C. That states require uniform ballot instructions appropriate to each voting system used in each jurisdiction in the state

**7. Issue: What Role for the Federal Government**

- A. That a supplemental appropriation be made to the Federal Election Commission's Office of Elections Administration (OEA) in the current fiscal year for the purposes of accelerating the update of the technical Federal Voting Systems Standards, and the development of operational standards and procedures.
- B. That the OEA (or a successor agency) be adequately funded and staffed on an ongoing basis consistent with its mission to provide support to elections administrators through the development and maintenance of technical and operational standards, studies, reports, statistical data collection and dissemination, technical assistance and the solicitation and collection of best practices from around the nation.
- C. That the OEA (or a successor agency) be specifically acknowledged in federal law along with the position of director of the OEA and the Advisory Panel of State and Local Election Officials.

- D. That the Federal Voter Assistance Program (FVAP) (or a successor agency) should be adequately funded and staffed to provide support and assistance to both voters and local elections officials in assuring the voting rights of military and overseas Americans are protected and exercised in a timely and complete manner. A formalized process for input of local elections officials should be developed similar to the current process used with the OEA.
- E. That the issues of Campaign Finance Reform and Elections Administration Reform be considered separately in Congressional legislation.
- F. That any federal funds that may be appropriated for the election system be appropriated to the states with provisions for equitable treatment of all states. Such funds should be available on a matching basis of not more than 25% local match, with provisions for no match grants in areas of economic hardship.
- G. That any program that provides federal funds should recognize that funds can be used for purposes of improving the elections system for the benefit of America's voters including, but not limited to management and administrative improvements, training, operational improvements, voter registration improvements and equipment purchases and upgrades.
- H. That the Congress review the law governing the election of Presidential Electors. Specifically, it should be determined whether more time could be given to the states for certification of the Presidential Electors.
- I. That the transmittal method for certification of Presidential electors be updated to include overnight delivery service.

## **8. Issue: Poll Workers: Recruitment, Training and Certification**

- A. That state laws encourage and/or require state and local governments and private employers to permit employees to serve as poll workers in a paid status.
- B. That funding sources be developed from state and federal governments to increase pay and the quality of training and develop poll worker recognition programs for retention of quality and experienced workers.

**9. Issue: Extended Voting Period**

- A. That early voting and “No Excuse” absentee voting should be seriously considered by states.
- B. That 24 or 48 hour voting periods **not** be enacted.
- C. That Congress should study the costs and benefits of a national holiday for Presidential elections.

**10. Issue: Uniform Poll Closing and Exit Polls**

- A. That the news media refrain from projecting Presidential election night results until 11:00 p.m. Eastern Standard Time.
- B. That no legislation be enacted forcing uniform poll hours throughout the nation.

## **Voting Systems Recommendations**

**11. Issue: Statutory Authority & Funding for Voting System Standards**

That the Congress establish statutory authority, and sustained funding, for the maintenance of Federal Voting System Standards including both technical standards and operational guidelines.

**12. Issue: Relationship of Levels of Government to Voting System Standards**

That the Federal Voting System Standards and operational guidelines be developed and maintained by a federally funded intergovernmental authority principally comprised of state and local election officials.

### **13. Issue: Voting Systems Performance Clearinghouse**

That the Congress enact statutes to provide for the voting systems standards authority to institute a clearinghouse, all housed within the Office of Election Administration, for monitoring the performance of voting systems in conformity with the Federal standards.

### **14. Issue: State Compliance With Federal Standards**

That each state adopt the Federal Voting System Standards and operational guidelines consistent with the federal standards and guidelines.

### **15. Issue: Valid Vote**

That federal standards include technical guidelines for each voting system as to what constitutes a valid vote.

### **16. Issue: Recounts**

That federal standards include technical guidelines for each voting system as to how a recount of votes should be conducted with each system.

### **17. Issue: Federal Funding**

A. That Congress provide immediate and ongoing funding for updating the Federal Voting System Standards and the development of federal voting system operational guidelines.

B. That federal funding be provided for state and local election officials to:

- Develop state level capabilities for implementing and monitoring appropriate uniform standards and guidelines.
- Provide continuing education for election officials.
- Develop and implement recruitment and training programs for poll workers.
- Develop and implement voter education materials and programs.
- Upgrade voting systems.
- Upgrade voter registration systems.

**18. Issue: Uniform National Voting**

That no uniform national voting system be established. We support the Federal Voting Systems Standards but do not recommend one national voting system.

**19. Issue: Receipt Showing Vote**

Against using any voting system that provides any voter a receipt to take from the polling site showing how they personally voted since such a receipt could be used for vote manipulation.

## **Voter Registration Recommendations**

**20. Issue: Required Acknowledgment Of Registration Application**

That at agencies designated by the National Voter Registration Act each applicant be given an acknowledgment of application with instructions for action if no official notice of registration is received from the elections/registration office.

**21. Issue: U. S. Citizenship/Residency Requirement**

That to vote, the requirement to be a United States citizen That to vote, the requirement to be a United States must be emphasized. The question, "Are you a United States Citizen?," and its response should be required on the voter registration application, preferably as the first question.

**22. Issue: Duplicate Registrations / Sharing Registration Data**

That states adopt procedures to identify duplicate voter registrations at an administrative level through increased multi-jurisdictional communication within the state.

**23. Issue: Voting Rights For Former Convicted Felons**

- A. That state laws be changed to allow restoration of voting rights upon pardon or full completion of a sentence (incarceration, probation, parole, restitution, etc.)
- B. That the judicial and penal system should give written notice to the person when his or her voting eligibility is restored.

**24. Issue: Provisional Ballots**

That in the absence of election day registration or other solutions to address registration questions, provisional ballots be adopted by all jurisdictions.

**25. Issue: Enforcement Of Registration/Voting Law Violations**

- A. That states adopt stricter penalties for voting law violations. Election and registration violations should be major felonies. Persons convicted of felony voting law violations should be treated as any other felon.
- B. That voting law violations be reported to the state election officials to provide accountability within the system and to ensure equal application of the law.

**26. Issue: Central Voter File Or Registry**

That all states have a statewide central voter file or registry.

**27. Issue: Postal Service Rates**

That special rates for election materials from the United States Postal Service be established at half the cost of First Class Mail. (See Resolution in Appendix C.)

**28. Issue: Voter Registration Forms**

- A. That election officials be responsible for assuring that all state-mandated and optional agencies and locations have sufficient voter registration applications at all times and provide other information as much as possible.
- B. That registration application forms be easy to read and complete.

- C. That reasonable accommodation be made to accept registration applications that contain the required information and affirmations, regardless of the size or weight of the paper or stock.
- D. That the ability to actually register to vote on line should not be attempted until complicated security and identification measures are addressed.

**29. Issue: Education And Marketing**

- A. That election officials remove barriers, provide maximum opportunity to register and to vote, provide information, and persuade the funding bodies to provide those resources.
- B. That voter registration information be presented creatively to meet the needs of different demographics, using partnerships with corporations, agencies, and civic groups to disseminate voter registration information.
- C. That registration deadlines and polling site locations be emphasized in all voter registration communications.

**30. Issue: Poll Worker Education And Training**

- A. That education and training for poll worker include awareness of election/voter registration, laws and regulations
- B. That poll worker training include particular sensitivity to race, ethnicity, seniors, and persons with disabilities.
- C. That provisional voting process and qualifications be emphasized in poll worker training.

**31. Issue: Internet Registration Education**

- A. That websites containing voter registration information explain and emphasize state requirements about information requested, guidelines, deadlines, and restrictions; and non-government websites provide a link/address to state and local official election websites where appropriate information and forms are already available.

- B. That all voter registration services provide for verification and authentication of the registration information provided by the citizen.
- C. That election officials provide registration forms on the internet that permit the citizen to print the form, complete it, and return it to election officials.

**The following three recommendations were adopted by the National Task Force as a whole but did not originate in a subcommittee.**

**32. Issue: Office of Election Administration**

- A. The Office of Election Administration (OEA), whether within the Federal Election Commission or some successor agency, should be adequately funded and staffed.
- B. That the duties of the OEA be specified in federal law and the duties should include best practices from around the nation; providing technical support to elections administrators through the development and maintenance of technical and operational voting systems standards; national voting studies; reports, and statistical data collection and dissemination including.
- C. That a supplemental appropriation be approved for the OEA in the current fiscal year for the purposes of accelerating the update of the Federal Voting Systems Standards.
- D. That the position of Director of the OEA be established in federal law along with the Advisory Panel of State and Local Election Officials.

**33. Issue: Federal Voting Assistance Program.**

- A. That the Federal Voting Assistance Program (FVAP), or a successor agency, should be adequately funded and staffed to provide support to both voters and local election officials to ensure the voting rights of the nation's military and overseas voters.

- B. That FVAP formalize a process for input of local election officials through federal law establishing an Advisory Panel of State and Local Election Officials.

**34. Issue: Separation of Campaign Finance and Election Reform Issues**

That election reform should not be a partisan issue and should be considered separately from the often bitter and contentious issues surrounding campaign finance reform.

# Myths and Reality

The National Task Force is including a discussion of election myths that it wishes to dispel and offers some definitions of terms that are essential to the findings and recommendations.

## **MYTH #1: All ballots are counted on election night.**

### **REALITY:**

After November 7, 2000, more than four million additional votes were counted for President of the United States prior to certification of official results by the 50 states.

Election administrators must balance two goals that are fundamentally in conflict: Speed and Accuracy. Speed and accuracy are attained, but at different stages of the process.

Speed is achieved election night with unofficial results to satisfy the public's desire, fed by the media, for instantaneous results.

Accuracy, however, must await certification of complete, official results. Although timelines differ from state to state, certification occurs within several days to several weeks following the election in order to tabulate additional eligible ballots.

The volume of ballots remaining to be counted after election night has increased tremendously in many states primarily due to easing restrictions on who may cast a ballot by mail. Verification processes differ from state to state, but signature checking is typically required for each absentee/mail ballot prior to opening, sorting and tabulating. In jurisdictions with large volumes of mail ballots, to finish these processes may require several days or weeks after election night. Additionally, some states have adopted extensive provisional voting procedures to segregate ballots cast by voters whose eligibility to vote cannot be determined at the polling locations and, therefore, require post-election research and resolution at the elections office. Also, many states have laws mandating extensive vote auditing procedures prior to certification. These include a variety of automatic

recount procedures, and other double checks such as comparison of the number of ballots cast to the number of voters who signed in at every precinct.

Rather than decry the delay and suggest that delay equates to problems, the public, including candidates and the media, need to recognize that these important post-election procedures enhance the integrity of the ballot counting process.

**MYTH #2: Antiquated voting equipment is the problem.**

**REALITY:**

Although technology upgrades are definitely needed, election administrators know that electoral problems are multi-faceted and equipment is only one component.

All vote counting equipment works perfectly in a laboratory setting. To offer viable solutions, reform proposals must address problems and errors associated with 1) *People* (voters, poll workers, election administrators and staff, vendor personnel, candidates, and the media); 2) *Procedures* (vague and conflicting laws and inconsistent policies); and 3) *Technology* (outdated computer systems, voting equipment and tabulation systems).

**MYTH #3: The United States should adopt one uniform vote counting system.**

**REALITY:**

One size does not fit all.

Election 2000 did not make the case for a national uniform vote counting system. Several different voting systems were successfully used throughout the United States last year. States and local election jurisdictions function as laboratories for democracy. Newer technology is emerging, some of which was used in 2000. New technology will provide even better election systems.

Diversity of electoral equipment and multiple vendors strengthens the electoral system and fosters innovation. A single national source of tabulation equipment and software could be a target for manipulation.

For instance, specifying that all systems should be touchscreen systems leaves out the ability to count the 20 percent (approximately) of the votes that are cast as absentee ballots nationally. Additionally states such as Oregon, where all voters vote by mail, and Washington where 54% of its residents vote by mail, would not be able to utilize such systems to count their votes.

**MYTH #4: Election administrators have the authority to ensure proper conduct of elections.**

**REALITY:**

Multiple agency involvement is a major factor outside of the control of election administrators and results in compounding the instances of errors in elections. This problem is especially acute with regard to the role of states' Motor Vehicle Departments in voter registration and the United States Postal Service in absentee ballot delivery.

Election administrators are frustrated by bearing responsibility for all electoral errors without having the authority to manage key components of the process.

As the United States Congress and state legislatures grapple with numerous proposals for electoral reform, solutions need to be crafted that address the complexity of problems election administrators confront in the search for the illusive goal of conducting "a perfect election."

**MYTH #5: Between two to seven percent of the votes are "discarded" by election equipment.**

**REALITY:**

Overvotes and undervotes are completely distinct ballot characteristics.

Aggregating these categories is misleading and the media charge that ballots containing overvotes and/or undervotes are "discarded" or "thrown out" is wrong and undermines confidence in elections. Many overvotes and undervotes are informed voter choices and correctly not counted by vote counting equipment.

An overvote occurs when more votes are cast in a contest than is allowable. Overvotes are often due to voter confusion about the voting instructions but occasionally are intentional statements by voters.

An undervote occurs when no vote is recorded for a contest and often is intentional. When examining undervoted ballots, the vast majority are clearly the result of voters intentionally skipping that contest. Rarely does an undervote mistakenly occur due to a voter incompletely marking or punching his/her ballot.

**MYTH #6: That voting equipment counts votes inaccurately.**

**REALITY:**

Equipment that meets the Federal Voting Systems Standards will count votes to an accuracy level of 1 error in 1 million votes.

The issue is not vote tabulation errors, but rather “Voter Error”. And the information that voter error occurs on some types of systems more than other than other types of systems, is new information on a national scale. It is true that some systems create substantial differences in the number of errors made by voters. It will now require a new focus on answers to the problems of voter errors. Due to the coverage in Election 2000, the commonly accepted notion is that one type of voting equipment (punchcard systems) became the villain. Yet, reality is that central count systems appear to be more problematic because they (central count optical scan and central count punchcard) make it more difficult for the voters to be notified of their errors and to have an opportunity to correct those errors. But the nation can’t eliminate all central counting systems, because such systems are needed to count absentee votes and ballots in the Vote By Mail States such as Oregon and Washington. Perhaps the best decision is to order precinct counting devices whenever voters vote in person.

Precinct counting systems (lever machines, Direct Recording Equipment such as touchscreen systems, precinct count optical scan and precinct count punchcards) all allow the voters an opportunity to have a “Second Chance” to correct their own mistakes or omissions.

**MYTH #7: That all voters should have their votes counted.**

**REALITY:**

The elections community will do its best to assure that voters are prevented from making mistakes which disqualify their votes, but the number will never be zero. Political decision makers should be careful not to establish in either their own minds or the minds of the voting public that all votes will be counted in an election because it cannot and will not be so now or in the future. However, the public can be assured that all properly cast votes will be counted and correctly recorded for the choice of the voters.

National studies have shown that slightly less than one percent of voters intentionally miscast their votes (see study by Dr. Stephen Knack and Marilyn Croft). If that data and assumption are true, then approximately one million votes of the 100 million votes for the Presidency cast in Election 2000 could not be counted under any circumstance. Add to it the numbers of voters that then unintentionally make errors in casting their ballots because they did not follow instructions or did not know how to use the voting equipment, and it becomes quickly clear that not all votes can be counted. While a reduction can likely be accomplished in the numbers of voter errors, that number will never be zero.

**Myth #8: There is a national election for President of the United States.**

In November 2000 there were 50 different elections for Presidential electors, not a single "national" election. There are elections for federal offices but there is no federal election. On election day in November of even numbered years, federal, state, county and local offices combined with various questions may appear on the same set of ballots. Election officials administer the contests inseparably. Votes are counted at the same time using the same standards. Elections for federal offices are but one part of the total election process.



# Introduction to Subcommittee Reports

During the 2000 Presidential Election, the American public and the world got a glimpse of the United States electoral process and they are not sure that they have confidence in what they saw.

That which was reported, when it was accurate, does not depict a system in crisis nor has it revealed anything not known and understood for years by those who administer elections. What was revealed is a system, fundamental to our very democracy, that has been taken for granted, has been under-resourced for decades, and has largely been ignored. Our election system, too often, is not understood by the public, by those elected by it or by academics that are often looked upon as the experts.

The first impulse of the media, political parties, candidates, Congress, state legislatures and even some election administrators was to condemn the present election system as “flawed” and then to propose immediate solutions. However, the first impulse is not always what should precipitate action. Election officials across America can agree that some reforms are necessary to restore confidence in the systems and processes that we use to elect our local, state and national leaders. Certainly reform is in order to restore confidence in the systems and processes that elect our local, state and national leaders.

As with most efforts to reform and transform government functions, there are no simple solutions. Each proposal for change intended to bring about a specific result carries with it unintended consequences. There are few, if any, “one size fits all” solutions. Processes that are not broken may get “fixed” as political and public pressure builds to reform elections.

Any election reform should be focused on real issues and provide thoughtful solutions to those issues.

Therefore, the election experts who comprise the three subcommittees of this task force distilled from a myriad of brainstorming topics, suggestions, complaints, recommendations, schemes, and ordinary ideas, a basic framework of carefully considered solutions, then examined them from the perspective of years of actual election administration experience.

Each subcommittee’s basic recommendations then were further debated and refined through the entire task force.

The result – thoughtful solutions to real issues – is contained in the following pages.

# Governance & Administration

## **I. Introduction**

It is the purpose of this subcommittee to identify the key governance and administration issues that should be addressed by reform efforts at local, state and federal levels. Along with identification of those issues, we will identify and discuss the facts and assumptions that are relevant to the issue, then offer a recommendation or range of recommendations.

## **II. Elections Governance and Administration in the United States**

Over a six-year election cycle, citizens in every village, town, city, county, territory and state in the United States elect officials to represent them at every level of government. During that cycle, in virtually every county hundreds of state and local officials are elected to school boards, fire districts, legislatures, state offices, city councils and other numerous boards and commissions. In many places, propositions, initiatives and referenda for state and local issues appear on nearly every ballot. During that same period, the President of the United States is elected once, each United States Senator is elected once and each congressional seat is up for election three times. As a result, intended or not, election law, policies, processes and systems have been developed around elections at the local level.

Election governance and administration has historically been a state and local concern because of the constitutional separation of powers found in the federal constitutions and most state constitutions. Almost without exception, states have constitutionally or legislatively given the authority to conduct elections to county and, in some cases municipal, officers.

Accompanying the local official's authority and responsibility to administer elections has been the obligation to bear the costs of elections and voter registration. The federal government bears no cost for the election of federal offices. Most state governments pay little or none of the costs of electing legislators, governors, state officers and judges. When local public policy makers are confronted with buying new fire trucks or disposing of garbage or adding police officers or building and paving roads, etc., the need to buy new voting equipment or to pay election workers a higher pay or fund additional training, the former wins almost every time. This fact must be kept foremost in the mind of all readers of this report.

The election system in the United States is decentralized. In November 2000 there were 50 different elections for President of the United States, not a single "national" election. The checks and balances inherent in the large numbers of workers administering elections in different levels of government are a strength of decentralization. To illustrate, the 2000 election produced a turnout of approximately one hundred million (100,000,000) voters and ended in a statistical tie. These ballots were counted using five different technologies and dozens of different products. Voting was conducted at approximately two hundred thousand (200,000) polling

precincts. These polling precincts were staffed by approximately one point four million (1,400,000) poll workers. The election process was supervised by approximately twenty thousand (20,000) election administrators.

With decentralized election administration, it is nearly impossible to manipulate the outcome of a state or federal election. No single computer bug, virus, or flawed procedure, no single vendor or voting technology can influence the election process and no single individual is likely to fraudulently change the outcome of an election.

The decentralized system of conducting elections in many ways challenges the idea that elections should be conducted uniformly throughout the country.

Setting uniform standards for election conduct has been primarily a function of state law. Federal law, such as the Voting Rights Act, the Elderly and Handicapped Voter Accessibility Act and the National Voter Registration Act, has been enacted only when a compelling need was identified.

In the past, voting equipment, voting rules, voting methods, voting systems, recount and certification provisions have not been subject to any expectations of national uniformity. Election 2000 ignited much debate about creating national legislation to mandate uniformity in these areas. However, these functions are addressed in a variety of ways by states' election laws, rules and procedures. And those procedures have worked very well for long periods of time in the administration of elections without national laws.

The 2000 election made more election officials realize the need for consistent standards that accommodate differences between voting systems and technology and, perhaps more importantly, that accommodate differences between voting and election processes. These standards need to be consistent within each state. It must be noted that standards and uniformity may connote different meanings in election system discussions. Uniformity means that elections are conducted with the same equipment under the same rules. Consistent standards allow for differences in voting systems within a state but require that the laws and procedures for the operation of each system will be consistent. A decentralized electoral system fosters diversity while maintaining a confidence in an accurate, fair and consistent election result.

The following issues, discussion and recommendations concerning needed local, state and federal standards are presented as follows:

### **III. Issues Identified by the Subcommittee**

The subcommittee identified and considered the following issues:

- Standard Election Certification Schedule
- Retabulation of Ballots Before a Recount
- Standardized Recount Triggers and Components
- Bipartisan/Nonpartisan Canvassing Boards

- Military and Overseas Voters
- Defining Valid Ballot Markings/Voter Intent
- Ballot Preparation Standards
- Role of the Federal Government
- Poll Worker Recruitment, Training and Certification
- Extended Voting Period
- Uniform Poll Closing Time and Exit Polls

## IV. Findings & Recommendations

### 1. Issue: Standard Election Certification Schedule

**Discussion:** The timeline available for final certification of 2000 presidential election was the subject of intense scrutiny. The amount of time allowed by state law to perform the various functions after an election became front page news. It was apparent that each function is extremely time-sensitive as thoroughness of execution is dependent in large part on the amount of time provided by law to complete the particular function. Most state and local election officials performed the requisite “what if” analysis of their certification schedule to determine how they would have measured up under the intense media spotlight. The American people know much more about the certification and recounting processes than ever before. State and local election administrators have become more aware of how similar functions are done differently in other states. There appear to be two sequences for executing post-election duties. The first is: canvass the returns, certify the official results and then recount. The second is: canvass the returns, recount and then certify the official results. Both processes should result in finality unless properly challenged.

**Recommendation:** It is essential for every state to modify its election laws to guarantee the orderly conduct of certification duties after each election. These duties include canvassing and certifying official election results. They may also include retabulations and recounts.

Every election cycle has a specific time period after a November General Election during which all of these duties must be performed. In a presidential election, all post-election duties must be concluded by *(the statutory deadline for reporting the names of electors to Congress)* December 18. Each state must certify their presidential electors by this date; therefore, each state law must provide sufficient time between election day and December 18 to execute all duties in an orderly manner.

When a state provides for either judicial or administrative recounts, it must provide sufficient time to reasonably complete the recount. This is especially true where hand recounts are made a recount option – there must be sufficient time built into the schedule to permit the largest jurisdictions to complete the recount processes within the statutory time period.

Each state must analyze its certification processes and amend any election laws requiring adjustment to meet these criteria.

## 2. Issue: Standardize Recount Components

**Discussion:** By their very nature recounts are normally contentious processes. When the election is close, candidates and their supporters have a huge emotional stake in the outcome and there are no more voters to impress. All of these factors, plus the news media, place the election process in the spotlight. The purpose of a recount is to bring finality to the election. The objective is to send all candidates home understanding why they won or why they lost. They do not have to like it, but they have the opportunity to observe the recounting which makes it easier to accept the final results. Given the intense scrutiny under which a properly conducted recount is subjected, it is imperative that the rules and procedures be tightly drawn to provide specificity of process to all participants and observers. A comprehensive recount process usually results in the candidates' acceptance of the finality of the outcome and rarely results in filing an election contest judicial procedure.

While the recount components should be relatively standard from state to state, the execution of the recount process must be uniform within each state. Uniformity and a predetermined set of rules clearly defining what constitutes a vote are the benchmarks by which a successful recount process will be judged. The administrative process must be uniformly executed across the entire district involved in the recount, which may be statewide. The American people are now well versed on the need for uniformity in the recounting of votes. The same procedural uniformity that is established on election day is likewise expected in a recount.

**Recommendations:** Each state should have a recount process. All states are encouraged to enact, or at least not to preclude, an administrative recount process rather than a judicial recount, if any. It is impossible to guarantee uniformity of process during a judicial recount where a court may invoke equity powers. Further, a judicial recount often entails the necessity of demonstrating fraud or error as a precondition to granting a recount, which is often impossible for a candidate to determine or demonstrate.

Each state should enact laws specifying the vote margin that will trigger an automatic recount, thus eliminating any requirement that a recount be triggered by a candidate or that error or fraud be demonstrated or asserted. We encourage the provision and utilization of administrative recounts.

The role of the state in the recount process is to ensure that standards are uniform and, specifically standards for determining what constitutes a valid vote. Recounts for federal offices, statewide offices and other offices, as determined by each state, shall be conducted by the local election official with oversight by the state.

Hand recounts should be used primarily to assure voters and candidates that machine counts are accurate, when voting machines are used. Hand recounts are also used to handle ballots that voting machines are unable to count, which can include overvotes, write-in candidates, undervotes and unvoted ballots. Some states, like California, order a set percentage of ballots, such as one percent, for each race, be hand counted to insure accuracy of reported vote totals. Use of voting machines for both the actual election day and any recount should be encouraged with appropriate tests to satisfy validity of voting machine counts.

Prior to a machine recount, each type of paper ballot must be reviewed to insure that valid votes can be accurately read by the tabulating equipment. Such ballots, whether as a result of damage or voter error, shall either be hand counted or be duplicated so that they may be processed by the tabulating equipment.

Each state shall develop and publish a contingency plan that documents the requirement for conducting a recount for any office within the time frames and under the standards prescribed by law. The purpose of the contingency plan is to demonstrate to the general public and the political community that all proper mechanisms are in place before each election to resolve election outcomes in close elections.

### **3. Issue: Bipartisan/Nonpartisan Canvassing Boards**

**Recommendation:** Each state shall examine the make up of canvassing boards and give consideration to restructuring them into bipartisan or nonpartisan bodies. These boards may take any number of forms and replace existing partisan canvassing boards, partisan recount boards or partisan officials. The perception of fairness will be greatly enhanced by bipartisan or nonpartisan boards at the state and local levels of government.

### **4. Issue: Military and Overseas Voters**

**Discussion:** The Federal Voting Assistance Program has concluded that the crucial factor affecting the voting rights of overseas voters is the transit time allowed for delivery of ballots overseas to the voter and return delivery of the voted ballot to the local election official. The federal law governing military and overseas voters does not specifically state what the transit time must be.

Currently, there is no statutory remedy for failing to provide adequate transit time. The Department of Justice will seek a Consent Decree on behalf of the Federal Voting Assistance Program when there is less than 30 days transit time.

The available transit time is generally impacted by ballot printing schedules that are too short to have absent voter ballots available for delivery by the 30<sup>th</sup> day before an election. Also, primaries held in September and runoff primaries held after the original primary contribute to the short printing schedules that miss the 30 day mark.

**Recommendations:** The Congress should amend current law to require the states to provide absentee ballots for delivery no later than 30 days before an election. A statutory remedy should include the extension of ballot acceptance and counting for the requisite number of days necessary to provide overseas voters with 30 days transit time.

The Congress should amend the law to allow military and overseas voters to vote by the Federal Write-In Absentee Ballot regardless of whether the voters make application for an absentee ballot at least 30 days before an election.

The Congress should amend the law to require the Department of Defense to use all available military and government mail delivery from overseas to the continental United States for the purpose of moving election mail back and forth for overseas and military voters.

Each state should enact laws or adopt procedures such as accepting facsimile applications and transmitting ballots by facsimile to ensure that the 30-day deadline is complied with. Each state should assess its election process to determine whether late primaries and/or runoff elections are detrimental to overseas voters in the following general election and whether the administration of the general election and the post-election certification functions are adversely affected by their current schedule.

Each state should enact laws dropping the 30-day close of registration for overseas and military voters to conform to federal law. The Federal Post Card Application (FPCA) should serve both as a voter registration application and an application for an absentee ballot.

## **5. Issue: Valid Ballot Markings/Voter Intent**

**Discussion:** If there was any one issue that divided people in the post election period of 2000, it was the question: What constitutes a vote? Hanging chad, pregnant chad, dimpled chad, pierced chad, undervotes, overvotes, error corrections — all were lumped under the disputed heading: “Voter Intent.” Some degree of exactness needs to be injected into the laws, rules, procedures and discourse that determines what constitutes a valid vote; what constitutes a valid correction to an error and what other markings are acceptable to evidence a vote. Due to differing histories, this too is a topic where one size will not fit all. The U.S. Supreme Court did not rule on what is a valid vote, but the court did rule that whatever the standard, it must be uniformly applied.

**Recommendations:** Each state must establish uniform standards or rules for determining valid ballot markings and voter intent for each voting system in use in the state.

State law shall specifically state what a valid vote is for each voting system certified for tabulating ballots in the state. All ballot instructions shall contain clear and concise instructions to the voter on how to cast a valid vote on the particular ballot and instructions regarding voter errors and mistakes. Ballot marking instructions shall be uniform for each type of ballot.

Valid vote standards shall, to the extent possible, be uniform across voting systems. All voting systems have a physical target area for casting a valid vote for any particular candidate or issue.

State law must provide consistent standards for the discernment of voter intent.

## **6. Issue: Ballot Preparation**

**Discussion:** The American people have become aware of many of the nuances of ballot layout and preparation. Much has been made of “butterfly” ballots and other examples of vague or misleading ballot layouts and instructions. While there is no need for and should not be a nationally uniform ballot, there is need for uniformity of ballots for each different voting system within each state. Generally, local election officials are responsible for preparing and printing election ballots. Generally, states provide to local election officials charged with ballot preparation the names of qualified candidates for federal and state offices along with statewide ballot proposals.

**Recommendations:** Each state shall enact laws specifying the layout of all election ballots and the order of offices on those ballots. The state shall require uniform ballot instructions appropriate to each voting system used in each jurisdiction in the state. The state shall determine ballot layout standards that minimize voter confusion.

## **7. Issue: What Role for the Federal Government**

**Discussion:** An issue raised in 2000 was the “real” deadline for the states to certify the names of the Presidential Electors. This is a crucial deadline for the major recommendations herein that urge the states to more clearly define the timelines provided for each function during the certification of elections. Current federal law requires the state to transmit, by certified mail, the names of the Presidential Electors. This is an antiquated transmittal method that adds undue time to the process.

**Recommendations:** The Congress should review the law governing the election of Presidential Electors. Specifically, it should be determined whether more time could be given to the states for certification. The transmittal method requires updating to include overnight delivery service.

## **8. Issue: Poll Workers: Recruitment, Training and Certification**

**Recommendation:** Encourage and/or require state and local governments and private employers to permit employees to serve as poll workers in a paid status. Develop funding sources from state and federal government to increase pay and the quality of training and develop poll worker recognition programs for retention of quality and experienced workers.

## **9. Issue: Extended Voting Period**

**Discussion:** Extending the time when people may vote has been proposed as a way to increase voter turnout and minimize the impact of election night projections by the media. An extended voting period is also seen as providing more convenience for voters.

An extended voting period can be created in several ways. Voting can be conducted on weekends, Saturday, Sunday or both. Providing voters with the opportunity to vote on several days preceding the election (early voting) is another way to extend the voting period. No-reason (no reason or excuse required) absentee voting and vote by mail elections are two other methods. Another is to create a national holiday for the presidential election.

### Weekend Voting

Weekend voting presents some attractive elements. It frees up government buildings, including schools, for use as polling places. Parking at these locations should be better because voters would not be competing with the personnel usually staffing those locations. It increases the pool of potential poll workers because a large segment of the work force is not at work. Weekend voting provides a time period for voting when voters are not juggling traditional weekday activities such as work, school and childcare. Weekend voting has been tried in several state and local elections.

Weekend voting has produced mixed results. In some elections (California) it has increased voter turnout with respect to comparable elections held on Tuesdays. In other cases (Texas) there has been no measurable change in voter participation.

Weekend voting is a costly endeavor. Election officials will be working overtime. Support personnel, including maintenance workers, will also work overtime. Normal weekend use, such as sporting events or concerts will have to be rescheduled. The use of government buildings will create additional security concerns.

Because the focus of weekends includes faith based and leisure activities, weekend voting may create new barriers to voting. In many locations, churches and other houses of worship are used as polling places.

### Early Voting

Early voting options have demonstrated a measurable, although small, increase in voter turnout. (Texas) It provides voters with an extended period of time and often a more convenient location to cast their ballots. However, early voting also entails additional costs.

Election officials have to secure, prepare and staff early voting locations. Methods of recording voters and providing the correct ballot are different than election day and absentee voting procedures. Additional notices and other promotional communication are required. Ballot security provisions are different for early voting.

### “No Excuse” Absentee & All Mail Elections

“No Excuse” (no reason or excuse required) absentee voting and all mail elections have been used extensively, particularly in Western states. So far, these voting methods have survived legal challenges. Postage costs have increased. But the costs and problems associated with securing, preparing and staffing polling places in some jurisdictions have been diminished significantly. Vote by mail is an attractive option for small and remote precincts as well as some states.

Strict procedures and penalties to prevent undue influence and fraud must be adopted by jurisdictions seeking expanded absentee access or all mail elections.

### National Holiday for Voting

Creating a national holiday for the presidential election is another option. It is standard procedure in some countries. A national holiday has many of the same benefits as weekend voting. It frees up government buildings, including schools, for use as polling places. Parking at these locations should be better because voters would not be competing with personnel usually staffing those locations. It increases the pool of potential poll workers because a large segment of the work force is not at work. A national holiday provides a time period for voting when voters are not juggling traditional weekday activities such as work, school and child care.

A national holiday will increase the cost of elections because employers will have to compensate employees and will lose a day of work production. The holiday will only be available to those governmental entities and employers who choose to provide it. There is no guarantee that voters will take advantage of the opportunity. It may be viewed as just another leisure opportunity.

One suggestion for a national holiday has been to move the Veterans Day observance in presidential years to the Tuesday after the first Monday in November. However, this may be perceived as a diminishing the importance of Veterans Day.

### Ballot Security

Multiple-day voting creates extraordinary ballot security issues as do dramatically extended voting periods (24-hours or longer). The suspicions of what happens to ballots when left unguarded for long periods of time, leads to questions and concerns about the integrity of the election. While a limited number of voting devices can be employed for early voting and used over a period of days, that is far different from trying to secure hundreds of polling sites over a number of days. The concern for not only the actual integrity of the election process as well as the perceived integrity of the process, is more important to the success of democracy than any supposed gains from extending the voting period.

**Recommendation:** There are many opportunities for extending the voting period that will improve the experience for voters. Early voting and “no excuse” (no reason or excuse required) absentee voting should be seriously considered by states. States should expand voting opportunities for citizens.

In light of the administrative costs, security considerations and the difficulty of securing poll workers, the National Task Force does not recommend a 24-hour or longer voting period. Congress may want to consider the costs and benefits of a national holiday for the presidential election.

## 10. Issue: Uniform Poll Closing and Exit Polls

**Discussion:** One of the primary maladies identified as eating away at voter confidence in the fairness of elections is the use of exit polls to project election results. The panacea most often prescribed is to establish a uniform time for all polls to close nationally. There is strong support among the general populace for this proposal.

However there are some significant administrative concerns. A uniform poll closing will provide convenience for the media but it will work a significant inconvenience for voters and election workers.

This remedy needs to be examined carefully for its impact on the conduct of elections. Uniform poll closing has been the subject of many legislative proposals in Congress. The general approach is to extend polling hours in the Eastern Time zone to 9 p.m. and move poll closing in the Mountain and Pacific Time zones to 7 p.m. and 6 p.m. respectively.

This solution ignores Alaska and Hawaii. A variation of the proposal is to permit the Western states, including Alaska and Hawaii to open the polls on the evening before the election. Another variation is to extend daylight savings time two weeks in presidential years.

The objective of the proposal is to limit the impact of media projections of federal election results on election contests in states where the polls have not closed. The proposed solution imposes significant costs on the conduct of elections. It also creates administrative problems for other facets of commercial enterprise and inconvenience in voters' lives.

Uniform poll closing will have an impact on voters and poll workers. Voters in Western states will be deprived of the opportunity to vote after work, a traditionally peak voting time. In many locations the hour between 6 and 7 p.m. is the busiest time at a polling place. Permitting voters to vote the day before election day adds an element of confusion and undermines the goal of uniformity.

The impact on poll workers and election administrators is also lethal. A later poll closing in eastern states means longer hours for poll workers and election administrators. Recruiting and retaining poll workers is one of the most difficult challenges for election administrators and for the nation.

States may address some of the voter convenience concerns by adopting some form of extended voting. This may include early voting, no-reason absentee voting or all-mail elections.

However, the proposed solutions increase election costs but would not eliminate or even address the real problem: media projections based on exit polls.

The impact of media reports based on exit polling would be eliminated if news organizations recognized the impact of their actions and delayed making projections of the winners. Projections from exit polls are not official election returns. They are merely conclusions based on assumptions from the information gathered by pollsters. Congressional

researchers have challenged the underlying assumptions and models used by Voter News Service as a basis for supporting the election night predictions.

News organizations have taken some steps to accept responsibility for the impact of their actions shaping the news. They have pledged not to "call" an election in a state until all the polls have closed within the state. This pledge is often more honored in its breach as evidenced by calling Florida for Gore while polls in the panhandle of Florida were still open.

The solution is for news organizations to act responsibly and avoid the siren call of election night prognostication, competition for viewers and advertising dollars.

Uniform poll hours throughout the nation does not solve the problem which is created by the news media. Since the media do not rely on actual vote tallies or vote reports, but rather on their own exit polls, having the polls on uniform hours throughout the nation does not accomplish the proposed reason for forcing such hours. The problems created by trying to force uniform poll hours far outweigh any supposed gains.

**Recommendations:**

- A. News media should refrain from projecting election night results until 11 p.m. Eastern Time.
- B. That no legislation be enacted forcing uniform poll hours throughout the nation.

# Voting Systems

## I. Introduction

The mission of the Subcommittee on Voting Systems is to make recommendations for necessary changes in the selection and use of voting systems to ensure equal access, accuracy and integrity in our elections.

## II. Voting Systems and Voting System Standards in the United States

Voting systems generally fall into five main classes.

Paper ballots

Mechanical lever machines

Punch cards

Optically scanned ballots

Direct recording electronic devices

## **Paper Ballot**

Traditional paper ballot systems employ ballots of various stock weight on which the names of all candidates and issues are printed. Voters record their choices, in private, by marking the boxes next to the candidate or issue choice they select and deposits the voted ballot in a sealed ballot box. The paper ballots are then counted by hand. <http://www.fec.gov/pages/paper.htm>

## **Mechanical Lever Machines**

On mechanical lever voting machines, the name of each candidate or ballot issue choice is assigned a particular lever in a rectangular array of levers on the front of the machine. A set of printed strips visible to the voters identifies the lever assignment for each candidate and issue choice. The levers are horizontal in their unvoted positions.

The voter enables the machine with a lever that also closes a privacy curtain. The voter pulls down selected levers to indicate choices. When the voter exits the booth by opening the privacy curtain with the handle, the voted levers are automatically returned to their original horizontal position. As each lever returns, it causes a connected counter wheel within the machine to turn one-tenth of a full rotation. The counter wheel, serving as the "ones" position of the numerical count for the associated lever, drives a "tens" counter one-tenth of a rotation for each of its full rotations. The "tens" counter similarly drives a "hundreds" counter. If all mechanical connections are fully operational during the voting period, and the counters are initially set to zero, the position of each counter at the close of the polls indicates the number of votes cast on the lever that drives it. Interlocks in the machine prevent the voter from voting for more choices than permitted. <http://www.fec.gov/pages/lever.htm>

## **Punchcards**

Punchcard systems employ a card (or cards) and a small clipboard-sized device for recording votes. Voters punch holes in the cards (with a supplied punch device) opposite their candidate or ballot issue choice. After voting, the voter may place the ballot in a ballot box, or the ballot may be fed into a computer vote tabulating device at the precinct.

Two common types of punchcards are the "Votomatic" card and the "Datavote" card. With the Votomatic card, the locations at which prescored holes may be punched to indicate votes are each assigned numbers. The number of the hole is the only information printed on the card. The list of candidates or ballot issue choices and directions for punching the corresponding holes are printed in a separate booklet. With the Datavote card, the name of the candidate or description of the issue choice is printed on the ballot next to the location of the hole to be punched. <http://www.fec.gov/pages/punchrd.htm>

## **Marksense (Optical Scan)**

Marksense systems employ a paper ballot on which candidates and issue choices are preprinted next to an empty rectangle, circle, oval, or an incomplete arrow. Voters record their choices by filling in the rectangle, circle or oval, or by completing the arrow. After voting, the

voters either place the ballot in a sealed box or feed it into a computer tabulating device at the precinct. The tabulating device reads the votes using "dark mark logic," whereby the computer selects the darkest mark within a given set as the correct choice or vote. Marksense technology has existed for decades and been used extensively in such areas as standardized testing and statewide lotteries.

Although marksense systems are often referred to as "optical scan," marksense technology is only one of several methods for recognizing marks on paper through optical reading techniques. Marksense systems usually come in either a "Central Count" (where the voter votes and the ballot is counted at a central location at sometime after the election) or "Precinct Count" (where the voter inserts the ballot into a device which counts the vote within the polling site location) configuration. <http://www.fec.gov/pages/marksense.htm>

### **Direct Recording Electronic (DRE)**

The most recent configurations in the evolution of voting systems are known as direct recording electronic, or DRE's. They are an electronic implementation of the old mechanical lever systems. As with the lever machines, there is no ballot; the possible choices are visible to the voter on the front of the machine. The voter directly enters choices into electronic storage with the use of a touch-screen, pushbuttons, or similar device. An alphabetic keyboard is often provided with the entry device to allow for the possibility of write-in votes. The voter's choices are stored in these machines via a memory cartridge, diskette or smart-card and added to the choices of all other voters. <http://www.fec.gov/pages/dre.htm> At this time, DRE's cannot be used for absentee voting or voting by mail because they cannot read a paper ballot. With the use of DRE's, some sort of paper ballot system (punchcards or optical scan) must be employed in order to count the mailed paper ballots.

The application of computer technology to voting, which began with the punch card systems, raised concerns regarding the security, reliability and accuracy of computer-based voting systems. The rapid proliferation of computer-based voting systems triggered the development and approval of voluntary Voting System Standards (VSS) to ensure the security, reliability and accuracy of such systems.

In 1990, the Federal Election Commission (FEC) approved a set of voluntary systems standards for computer-based voting systems developed by the FEC's Office of Election Administration (OEA) in conjunction with industry experts. The OEA provides information regarding these standards to election officials involved in certifying or procuring such systems. The OEA also assists the National Association of State Election Directors (NASSED) with their program establishing and advising reliable national independent testing authorities (ITA's) to examine computer-based voting systems to determine if they meet these federal standards. Implementation of these standards, through certification of systems the ITA's has been underway since 1995.

These standards have been adopted by 37 states. For the most part, in the states where the Federal Voting Systems Standards have been adopted, new systems purchased must have certification under the Federal Voting Systems Standards as a prerequisite for consideration.

Of the 13 states that have not adopted the Federal Voting System Standards, some have their own rigorous standards and testing procedures while others have little to no standards or testing in place.

### III. Findings and Recommendations

#### Findings

1. The problems associated with the election of November 2000 stemmed as much from inadequate and inconsistent voting and tabulation procedures as from the use of inadequate voting systems. Management guidelines for a voting system should include, at a minimum, the appropriate information as outlined in Appendix A.
2. The committee does not believe that any one voting system or brand is at present suitable for recommendation for use in all jurisdictions. With the exception of the office of President of the United States, all elections are state related and the logistical and legislative needs of each state vary widely. In addition, the committee believes that some research already conducted – notably the “Preliminary Assessment of the Reliability of Existing Voting Equipment” conducted by The Caltech/MIT Voting Project, Version 1: February 1, 2001<sup>2</sup> – is though a useful beginning, perhaps not fully reflective of all the variables that can occur in tabulation and reporting. The committee believes there is currently no absolutely definitive information available for the evaluation of voting systems used in the United States. However, the analysis of undervotes and overvotes is a significant contribution to that effort.
3. Comprehensive Federal Voting Systems Standards for voting systems are essential to insure equal access, accuracy and integrity in our elections.

#### Recommendations

##### 11. Issue: Statutory Authority & Funding for Voting System Standards

**Discussion:** The best way to strengthen the Federal Voting System Standards and assure their widespread, if not universal, application is to codify the authority for their existence. This would both strengthen their legal foundation and provide greater assurance of consistent funding for their ongoing update.

The authority (responsible for the standards) should not view voting systems in a narrow technical context but consider them as part of the election preparation, voting and tabulation process. Accessibility issues should be specifically addressed in both the technical standards and management guidelines.

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<sup>2</sup> Preliminary Assessment of the Reliability of Existing Voting Equipment, The Caltech/MIT Voting Project, Version 1: February 1, 2001; <http://www.vote.caltech.edu/Reports/report1.pdf>

Operational guidelines for **use** and **maintenance** of each voting system could be adapted and modified at the state or local level, not inconsistent with the federal guidelines, as needed to address specific state or local requirements. As stated above, such guidelines should address, on a system specific basis, the operational issues outlined in Appendix B.

**Recommendation:** Congress should establish statutory authority, and sustained funding, for the maintenance of Federal Voting System Standards including both engineering standards and operational guidelines.

## **12. Issue: Relationship of Levels of Government to Voting System Standards**

**Discussion:** Strong state and local participation is necessary to enhance the prospects of broad acceptance of and adherence to the federal guidelines

**Recommendation:** Federal Voting System Standards and operational guidelines should be developed and maintained by a federally funded intergovernmental authority principally comprised of state and local election officials.

The placement of responsibility for the Federal Voting Systems Standards with this authority brings into the standard-setting process the expertise needed to develop and maintain sound, objective, experience-based technical and operational guidelines.

## **13. Issue: Voting Systems Performance Clearinghouse**

**Discussion:** There is a need for feedback into the standard setting and certification process. Certified systems have been found to fail in critical elements and no process exists for alerting other users, state election officials, the Independent Testing Authorities (ITAs) or the voting systems standards authority of such problems.

This process needs federal authorization to insure widespread participation and to provide protection against liability suits for those who report or evaluate potential problems in good faith.

**Recommendation:** Congress should enact statutes to provide for the voting systems standards authority (Office of Election Administration) to institute a clearinghouse for monitoring the performance of voting systems in conformity with the Federal Voting Systems Standards.

There should be established a “clearinghouse” for election system problems, with system problems occurring at the local level being reported to the state level, as well as to the vendor, and on to the federal level and the relevant (ITA). The voting systems standards authority should also maintain a database or library of users of each certified voting system to facilitate communications among local election officials regarding voting systems operational problems, management issues and purchasing decisions.

#### **14. Issue: State Compliance With Federal Standards**

**Recommendation:** To implement the application and monitoring of system performance under the Federal Voting Systems Standards and guidelines, each state should adopt voting system standards and operational guidelines consistent with the Federal Voting Systems Standards and guidelines.

State responsibilities under this recommendation could include such functions as:

- Maintaining liaison with the Federal Voting System Standards authority.
- Applying federal standards to the state certification process.
- Reconciling federal standards with state election law.
- Establishing and implementing uniform best management practices for the use of voting systems within the state.
- Monitoring compliance with the standards and operational practices.
- Requiring local officials to report any voting system performance problems to the state.
- Evaluating and reporting when necessary these problems to vendors and to the federal authority.
- Monitoring system accuracy.

#### **15. Issue: Valid Vote**

**Discussion:** The Supreme Court does not appear to be saying that uniform voting systems must be used. The Court is saying pretty clearly that uniform standards within each state of what a vote is and how to count ambiguous votes are essential. To some extent the voting systems themselves dictate the definition of a “vote.” In addition, certain types of “ambiguous” votes regularly occur on each system. Federal guidelines are intended to provide guidance to the states in establishing the appropriate, uniform vote definitions for voting systems used in each state.

**Recommendation:** Federal Voting Systems Standards should include technical guidelines for each voting system as to what constitutes a valid vote.

#### **16. Issue: Recounts**

**Recommendation:** The Subcommittee recommends that Federal Voting Systems Standards should include technical guidelines for each voting system as to how a recount of votes should be conducted with each system.

This recommendation envisions the identification of what physical and technical aspects of each voting systems should be considered by states in establishing their guidelines for conducting such recounts.

## **17. Issue: Federal Funding**

### **Recommendation:**

Congress should provide immediate and ongoing funding for updating the Federal Voting Systems Standards and the development of federal voting system operational guidelines.

As mentioned in the Overview, current voting system standards are out of date and no funds exist for developing needed operational standards. These issues should be addressed immediately by the Congress.

Federal funding should be provided for state and local election officials to:

- Develop state level capabilities for implementing and monitoring appropriate uniform standards and guidelines.
- Provide continuing education for election officials.
- Develop and implement recruitment and training programs for poll workers.
- Develop and implement voter education materials and programs.
- Upgrade voting systems.
- Upgrade voter registration systems.

## **18. Issue: Uniform National Voting System**

**Discussion:** With no voting system possessing, or likely to acquire, a clear claim to the title “Best,” it is better to maintain diversity and competition as a means of promoting innovation and continued improvements in voting system technology.

**Recommendation:** There should not be a uniform national voting system.

## **19. Issue: Receipt Showing Vote**

**Discussion:** Voting systems must enable voters to review their ballots prior to casting them. A printed receipt that voters may take with them that shows how they voted would introduce a whole new set of threats to the integrity of the voting process and secrecy of the ballot by promoting and facilitating bribery, intimidation, and vote manipulation.

**Recommendation:** There should be no voting system that provides a voter a receipt that voters may take with them showing how they personally voted.

# Voter Registration

## I. Introduction

This report is the product of the Voter Registration Subcommittee, focusing on voter registration issues that played a part in the November 2000 General Election process. The report identifies these issues and provides findings and recommendations for election reform in voter registration.

## II. Voter Registration in the United States

For elections to provide legitimacy for government, voter registration must provide legitimacy for elections. Voter registration systems are the basis of election legitimacy in most of the United States. In most states each county maintains a database of names, addresses, and signatures for all eligible voters in that county. Its purpose is to guarantee that only people eligible to vote can do so and that no one can vote more than once.

Any major compromise of the voter registration system could lead to fraudulent elections. The right to vote for United States citizens is a fundamental right, guaranteed by the United States Constitution. A "one person, one vote" standard applies to all elected governmental offices. Accurate voter registration records are essential to guarantee this principle.

Beyond enforcing eligibility requirements, registration systems provide useful information for political parties and candidates. Registration statistics provide election administrators with the information to base equipment expenditures, precinct worker distribution, number of polling places, number of official ballots to be printed and other resource allocation decisions necessary to provide efficient elections.

The federal government's role in the conduct of elections is limited. However, when states failed to protect individuals' right to vote, the federal government stepped in. The Voting Rights Act of 1965 and most recently the National Voter Registration Act of 1993 (NVRA) are examples of the federal government enacting federal law for states to follow.

The purpose of the NVRA is to increase the number of eligible citizens who register to vote by expanding the number of locations and opportunities where citizens can apply to register to vote. Other objectives are to require voter registration file maintenance that is uniform and nondiscriminatory, to prohibit removal of registration for non-voting, and to provide for fail-safe voting to protect the voter in the event of a breakdown of registration information.

Although the NVRA has been successful in achieving some of its intended purposes, there are challenges when balancing the purpose of the NVRA with election integrity.

Many election officials agree that changes to voter registration and election processes in recent years have raised concern for the integrity of the election process. It appears that the integrity of the registration and election process has been compromised in favor of convenience for the voter. As noted in the Standards of Conduct for Elections/Registration Officials (See Appendix A), three responsibilities are important to remember: accountability for maintaining public confidence in honest, impartial, fair, efficient, and accurate elections; provision for equal access to the democratic process; and an obligation to maintain the highest levels of integrity in carrying out their duties. Election officials must make themselves aware of fraud issues and be proactive in establishing anti-fraud measures while at the same time ensuring that no qualified voter is disfranchised by those measures.

### **III. Process Used By Subcommittee**

The voter registration issues were listed and placed in five areas: Legislation, Education/Marketing, File Maintenance, Standardization/Uniformity, and Technology. Each member chose areas of interest to research and provide a report. Issues overlapped into two or more of the areas, and members shared information with each other during the process. The resources are mainly first-hand experience and primary source material. The co-chairs compiled a draft of the final subcommittee report, from the members' work, and then reviewed the draft with the full subcommittee. A report was made to the full task force, and the subcommittee then revised the report as a "final" draft and made further revisions.

### **IV. Issues Identified by Subcommittee**

The following issues were taken from discussion of the full task force and formed the basis for the research and report. They are listed here with duplication of areas assigned, but are dealt with comprehensively within the last three sections of this document.

In order to illustrate which issues are addressed from multiple viewpoints, issues that occur in more than one of the identified areas in our report appear in this table in bold type.

#### **Legislation**

- **Necessity for registration**
- **National Voter Registration Act**
- **Voting Rights Act**
- **Accessibility**
- **Provisional/Emergency ballots**
- **Enforcement/Fraud**
- **Felons/Non-citizen eligibility**
- **Internet registration**
- **Equal protection**
- **Timelines (deadlines for registration)**

- **Social Security Numbers**
- **Sharing registration data/address updates**
- **Postal/service and rates**
- **Assurance of civil rights**

### **File Maintenance**

- **Dual Registration**
- **National Voter Registration Act**
- **Social Security numbers**
- **Sharing registration data/address updates**
- **Enforcement/Fraud**
- **Felons/Non-citizen eligibility**
- **Postal/service and rates**
- **Provisional/Emergency ballots**
- **Finality of voter list**

### **Technology**

- **Sharing registration data**
- **Internet registration**

### **Education/Marketing**

- **Restore public faith/confidence**
- **Voter responsibility**
- **Voter education**
- **Accessibility**
- **National Voter Registration Act and Uniformed and Overseas Citizens Absentee Voting Act**
- **Voter registration verification and**
- **Maintenance of voter rolls**
- **Poll worker training**
- **Provisional/Emergency ballots**
- **Assistance for inexperienced voters**
- **Felons/non-citizen eligibility**
- **Voting Rights Act**
- **Enforcement/Fraud**
- **Internet registration**
- **Partnership with advocacy groups**
- **Election officials**
- **Assurance of Civil Rights**
- **Equal protection**

## Standards/Uniformity

- **Timelines (deadlines for registration)**
- **National Voter Registration Act**
- **Social Security Numbers**
- **Sharing registration data/Address updates**
- **Enforcement/Fraud**
- **Felons/Non-citizen eligibility**
- **Postal/service and rates**
- **Internet registration**

## **V. Findings & Recommendations**

There is a continued need for Voter Registration in the electoral process. It is the responsibility of election officials to assist and to educate current and prospective voters. We encourage the fullest possible participation in the process.

### **20. Issue: Required Acknowledgment Of Registration Application**

**Discussion:** The NVRA mandated certain agencies to provide and/or receive applications for voter registration, with final validation and acknowledgment to be made by the elections/registration officials. Statistics show that a greater percentage (51.12% during 1997-98) of people now apply to register at motor vehicle offices and at public agencies than at the election offices in person.

Applications that are not transmitted in a timely manner and applications that are lost, are ongoing problems with registration applications completed and submitted through agencies outside the authority of election officials. This issue gained attention in 2000 elections when the names of persons who claimed to have registered could not be found on registration rolls. It is difficult, if not impossible, to identify where the breakdown, if any, occurs – with the applicant, with the U.S. Postal Service, with the registration agency, or at the election office – and to address or eliminate the problem.

This problem is complicated further by some voters using the lack of continuity between the public agencies and the election office as a cover for their own negligence to get properly registered. Therefore, there is a need for enhanced coordination among all agencies responsible for voter registration applications. This includes the agencies sharing databases when possible.

Acknowledging this weakness in agency registration, it is important to take steps to educate voters of their responsibility in this process.

**Recommendation:** Each voter registration applicant should be given information with instructions for action if no acknowledgment is received from the elections/registration office. This information would be for clarification of the voter's responsibilities in the registration process and to clearly advise voters what they may expect from the elections office that validates completion of the registration process.

## **21. Issue: U. S. Citizenship/Residency Requirement**

**Discussion:** On the federal voter registration form and on many state forms, the specific question of citizenship is not asked directly. Citizenship is stated as a requirement in the directions and included as part of the affirmation/oath signed by the applicant.

**Recommendation:** It is recommended that the requirement to be a United States citizen to vote be emphasized by having a question – preferably the first question – with response required on the voter registration application. The question, "Are you a United States Citizen?," and its response should be required.

## **22. Issue: Duplicate Registrations / Sharing Registration Data**

**Discussion:** Incidents of voters being registered in more than one county are of concern to election officials. The lack of prior registration information at the point of registration is a major cause of duplicate registrations. However, the lack of multi-jurisdictional communication is a contributing factor that compounds this issue. The sharing of registration information is an area that must be improved in order to eliminate duplicate registrations and the potential for fraud. Registrants fail to provide previous registration information, registration offices fail to notify other jurisdictions, and some states fail to assist local offices to identify potential duplicates. Notification of registration in another jurisdiction is the most desirable way to remove voters who have moved from a jurisdiction. This direct removal is more cost effective, more accurate and, possibly, more timely.

The breakdown in communication of previous registration information between jurisdictions results from large numbers of registrations that occur without personal contact with voters and voters who fail to fill in the information about prior voter registration when applying in a new jurisdiction. The lack of action at the registration office and state level can often be attributed to difficulty in establishing a positive identification of a voter for removal and the lack of notification procedures.

**Recommendation:** Procedures should be initiated to identify duplicate voter registrations at an administrative level through increased multi-jurisdictional communication.

## **23. Issue: Voting Rights For Former Convicted Felons**

**Discussion:** The right to vote by persons convicted of felonies differs from state to state. Experience shows that many persons who complete their sentence are not made aware of the requirements to have their voting rights restored.

**Recommendation:** State laws should be changed to allow restoration of voting rights upon pardon or full completion of a sentence (incarceration, probation, parole, restitution, etc.).

It is the individual's responsibility to register. However, the judicial and penal system should give written notice to the person when his or her voting eligibility is restored.

#### **24. Issue: Provisional Ballots**

**Discussion:** Provisional ballots provide voters whose registration status cannot be determined at the polls or verified at the election office the opportunity to vote. The validity of these ballots is determined later, thus ensuring that no eligible voter is turned away and those truly ineligible will not have their ballots counted.

**Recommendation:** In the absence of election day registration or other solutions to address registration questions, provisional ballots must be adopted by all jurisdictions.

#### **25. Issue: Enforcement Of Registration/Voting Law Violations**

**Discussion:** A common frustration among election/registration officials is the lack of action from law enforcement and prosecutors when suspected violations are reported. Increased penalties may also serve to encourage local law enforcement or prosecutors to act on reported violations.

**Recommendation:** Courts should have clearer guidelines and stricter penalties for voting law violations. Election and registration violations should be major felonies. Persons convicted of felony voting law violations should be treated as any other felon. Voting law violations should also be reported to the state election officials to provide accountability within the system and to ensure equal application of the law.

#### **26. Issue: Central Voter File Or Registry**

**Discussion:** A central file can be a critical tool in minimizing vote fraud to identify duplicates and ineligible voters. It can increase list maintenance efficiency in performing NVRA functions and assist with management and integrity issues in handling the increasing absentee and early voting trends. A central file may also allow increased services to political parties and candidates.

Of the two types of central registration systems, a real time or online system would be of maximum benefit. It can be more helpful in preventing duplications and fraudulent registrations at the point of origin. Also due to the online capabilities, the exchange of information among election/registration officials can be enhanced and may increase the accuracy of voter rolls.

A batch type system has obvious limitations due to delayed exchange of information; however, it is much less expensive to implement and maintain. If the limitations of a batch type system are identified, procedures can be established to accommodate them.

**Recommendation:** All states should have a statewide central voter file or registry. States should involve local officials in the development of registration software and procedures to be implemented on a statewide basis.

## **27. Issue: Postal Service Rates**

**Discussion:** The U.S. Postal Service has indicated that it will consider reducing rates only if Congress subsidizes the requested reduction (half the cost of First Class Mail for voter-related materials). The NVRA intended election officials to have access to reduced rates for NVRA mailings with first class services. While large jurisdictions have been able to use volume and presort discounts, many election jurisdictions have not been able to take advantage of reduced rates for the majority of their mail. Leave in the discounted rate for those jurisdictions of sufficient size to make that work for them, but more than 70 percent of the election jurisdictions need additional measures. Since elections affect all Americans and impact on every aspect of American life, this is one area where Congress can effect a necessary and needed change that allows more official elections mail to reach citizens.

**Recommendation:** There should be an official elections class of mail established at half the cost of First Class Mail for election materials from the United States Postal Service. (See Appendix C for detailed Resolution.)

## **28. Issue: Voter Registration Forms**

**Recommendation:** Election officials should be responsible for assuring that all state-mandated and optional agencies and locations have sufficient voter registration applications at all times and provide other information as much as possible. The application form itself, mandated by federal and state law since 1995, should be easy to read and complete. Reasonable accommodation should be made to accept registration applications that contain the required information and affirmations, regardless of the size or weight of the paper or stock. The availability of registration applications online is increasing and is convenient for voters and registration officials.

## **29. Issue: Education And Marketing**

**Recommendation:** Election officials should encourage as much participation by the public in the electoral process as possible. It is the responsibility of the individual to register and vote. However, election officials should remove barriers, provide as much opportunity to register and vote, provide as much information as resources permit, and persuade the funding bodies to provide those resources.

Information provided should be presented creatively to meet the needs of different demographics. Partnerships with corporations, agencies, and civic groups should be used to disseminate registration information. It is critical that registration deadlines and polling site locations be emphasized.

**30. Issue: Poll Worker Education And Training**

**Recommendation:** Education and training for poll worker/precinct officials should include awareness of election/voter registration, laws and regulations. Training should include particular sensitivity to cultures, seniors, and persons with disabilities. The provisional voting process and qualifications should be emphasized.

**31. Issue: Internet Registration Education**

**Recommendation:** Websites containing voter registration information should explain and emphasize state requirements about information requested, guidelines, deadlines, and restrictions; and non-government websites should provide a link/address to state and local government election websites where appropriate information and forms are already available. All voter registration services should allow verification and authentication of the registration information provided by the citizen. The ability to actually register on line should not be attempted until complicated security and identification measures are addressed.

Election officials should provide registration forms on the internet that permit the citizen to print the form, complete it, and return it to election officials.

## **RESOLUTIONS**

**(The following were passed by the full National Task Force on February 7, 2001, at its meeting in Savannah, Ga. They are included here with reports of National Task Force subcommittees for reporting purposes but did not originate from a subcommittee.)**

**32. Issue: Office of Election Administration**

**OFFICE OF ELECTIONS ADMINISTRATION (OEA)**

Task Force supports a supplemental appropriation to the OEA (or a successor agency) in the current fiscal year for the purposes of accelerating the update of the NASED Voting Systems Technical Standards, and beginning the development of management standards and operational procedures.

The OEA should be adequately funded and staffed on an ongoing basis consistent with its mission to provide support to elections administrators through the development and maintenance of technical and operational standards, studies, reports, statistical data collection and dissemination, technical assistance and the solicitation and collection of best practices from around the nation.

The OEA should be specifically acknowledged in federal law along with the position of director of the OEA and the Advisory Panel of State and Local Election Officials.

**33. Issue: Federal Voting Assistance Program.**

**FEDERAL VOTER ASSISTANCE PROGRAM (FVAP)**

The Federal Voter Assistance Program (or a successor agency) should be adequately funded and staffed to provide support and assistance to both voters and local elections officials in assuring the voting rights of military and overseas Americans are protected and exercised in a timely and complete manner.

A formalized process for input of local elections officials should be developed similar to the current process used with the OEA

**34. Issue: Separation of Campaign Finance and Election Reform Issues.**

**FEDERAL LEGISLATION**

Task Force supports separation of the issues of Campaign Finance Reform and Elections Administration Reform in Congressional legislation.

Any federal funds that may be appropriated for the election system should be appropriated to the states with provisions for equitable treatment of all states. Such funds should be available on a matching basis of not more than 25% local match, with provisions for no match grants in areas of economic hardship.

Any program that provides federal funds should recognize that funds can be used for purposes of improving the elections system for the benefit of America's voters including, but not limited to management and administrative improvements, training, operational improvements, voter registration improvements and equipment purchases and upgrades.

# Glossary

**Canvassing** – The audit function that culminates in the final certification of *official results*. Canvassing is typically performed under the supervision of state and/or county canvassing bodies or officials. The more detailed and thorough the audit functions the more time that must be allotted for the canvass process.

**Contested elections** – Generally involves either an administrative or a judicial process and may vary state to state in subject matter scope and process followed.

**Overvote** – (See Undervote) An overvote occurs when more votes are cast in a contest than is allowable. Overvotes are often due to voter confusion about the voting instructions but occasionally are intentional statements by voters. Aggregating these categories is misleading and interpreting ballots containing overvotes and undervotes as “discarded” ballots is inappropriate.

**Recounts** – Recounts are permitted in some states and required in others. They vary in terms of definition and thoroughness and can include machine or hand recount processes. They are conducted with the full involvement of the candidates and/or their representatives in close election contests. Often they take on the nature of an administrative law contested case with hearings and final determinations.

**Retabulation** – The process of running all the ballots back through the tabulation system for a second time. Retabulation is not a recount. It is a simpler process than a recount, does not involve the candidates and is accomplished in a short time period.

**Undervote** – (See Overvote) An undervote occurs when no vote is recorded for a contest. When examining undervoted ballots, the vast majority are clearly the result of voters intentionally skipping that contest. Only on rare occasion does an undervote mistakenly occur due to a voter incompletely marking or punching his/her ballot. Aggregating these categories is misleading and interpreting ballots containing overvotes and undervotes as “discarded” ballots is inappropriate.