

The Election Center

an international association of voter registration and election officials

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Senators:

I am appreciative of the invitation to appear before you. As the director of a nonpartisan, nonprofit organization that specializes in voter registration and election administration issues, we work with the nation's elections administrators at all levels of government to make democracy work.

Our organization, The Election Center, is the premiere elections training organization in America and we offer seminars annually to train election and registration administrators how to do this process better. We train between 600 and 1,000 elections administrators every year in our sessions.

We have been doing this since 1985 when two former staff members of the Federal Election Commission's Clearinghouse for Elections Administration left the FEC to start The Election Center because they felt that the Federal government was never going to put the resources into training better elections administrators. Thanks to a three-year grant of significant funds from the Ford Foundation in those early years, the Center has been able to establish itself as the principal training organization for the nation's elections administrators.

Additionally, we keep state and local governments informed on new trends in elections, we track federal legislation for them, we track court decisions related to elections and we serve as a resource to state and local governments for research issues related to state election laws and local procedures. We have done surveys for the committees of jurisdiction for the U.S. Congress and have worked closely for many years with the Senate Rules Committee and the House Administration Committee (and its predecessors and subcommittees). We have served as a resource to the U.S. Department of Justice, the General Accounting Office, the U.S. Postal Service, and to the court appointed masters chosen to oversee the Teamsters election. Our work with the U.S. Postal Service resulted in the Postal Service granting a postal logo for identifying Official Elections Mail to the only organization outside of the postal service in its history.

We have trained election officials from other governments throughout the world and, additionally, they have attended conferences and workshops sponsored by us. We also offer a Professional Education Program in conjunction with Auburn University in Alabama where the Auburn master's in public administration faculty teaches most of our 12 core courses which leads to certification of elections professionals with the highest designation that can be earned in our profession: Certified Elections/Registration Administrator (CERA). We started a program six years ago to recognize the best professional practices with our Professional Practices Papers program, a copy of which I have had distributed to you this morning.

And, we serve as the day-to-day management organization (secretariat) for the National Association of State Election Directors (NASED) voting systems program. We work with the voting systems manufacturers and the states to test voting equipment and its software used for tabulating votes and reporting results. We don't do the actual testing, we find and work with Independent Testing Authorities (ITAs) to perform this testing so that voting systems in America meet or exceed the Federal Voting Systems Standards. Hardware and firmware testing are performed by Wyle Laboratories in Huntsville, Alabama. Software testing was performed previously by Nichols Research Labs and when they were purchased by Computer Sciences Corporation, who

determined not to continue the voting software testing, all the people who were performing that service at Nichols Research have since moved to PSINet, also in Huntsville, which is our newest software testing lab although with all the same people who did the work for the last four years.

There is a tendency to want to do too much in this testimony to you.

- There is a need to explain the complexities of the administration of elections;
- there is a need to explain the technologies used in elections;
- there is a need to state unequivocally that elections have to be fair and that ALL qualified voters have a right to participate in this process regardless of their race, their age, their health, their education, or their disabilities
- there is a need to review the news media's coverage of election 2000 and how it differs from what actually happened;
- there is a need to dispel myths that have occurred as a result of this election;
- there is a need to admit that situations occurred that had not been a part of our procedures and awareness in the past and examine some new information that came about as a result of this election;
- there is a need to examine the reasons for errors in the process;
- there is a need to find the appropriate role for each level of government in finding solutions to the problems;
- there is a need to indicate our willingness to assure citizens of both our intent and our practices to make sure this process is fair to all Americans, including African Americans, Hispanic Americans, the disabled, the elderly and our nation's military and overseas citizens
- there is a need to help you understand the barriers that face the nation's elections administrators in conducting elections
- and finally, there is a need to reassure Americans that this process has integrity -- that it is administered fairly and responsibly to accurately reflect the public's will in casting and counting ballots.

But the simple fact is that in the time allotted to me to make this presentation, there is not enough time to cover all those issues in sufficient depth so that you can reach good policy decisions related to elections. I will have to hope that the work we have done with your committee staff and, in some cases, with your state staff will begin to show all who are interested that this is a far more complex process than appears to the casual observer.

Elections officials have made this process look simple. In fact, most of you, before this election, had no knowledge of just how complicated and involved it is to make this all come together on election day so that voters can participate. In the past, most people just thought that we opened up the polls on election day, that voters came and voted and that we counted the votes and reported them and then that we had nothing else to do until the next election. Most people have wondered what elections administrators did with the rest of their time. And before this election, almost no one was willing to listen to just how many months of planning, recruiting, training goes into the process of conducting an American election. Not many of you thought very much about how difficult it is to find suitable polling sites that are accessible to voters, easy enough to find, open enough for the disabled and close enough to the voters that they will actually come.

Not many of you ever considered how difficult it is to recruit enough people to work at the polls on election day. Most of you didn't even know the tremendously large numbers of people that we need to make this process work. For instance, how many of you knew that Los Angeles County, California, has to find, recruit, train, supervise and evaluate 27,000 election day workers? Or that Harris County, Houston, Texas, has to involve more than 8,500 people.

How many of you know what it takes to recruit people to work on election day when the average pay for a 14 to 16-hour day is \$5.00 per hour, and that no matter what we do to find and recruit them, that it is never enough? How many of you know that we are STILL looking for poll workers on election day? And some of the proposals from people who really don't understand the process, want us to extend the number of hours we have those folks work. And, if you really don't understand the process, there are the blithe suggestions that we just keep the polls open for 48 hours without ever really understanding what that means and what complications it brings to the election.

Has anyone considered that it doubles (24 hours) or quadruples (48 hours) our tasks of staffing the polling site? At a time when we find it exceedingly difficult to man the polls for 12 or 14 hours? Do you know that our poll workers work an hour before the polls open and usually at least one hour after the polls close? And, almost all of them in the U. S. have to be there all day on the theory that if you change the personnel at the polling site that you might have a different interpretation or administration than other voters received. We don't, in most states, allow for 'shift' changes.

Before I spend too much of the allotted time in the details of running elections, I just want to make you aware that not all of this has an easy solution. And to make you aware that casual suggestions of how to make improvements are very neat, plausible but most often wrong.

Almost everyone who is not steeped in the administration of elections has incorrectly focused on technology as both the problem and the solution. Let me make this very clear. Had we had the most advanced technology in place in Florida in this election, it too would have been attacked. And there still would have been voter errors. Maybe not the same ones and maybe the proportions of errors would have been somewhat different, but the mistakes would still have been there. The problems in this election have their roots in laws, policies and procedures – or the lack of them – and then the application of technology in effecting those laws, policies or procedures.

Had Florida had a solid definition of what constitutes a vote by each voting system and then had an established recount procedure that would be followed uniformly throughout the state by all the counties, 90 percent of the problems of this election would have disappeared. Chaos can only happen when the laws, the policies and procedures are not set and in place *before* you have an election.

Many folks, including some with us today, have blamed the election officials of Florida for the chaos. And I will say to you that such a judgement is patently unfair. Legislative bodies are the only entities that can make sure chaos does not exist. Legislative bodies usually write election law and they usually write it to suit their elections not the administrative offices. The legislature of Florida and many other states, have no set qualifications of what an election official is to count as a vote. How can there be even an appearance of fairness in purely subjective judgement? In Florida we had 67 counties using widely varying standards of what constituted a vote and, in a recount, we had canvassing boards making decisions that election officials under normal circumstances would not define in the same way. But the state legislatures can fix that and it is not as hard as some would believe.

Recount procedures have to be uniform throughout a state according to the type of voting system they use so that the candidates and the election officials know how a recount is to be conducted. It is absolute insanity to order a hand recount of all ballots in races with many thousands of ballots. Voting systems in America were created to handle counting of significant numbers of ballots in less time and with far greater accuracy that

humans. Use voting equipment to do the first part of the recount for all ballots it can count for each office. Then use humans to count anything the machines cannot read as a vote including *overvotes* (where the voter has cast a vote for too many candidates in a given office) or *undervotes* (where the voter has not voted for enough candidates for a given office) or any *unresolved ballots* that may not fit any other definition.

Again, state legislatures can fix this problem with state legislation. In fact, The Election Center's National Task Force on Election Reform, will make specific recommendations to the states for language they can adapt and adopt as their own based on what some of the states already do.

But even here, I am beginning to talk to a level of specifics that I cannot sustain due to time limitations in this hearing. In future hearings, I hope you will invite some of the elections administrators from our National Task Force (36 elections administrators from state and local levels) to discuss detailed solutions. That task force includes liberals and conservatives; Democrats and Republicans and unaffiliated administrators; is multicultural as to race, age, gender, sexual preference and size of communities and states represented from the very small to the giant size of LA.

Let me approach today's testimony from a different method. I have worked with each and every level of government in this process and there is a role in it for each level.

The federal government, in 225 years, has never spent one dime in the cost of American elections. Isn't it about time it did so? Why should the cost of elections remain solely at the local level? Why should the townships, cities and counties of America be forced to bear the entire burden of elections?

I am NOT advocating the federal government try to take over the administration of elections because I don't really believe that is in the federal government's interest and would be such a radical departure from our 225 year history that it would not work very well. We want to keep the administration of elections at the local level because that is where most of our elections are held. And because that is where we have the people and staff knowledgeable enough to conduct elections.

The federal government certainly has a role in establishing in law the Federal Voting Systems Standards and the funding of those standards and the continuous update of those standards. The federal government certainly has a role in the establishment and funding of voluntary Election Management Practices Standards that states can adapt and adopt. The federal government should continue the Office of Elections Administration and the functions that it performs whether in the current Federal Elections Commission or in a new Federal Electoral Administration Commission. The federal government needs to be the clearinghouse for information related to voting systems and tracking overvotes, undervotes and system anomalies that can be reported throughout the nation.

Certainly, if we are to modernize the voting systems in place now, the federal government must be responsible for a major portion of the funding of that modernization effort. Local governments simply do not have the resources to do this in any quick timespan.

Certainly, it seems to me, the federal government ought to have the ability to offer states and localities on-going funding beyond the one time replacement of voting equipment. Shouldn't it be worth \$10 per voter per year to fund the cost of maintaining voter databases; finding and securing accessible polling sites; advertising, staffing, conducting and assuring the integrity of elections; voter education and training; poll worker education and

training; and election/registration administrator training? Without necessary funds for doing these exceedingly important activities, most local jurisdictions simply will ignore these crucial but costly programs.

Shouldn't the federal government want to make elections mailings a priority of keeping in contact with all election age voters and to make it easier for them to stay on our active roles as potential voters? We now have a national Postal Logo for sending out official elections mail...now all we need is for the Congress to authorize the Postal Service to establish an elections class of mail and then Congress fund a portion of that mail so local jurisdictions can mail official voter registration notices, official voter information, notices of poll sites, notices of official elections, voter registration cards, and all the other things that help to keep voters in this process. This is an appropriate role for the federal government.

State governments also have specific functions that they need to take and without going into all the details of what we will recommend to them, it is important that they equally accept responsibility for improving this process. They must give us clear laws on elections procedures or allow their chief elections officials at the state level set these procedures in administrative rules with the force of law. They have to establish that local governments must let their elections administrators travel out of state to get additional and better training and get exposure to what other states do as solutions to some of the age old problems. As one local administrator said "You don't learn anything new sitting at home talking to yourself".

Local governments and local election administrators will still need to carry the burden of conducting fair, honest and open elections. But they too, have to become more aware of the importance of this function to their citizens and to the process of maintaining a government that has the faith of the people. About one quarter of America's elections offices are funded adequately. The rest have been underfunded for far too long – and some local budget authorities have been negligent to the point of extreme. Part of that comes because few in the budget process even understand the needs and complexities of elections and haven't taken the time to learn. But this election may have been a wakeup call to them and other Americans that this process is too important to ignore. My fear is that complacency will rapidly descend on us and that locales will go back to underfunding and ignoring the elections offices. Education is critical to the continued success of elections: education of voters on how to participate in the system; education of poll workers on having the right attitude of assisting voters; education of election and voter registration administrators to improve their ability to conduct elections and to do so with a fairness to all voters.

Before I make my final statement to you, I want to assure you of this. There were serious problems identified in election 2000 but before we believe the whole process has failed, look around America to see that 98.5% of elections went well in most states and locales. We have been doing this process for 225 years and not all elections administrators suddenly became stupid in one election. Some of the flaws and problems in elections are ones that we have been warning you and local authorities about for more than 20 years and yet our warnings have gone unheeded. As an elections community, we want to work with you to make this process better. It is always our desire to have voters feel welcome and that we need them in this process. Of all the government officials involved in all the functions of government, I will say to you that my belief is that elections administrators are the most "customer oriented" of all government officials. They work harder and longer at trying to accommodate their constituency than any other office I know. Frankly, they are, as a class of people, far more customer oriented than most American businesses.

And they make elections in this country work despite the lack of funds. With almost no resources, with almost no understanding of what they do, with very little public recognition (except the negative kind when something

goes wrong), these people we know as elections officials work hundreds of hours of overtime for which they will never be paid – nor can they even take the compensatory time they earn because if they do so their office would have to close.

The fact of the matter is that we get a much better administration of the elections process than we pay for and maybe even better than we deserve for the neglect that we have given to their profession. Be cautious in your judgment of these folks. I know of no election administrator in America who wants to deny anyone the opportunity to participate in this process. We want all qualified voters in this process and we will do whatever it takes to make this experience a positive one for the voters. That is our commitment to our profession because we believe it is necessary for the preservation of democracy and even of freedom itself.

We are well aware that if you don't believe the process is fair, then it is virtually impossible to believe in the resulting government. We will do our part to continue to insure that the process is fair and that it has integrity so that voters can feel that it is an honest process that accurately reflects the public's will.

Let me end with these statements: To African-Americans and others of minority races who were impeded unfairly or illegally from exercising their right to vote, know that the nation's elections administrators will do whatever we can to legally assist you. We want and need your participation in this process. The parts of this process that are our responsibility and over which we can have any influence, know that we will do our best to make this process work for you and dignify your participation.

To disabled Americans, know that we want to work with you to find reasonable, workable solutions that make it possible for you to participate unassisted if you so desire.

And to the nation's voters, know that we take our responsibilities very seriously. We strive to perfection – and even though we may not be able to achieve that level of perfection – we want to assure you that elections are run competently and fairly and they do indeed accurately reflect your votes as you cast them.

Doug Lewis
Executive Director
The Election Center