

RECOMMENDATIONS & CASE STUDIES

PRESENTED TO THE PRESIDENTIAL COMMISSION ON ELECTION ADMINISTRATION



By the Lawyers' Committee for Civil Rights Under Law



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Recommendations and Case Studies Presented to the Presidential Commission on Election Administration by the Lawyers' Committee for Civil Rights Under Law

The Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee") appreciates the efforts of the members and staff of the Presidential Commission on Election Administration to improve the experience of American voters in exercising their most fundamental right – the right to vote. The Lawyers' Committee also appreciates the Commission's interest in receiving data, recommendations, and case studies from the Lawyers' Committee. The Commission requested the data gathered from the Our Vote Live database ("OVL") as well as the case studies discussed below that illustrate best practices and problems in jurisdictions throughout the country. The Lawyers' Committee hopes that this information will inform the Commission's work and will lead to positive changes in the experiences of voters nationwide.

As the Commission recognizes, the Lawyers' Committee has developed significant knowledge and understanding of election administration in the United States. The Lawyers' Committee leads Election Protection, the country's largest non-partisan voter protection coalition made up of national and state organizations. For more than a decade, the Lawyers' Committee has administered this national voter protection program through the 1-866-OUR-VOTE Election Protection Hotline, which any voter in the country can call for voting assistance, and by deploying thousands of volunteers throughout the country to monitor the polls. Through the Hotline and field program, the Lawyers' Committee has collected hundreds of thousands of stories from voters across the country that paints a true picture of the problems that have plagued American voters in every major election since 2000. Additionally, the Lawyers' Committee litigates voting rights cases in federal court and develops policy solutions at the federal, state, and local levels, and works closely with state and local election administrators and officials. Based on its substantial and unique experience, the Lawyers' Committee has set forth a number of recommendations that it hopes will inform the Commission as it proceeds.

This document is divided into two parts. Part I summarizes the Lawyers' Committee's recommendations, which are drawn from the Lawyers' Committee's work, experience and expertise. Part II presents case studies from noteworthy jurisdictions that:

- Had significant problems in the lead up to and on Election Day,
- Have implemented reforms leading to positive outcomes, or
- Have innovative programs that serve as examples of best practices for administering elections.

PART I: RECOMMENDATIONS

SUMMARY OF RECOMMENDATIONS

The Commission's mission, as established by President Obama's Executive Order, is to identify best practices and make recommendations to promote the efficient administration of elections in order to ensure that all eligible voters have the opportunity to cast their ballots without undue delay, and to improve the experience of voters facing other obstacles in casting their ballots. The Executive Order lists the election and voting issues the Commission is charged with considering, including: polling place management and operations; training and recruitment of poll workers; voting accessibility for military and overseas voters; efficient management of voter rolls and poll books; voting machine capacity and technology; ballot simplicity and voter education; voting accessibility for individuals with disabilities, limited English proficiency, and other special needs; provisional ballot issues; absentee ballot issues; contingency planning; and other issues related to efficient election administration that the Co-Chairs agree are necessary and appropriate to the Commission's work.

Given the focus of the Commission, the Lawyers' Committee offers a number of recommendations, best practices, and considerations to improve the experience of voters, which are summarized below. The recommendations are organized by first offering recommendations for election administration best practices, followed by recommendations for election and voting policies that reduce burdens on voters and election administrators.

Election Administration Recommendations and Best Practices

- **Developing a Written Plan:** A central, written plan that details the major components of running an election is key to promoting efficient, organized, and professionalized elections. Written election administration plans are useful because they serve as an internal planning document for administrators and a central catalogue of all election administration planning. Local election jurisdictions can develop, update, and refine their plans between election cycles based on successes and problems identified in a prior election. Written plans are a simple, logical solution to the complexities of election administration and promote efficient administration to improve the voter experience.
- **Polling Place Designation and Management:** Important considerations must be taken into account when designating polling locations including: the number of registered voters, the community served by the poll, availability of parking, and nearness to public transportation. It is also important that polling places are efficiently managed, which requires effective planning, efficient management, and adequate staffing levels and resources.
- **Poll Worker Recruitment and Training:** Jurisdictions must expand recruitment strategies to hire poll workers who are comfortable with new technologies and who are also trusted by the community by creating alliances with groups such as law schools, community organizations, and county workers. Poll workers need continual, reinforced training to become comfortable with the laws, rules, and election process.
- **Resource Allocation:** Election officials must responsibly allocate voting machines, booths, ballots, and staff to ensure there are enough resources at a given location. This determination should be based on the number of registered voters, analysis of the previous performance of the precinct in past elections, and the make-up of the community voting at the location. Allocation

should include a minimum number of accessible voting machines and plans should be in place to provide additional resources throughout the day, as needed.

- **Ballot Length and Design:** Ambiguous, confusing, and poorly designed ballots slow down the voting process, cause confusion, and frustrate voters. Jurisdictions should aim to minimize ballot length by reducing the number of ballot measures and including short summaries rather than the full language of each measure. Furthermore, ballots should be tested extensively and created with careful consideration of all elements of the ballot including clear headlines, directions, and font size.
- **Contingency Planning:** Superstorm Sandy showed the need for contingency planning to help adjust to changing circumstances that can occur on Election Day. Plans should cover all elements of election operation and provide information on how jurisdictions should handle failures of equipment, ballot and poll worker shortages, and power outages.
- **Communications:** Communications protocols are critical to ensuring that problems are efficiently reported up the chain of command as they arise. Communications planning would address how Boards of Elections will communicate with polling places, the Secretary of State, media, and the public, and how each of these entities will communicate with the Boards of Elections.
- **Funding and Resources:** Due to underfunding, administrators have had to make tough decisions about how to spend their limited budgets and allocate resources. The lack of resources lead to long lines and disorganization due to deficiencies with the registration process, poll worker training, technology, and balloting. Running elections is a core function of government and requires sufficient funding.

Election and Voting Policy Recommendations

- **Upgrading Voter Registration:** Voter registration problems impact voters on Election Day due to errors and the deluge of registrations at the end of the registration period requiring supplemental poll books. The current system relies on an antiquated paper-based process that requires election staff to manually enter voter information leading to data entry errors that disenfranchise voters through no fault of their own. The surge in voter registrations requires additional staff to assist with the data entry and takes away from election administrators' ability to devote resources to the administration of the election itself.
- **Automated Voter Registration:** The registration system would be improved if it automatically registered consenting eligible voters through electronically transmitting data between DMVs, public assistance agencies, and other governmental offices to the state chief election officials. This streamlines the process, improves efficiency, and removes the need for staff to spend significant amounts of time and resources entering paper registration forms.
- **Online Voter Registration:** Online registration, which has gained bipartisan momentum in the states, allows voters to register using a secure website. This online system reduces errors, reduces the need for staff time to manually enter registrations, and provides an easy way for voters to register. Because of signature requirements, states require voters to have a record on

file with the state's DMV for signature verification. It is important that online registration expands to voters beyond only those who possess driver's licenses.

- **Portable Voter Registration:** Portable registration allows voters who have moved within a state to cast regular ballots on Election Day without re-registering. In our highly transient and mobile society, a large number of voters are denied their right to vote due to a recent move.
- **Same-Day Registration & Election Day Correction:** States should employ fail-safe procedures so that eligible voters whose names do not appear on the rolls or whose information is not up-to-date can correct their registration and vote during early voting and on Election Day. By allowing voters who do not appear on the voter rolls to register on the day of an election, poll workers do not have to take time to search for a voter missing from the voter rolls, verify their registrations status, or administer provisional ballots which complicate polling operations creating delays for everyone.
- **Expanding Early Voting Opportunities:** With every election cycle, early voting has become increasingly popular as an alternative to Election Day voting. Early voting alleviates Election Day pressure and is particularly beneficial for those with unavoidable work responsibilities and child care obligations. Early voting also helps with unforeseen events such as Superstorm Sandy, where voters in New York and New Jersey and out-of-state first responders would have benefited greatly if early voting had been available.
- **No-Excuse Absentee Voting:** No-excuse absentee voting reduces the pressure on Election Day and makes the voting process more convenient for eligible voters, particularly the elderly and voters with disabilities.
- **Racial Inequalities in Wait Times:** A growing body of data suggests that problems with wait times are not equally shared among the electorate. Wait times are significantly longer for minorities who live in urban areas composed of highly transient citizens. These communities often have large poll locations with high numbers of voters per precinct. These concerns must be taken into account when planning for elections and allocating resources.
- **The Impact of Reduced Early Voting and Registration on Racial Minorities:** Data suggests that early voting opportunities are used disproportionately by black voters. Targeted reductions in early voting in several states disproportionately impacted these voters.
- **Limited English Proficiency Voters:** Voters with limited English proficiency face unique challenges. When poll workers and voters cannot communicate with one another, it inevitably affects polling place operations. To alleviate these problems, election officials should identify where these communities reside, recruit and train bilingual poll workers, utilize the bilingual poll workers effectively, and work with the communities to ensure the needs of all voters are met.
- **Election Data:** Election integrity is of great importance and the optimal means by which integrity, transparency, and accountability in elections are ensured is through systematic and accurate data collection and auditing. The collection of reliable data about voting allows for an accurate assessment about the successes and failures in elections and fosters continued improvements to the elections process. The data should expand upon the current data collected

by the United States Elections Assistance Commission (“EAC”) and ensure that states are accurately reporting election data. Additionally, evaluations from election officials, poll workers, and voters which will provide information on how to improve elections from those who are directly involved in the process.

- **Voter Identification:** To the extent jurisdictions have voter identification requirements, they must be clear and unambiguous to both voters and poll workers and must not disenfranchise eligible voters. Allowing proof of identification such as mailed voter-registration cards provides a document all registered voters possess and alleviates concerns about potential voter impersonation.
- **Deceptive Practices:** Deceptive practices and misinformation place additional strains on voters and election officials. Election officials can combat these problems by engaging in public education and outreach efforts, disseminating pre-election mailings to registered voters containing the time, date, and locations of elections, and quickly countering misinformation.
- **Supporting the EAC:** The EAC is needed now more than ever to provide support, ideas for improvement, and information regarding election integrity to election administrators through its research, resources, data collection, and best practices. It is essential that the Commission be reinvigorated and empowered to continue its work.
- **Cooperation with Civic Society:** It is important for election officials to work closely with non-partisan organizations that address voting rights. These organizations can offer practical solutions to issues as they arise and connect the election administrators with the community.