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# ELECTION READINESS

IT IS NEVER TOO LATE  
FOR TRANSPARENCY

**FAIR ELECTION INTERNATIONAL  
PRE-ELECTION  
OBSERVATION  
REPORT  
OCTOBER 2004**



**Fair Election**  
International Election  
Observation 2004



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Fair Election International (FEI) is a project of Global Exchange, an international human rights organization dedicated to promoting social, economic and environmental justice by building people-to-people ties around the world. For more information about FEI or to download a free copy of this report, please visit [www.fairelection.us](http://www.fairelection.us). For media inquiries, please contact Jason Mark at (415) 558.9490 or [jason@globalexchange.org](mailto:jason@globalexchange.org). For more information about other projects of Global Exchange, please visit [www.globalexchange.org](http://www.globalexchange.org).

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# INTRODUCTION

In recent years, international support for electoral fairness has increasingly been expressed through election observation reciprocity and the sharing of democratic innovation. This spirit of solidarity inspires the Fair Election International observation of the 2004 General Election in the United States.

This report is the result of an independent, non-governmental pre-election observation of the U.S. electoral process, conducted in September 2004 by a 20-person delegation of civic leaders, parliamentarians, diplomats, lawyers, electoral officials, academic specialists, journalists and veteran election monitors from 15 countries on all five continents. The observers have worked for decades to make electoral systems in their own and many other countries more fair, open and responsive. The delegation was invited by the U.S. non-governmental organization, Global Exchange, with the aim of contributing to the ongoing efforts to increase confidence in the U.S. electoral process.

Democracy has no single blueprint; it is borne of the unique history and experience of the many countries where it is nurtured. Nonetheless, the world's democracies share many of the same challenges. All democracies grapple with how to ensure that every vote counts, that voting technology is effective, and that political contests occur on a level playing field. By recognizing the similar obstacles that all democracies face, and by sharing the democratic innovations and advances occurring around the world, the delegation seeks to bring to light the best practices that may benefit the U.S. political system.

While the Pre-Election observation investigated a range of electoral issues, the delegation closely examined three particular subjects that appear to be feeding controversy and undermining public confidence in the upcoming American elections:

- The potential for disproportionate disenfranchisement of minority and poor voters;
- The security of millions of votes recorded on computer voting machines; and

- The consequences of corporate and personal wealth in political contests.

The Pre-Election observers arrived in Washington, D.C. on September 13, 2004 meeting with government officials, policy analysts, advocacy organizations, and academics to get an overview of electoral issues in the U.S. Delegates then split into five groups to conduct investigations in Arizona, Georgia, Florida, Missouri, and Ohio. In those states, delegates met with Secretaries of State and county election officials, talked with community organizations, observed voter registration drives, and held town hall meetings to gain as complete a picture of U.S. democracy as possible.

## State Selection

- In Arizona the team focused primarily on the question of money in politics. Arizona is only one of two states with publicly financed campaigns.
- Florida was chosen because it was the site of the most widely publicized irregularities that contributed to the constitutional crisis of 2000.
- Georgia was selected because it is one of only two states—the other being Maryland—that will vote uniformly on paperless Direct Recording Electronic (DRE) ballots. In 2000 there were also reports of disenfranchisement of minority voters in Georgia.
- Missouri also experienced serious troubles on Election Day 2000, as thousands of eligible St. Louis voters were unable to vote due to being incorrectly placed on inactive voter lists. A Consent Decree has attempted to remedy those problems.



*Fair Election International Pre-Election Delegation, Washington DC*

- Ohio was chosen because it is widely considered one of the most hotly contested swing states, with a diverse urban and rural population and allegations of partisan manipulation of voting procedures. The introduction of a new generation of voting machines has been largely abandoned due to controversy over their reliability.

During the observation, the delegation heard from many citizens whose faith in U.S. electoral processes remains shaken by the events of 2000. The delegation also observed the activities of a healthy and engaged civil society that is working out flaws in the system and promoting reforms designed to enhance transparency and confidence.

## Time for Transparency

Many concerned citizens have asked what a report issued two weeks before the election can do to help electoral fairness. Aside from discussing recommendations that point to long term reform that frequently require legislation for their implementation, what can be done?

The answer is clear: *It is never too late for transparency and fair play.*

The delegation recommends the following for the immediate-term:

- Elections officials at all levels can open the electoral process to non-partisan observers from the United States, as well as their far less numerous overseas counterparts, to oversee all aspects of the election and tabulation processes. Such scrutiny cannot resolve all of the concerns raised in this report, but it will go a long way toward rebuilding the confidence necessary to legitimize the election in the eyes of reasonable doubters. Further, election officials can pledge to deal with all Election Day and post electoral disputes with the utmost evenhandedness, employing the principle that their decisions should promote the greatest inclusion possible.

Key medium and long-term recommendations found in this report include:

- Eliminate partisan administration of the electoral apparatus and move toward non-partisan electoral management. In the United States, most top election administrators are party members and elected officials, which can engender the perception of a conflict of interest. This practice is not consistent with international standards. Moreover, the confidence of the electorate is enhanced when independent oversight holds sway.
- Modify or replace Direct Recording Electronic (DRE) machines to provide all voting equipment with a voter verified, re-countable, paper record. If such verification is not available, arrangements for independent auditing should be put in place.
- Restore the franchise to ex-felons; the inclusion of ex-felons as full voting citizens is practiced in most of the United States and in most democracies around the world. This would require action by state authorities in

Florida and seven other states. We recommend automatic restoration following release or parole.

- Adopt public campaign financing to help level the political playing field, avoid perceptions of corruption and raise voter confidence. Internationally, one of the most effective methods for regulating campaign finance is to limit expenditures; however Supreme Court rulings have effectively closed this option in the United States. Public finance models currently exist in the states of Arizona and Maine.

The pre-election report that follows contains two major sections:

- A report on election readiness across the five states as well as recommendations for short and longer-term reform.
- Five state reports including findings and recommendations for short and longer-term reform.

Based on the experiences of this delegation, a second team of observers will return to Florida, Missouri and Ohio for Election Day, November 2, 2004.

# ELECTION READINESS: ISSUES ACROSS FIVE STATES

This section examines issues of readiness across the five states the delegation visited: Arizona, Florida, Ohio, Missouri and Georgia. The electoral systems in these states are derived from federal, state, and local laws and practices rooted in a federal constitution that seeks to balance state and federal powers. Electoral administration is almost totally controlled by states. The federal role has usually been to enfranchise new classes of citizens (e.g. African Americans, women, Native Americans), to compel local compliance with the constitution (Civil Rights Act of 1965), and control campaign contributions through the Federal Elections Commission (FEC). The 2002 Help America Vote Act (HAVA) is the first large-scale federal investment in state and local election administration in U.S. history. On occasion this report makes reference to laws in the remaining 45 states not visited by the delegation to place the context and dimension of local issues in perspective.

## 1. MAIN FINDINGS

### 1.1 Administration of Elections

#### DOMESTIC AND INTERNATIONAL ELECTION OBSERVERS:

Non-partisan election observation has been proven to bolster public confidence and is a standard part of electoral procedures in most democratic countries. The United States recognized election observation as part and parcel of international democratic standards when it signed the Copenhagen Commitments in 1990 during the presidency of George H.W. Bush.<sup>1</sup> Since that time, the United States has supported, participated in and financed dozens of international observation missions and, since 2000, has begun to receive international observation missions in the United States. While the delegation applauds this effort to implement international norms, domestic electoral observation and access to key electoral sites remains incomplete. Such access and oversight is essential to the enhancement of pub-

lic confidence in the electoral process.

Domestic election observation practices are not uniform in the U.S. At present, most states permit party-affiliated poll watchers to have access to polling precincts. By contrast, access for unaffiliated observers—those who represent the interests of millions of registered independent or “decline to state” voters—is rarely guaranteed. On occasion, access for such non-party observers is granted at the discretion of state and county election authorities.

The Organization for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights (OSCE/ODIHR), which is also observing the U.S. elections, has stated that:

*Whenever the level of confidence in an election process is affected, including in advanced democracies, as has been*

*the case recently in the U.S., domestic non-partisan civic observers can promote confidence through the right to observe the process, including at polling the polling station level.<sup>2</sup>*

We agree with this assessment.

### **POLL WORKER TRAINING:**

The 2002 Help America Vote Act (HAVA) allows for funds to be used for poll worker training and the Election Assistance Commission (EAC), created by HAVA, has been tasked with researching new methods for recruiting and training poll workers. However, there are neither uniform training standards mandated by HAVA, nor has the EAC produced a training module on voting rights. Currently, each county has their own poll worker training procedures, methods for poll worker recruitment, requirements for the number of hours poll workers must work, and provisions for poll worker compensation. Frequent concerns that poll workers are inadequately trained continue to fuel widespread claims of disenfranchisement at the polls. The delegation found training hours ranged widely, including minimums of one hour per year and once every three years, regardless of the number of changes in election laws.

### **VOTER IDENTIFICATION:**

States have vastly different criteria for voter identification at the polls. This has resulted in confusion at the polls and widespread claims of disenfranchisement by those who were prevented from voting because they were incorrectly required to provide identification. HAVA put in place minimum requirements for voter identification, which are intended to prevent voter fraud. Under HAVA, only first time voters who register to vote by mail must present a valid photo ID or a current utility bill, bank statement, or paycheck bearing their name and address. Since HAVA only establishes a minimum requirement, states have the prerogative to apply more stringent rules and requirements. For the 2004 election, 17 states will require all voters to provide ID at the polling place. The identification requirement adversely impacts those who are less likely to have drivers' licenses or to have utility bills in their name, including disabled and low-income voters.

### **VOTER EDUCATION:**

HAVA's voter education requirements are limited to polling place postings and instructions, and do not include pre-election voter education and outreach, although states can use HAVA funds for that purpose if they choose. The delegation found that since states or counties did not or were not able to use HAVA funds to establish the necessary

infrastructure, civil society organizations were left to fill large gaps in registration outreach and voter education without the cooperation of government.

### **DISTRICTING:**

All states use single member districts to select their congressional representation. State legislatures also rely on district-based elections. Every ten years states redraw their electoral maps based on population changes ascertained through the census. The two most common criticisms of districting have to do with malapportionment and gerrymandering. Partisan redistricting gives the ruling party the privilege of choosing the redistricting plan that gives it an advantage at the polls and thus maintains its power. In most countries, a bi-partisan or independent body administers changes in districting in order to more fairly balance the desires of parties.

## **1.2 Voting Systems**

In 2000, the image of election officials holding punch card ballots up to the light transfixed the world and became a symbol of the dysfunction of U.S. electoral systems and processes. In response, Florida moved quickly to decertify several systems, replacing them with direct recording electronic (DRE) and optical scan machines. Georgia uses DRE machines exclusively. Other states are still utilizing older technology reliant on paper ballots.

HAVA specifically addresses voting systems by providing significant monies for technology upgrade and training of poll workers; however, states are not required to make technological changes. It also makes provisional ballots, absentee/mail-in ballots and early voting options mandatory. While the delegation applauds these forward thinking steps, the assumption that newer technology equals more effective voting systems may have been short-sighted. Similarly, it would seem that in the rush to change existing practices, insufficient attention has been paid to ensuring that those changes accord with best practices. The delegation notes that implementation of the changes outlined in HAVA has been problematic and that, in particular, states have interpreted HAVA's intent in many different ways.

### **ELECTRONIC VOTING:**

In the United States and indeed around the world, there is movement toward more modern voting methods, including computerized voting. Proponents argue that DRE technology is more accessible for people with disabilities, and has low error rates; however this method is a work in progress and does not yet have full public confidence. Two compa-



*Horacio Boneo, Argentina, examines an old style DRE machine in Franklin County, Ohio.*

nies provide virtually all of the DRE machines used in the United States—Diebold and ES&S—and both maintain proprietary control over their software and thus the internal coding that records the votes. This coding is held as a corporate intellectual property and is not accessible for scrutiny by the public and/or independent experts. Voting machine software errors have been reported in test cases, during sales demonstrations in California and in practice at the polls. It should be noted that machines using ‘open source’ public domain software are currently on the market.

Technicians addressing software error or malfunctions are accountable to the manufacturer, not the state elections authorities. Additional security concerns include the transmission of the votes from polling sites to tabulation centers via telephone lines or the Internet.

The delegation was informed that it is technologically feasible to create a voter verified paper record successfully used in elections in many parts of the world. When voters are able to verify their vote, they more readily trust that their vote has been cast according to their wishes. Indeed, the perception of mistakes and mischief are as potentially dangerous to the electoral process as actual security threats. Because of the complex nature of the coding, voters might distrust the technology and therefore doubt the integrity of the process. The delegation believes that a paper record is absolutely necessary not only for recounts, but for voter confidence.

## PROVISIONAL BALLOTS:

In 2000, between 2 and 3 million voters were unable to cast ballots due to administrative and clerical errors that purged their names from the voter rolls. The use of provisional ballots could have prevented the disenfranchisement of many of these voters, but in 2000, provisional ballots were available only in some states or municipalities. In most cases, the process was not greatly understood by the public or poll workers, nor was it uniformly applied, creating significant confusion.

Although there is a nationwide requirement for provisional ballots, there are no uniform rules describing the procedures for verification of a voter’s eligibility and for the processing of provisional ballots. State law determines where a voter can cast a provisional ballot and whether or not that ballot is counted. In Missouri, Ohio, and Florida, for example, provisional ballots are distributed at the polls to those who do not appear on the register, but *according to state law, they are not required to be counted.*

Misinformation at the polls has meant that many voters cast provisional ballots where they should not, while those who are entitled to receive provisional ballots are not provided with them. This confusion has skewed the odds against the counting of provisional ballots regardless of circumstances. Additionally, since no statewide or federal records are kept on provisional ballots, there is at this time no means of auditing the problem in a concrete way.

## ABSENTEE/MAIL-IN BALLOTS:

All states have some form of absentee ballots, however requirements vary across states for eligibility, application process and ballot verification. In some states, an applicant must fall into specific categories in order to be eligible for an absentee ballot, such as being incapacitated, out of the country or disabled. The trend, however, is toward “no fault” absentee balloting, which is non-discriminatory. Anecdotal evidence indicates that requests for such ballots are on the rise.

The delegation applauds initiatives that have made absentee balloting easier for the bulk of voters, but has not found strong and consistent guidelines or standards for protecting against fraud, coercion and error. Of particular concern is the wide variation in procedures and training for signature verification. The delegation found cases where signatures on ballots were matched against applications noting party affiliation. Such a scenario highlights the potential for making party-biased assessments as to whether ballots will be

counted. In other areas, the ballots are checked against original registration cards, or on-file signature lists, which may be decades old, potentially disenfranchising those whose signatures have naturally evolved. No county, statewide or federal statistics on absentee ballots are maintained that might assist in pointing out unusual patterns in use, rejection rates, or known fraud.

## 1.3 The Franchise

Although practices and restrictions vary, many countries extend the franchise to legal residents or taxpayers, particularly at the local level. The franchise in the United States is generally restrictive, limiting citizens' voting as more a privilege than a right.

### VOTER REGISTRATION AND REGISTRATION LISTS:

In the United States, voter registration is managed at the county and municipal level, with registration rules varying widely. Registration problems were responsible for half of the 4.6 million votes lost in the 2000 election.<sup>3</sup> Most of those voters lost their franchise due to erroneous voter rolls and/or purging of voters' names from registration databases. By January 1, 2004, HAVA required states to implement centralized, nondiscriminatory and computerized voter registration lists linked with other state agency databases, specifically the motor vehicle authority data. In addition, the new HAVA-compliant database must allow local election officials immediate access to the lists and state assis-

tance with expeditious data entry. However, 41 states sought and were granted a statutory waiver until 2006, making it likely that many of the problems that arose in 2000 will be repeated. Many of the systems the delegation observed create a series of hurdles for voters, and put the responsibility for ensuring registration on the voter rather than the state.

### FELON DISENFRANCHISEMENT:

In all but two states (Maine and Vermont), laws have been enacted that prohibit convicted felons from voting during their incarceration. A majority of states restore former felons' rights after they have served their sentence or following release from parole. However, the delegation was informed by civil society and prison advocacy groups that ex-felons are often not informed by authorities that their voting rights should be restored upon completion of their sentence.

Eight states *permanently* deny ex-offenders the right to vote.<sup>4</sup> An estimated 4.7 million people are currently disenfranchised and this number continues to increase following the trend toward tougher sentencing in the United States.<sup>5</sup> These laws affect African Americans at a rate seven times the national average and affect 1.4 million, or 13 percent, of the African American male population. At current incarceration rates, 40 percent of the next generation of African American men in the eight states that permanently deny the ballot to felons may become disenfranchised. Latinos are also disproportionately affected by felon disenfranchise-

ment laws (precise data is difficult to ascertain; the Bureau of Justice Statistics does not report separate conviction data for this population).<sup>6</sup>



Delegates Horacio Boneo, Argentina, and Somsri Hananuntasuk, Thailand, observe ACORN volunteers registering voters in Columbus, Ohio. (report in section 2.3)

### ACCESS FOR PEOPLE WITH DISABILITIES AND NON-ENGLISH SPEAKERS:

The Americans with Disabilities Act makes provisions for polling stations to be suitably equipped for people with disabilities. In addition, section 205 of HAVA stipulates that jurisdictions with large non-English speaking populations must provide voting materials in commonly spoken languages. Despite these requirements, the U.S. Commission on Civil Rights (USCCR) and other investigative bodies found wide-

spread disenfranchisement in 2000, including instances of people in wheel chairs being turned away and a lack of language assistance for those in need. In 2004, the delegation has found that improvement has been made in many areas. In Florida, curbside voting has been instituted, Ohio has widely instituted teletypewriter (TTY) systems for the hearing impaired, Arizona has adapted Optical-Scan machines to assist those without the use of their hands, and Georgia has new headsets for blind voters. However, access for people with disabilities as well as non-English speakers remains uneven, despite the availability of HAVA funds for upgrading voting systems.

### IMPACTS ON LOW-INCOME AND MINORITY POPULATIONS:

Minority and low-income sectors of the population are disproportionately disenfranchised. The reasons for this are complicated and hotly debated—the facts about voting patterns are not. By and large, minority groups are less likely to vote. In municipalities throughout the country, registration information is updated by mail to the last known address. Statistically, low-income and minority populations tend to move more often than do other sectors of society, and are less likely to receive notification of changes to their voting status or precinct changes. Minority rights' and voter advocacy groups have found themselves responsible for much of the voter education within minority communities. These groups report that cooperation and partnership in this task with voting officials has not always been forthcoming or easy. The delegation also heard a range of additional concerns from representatives of minority groups, from bureaucratic delays in the processing of voter registration to voter intimidation and intentional partisan disenfranchisement.

## 1.4 Financing of Elections

In recent years, campaign finance reform in the United States has been aimed primarily at limiting contributions, which is unusual in the international context. Most campaign finance systems around the world rely on expenditure limits, a strategy prohibited by the 1974 Supreme Court ruling in *Buckley v. Valeo*, which held that

such restrictions place undue limits on campaign speech by individuals, groups and candidates.

The Bipartisan Campaign Reform Act (BCRA) of 2002 is an attempt to limit campaign finance excesses on the contribution side. The delegation noted a system of public financing of election campaigns would be a significant step towards reducing the appearance of corruption, increasing public confidence and facilitating greater plurality of candidates.

In recent decades, various initiatives aimed at public financing of elections have been implemented at both the state and federal level. At the federal level, all qualified candidates for president can receive public funds from the presidential public finance system, which provides matching grants to candidates in presidential parties and full public financing to the major parties' presidential nominees. These funds are provided by voluntary federal income tax check-offs. Those candidates who receive public funds must abide by statutory spending limits. At the state level, both Maine and Arizona offer full public financing to qualified candidates, and 36 additional states are working to adopt a form of public financing. Nearly 20 of these states have public financing legislation in progress.

The delegation investigated the so-called 'Clean Elections' system currently operational in Arizona, which is a voluntary public financing system for state offices that requires candidates to agree to spending limits and accept very lim-



*Delegates meet with campaign finance experts during Washington, DC briefing.*

ited private or personal donations. It also prohibits candidates from accepting donations from political action committees (PAC) or corporate funds. The effects of the Arizona public financing system appear to have been substantial. Since the implementation of public financing in Arizona, voter turn-out has increased by more than 20 percent, the number of candidates has increased by more than 20 percent and there is greater plurality in the candidates

running (with 10 percent more women and minority candidates). The Arizona observation delegation found that the public financing system had facilitated public confidence in the electoral process by making candidates less dependent on large or special interest contributions and increasing opportunities for people of color, women, and candidates of limited means to enter politics.

## 2. DELEGATION RECOMMENDATIONS

In many respects, the electoral landscape has improved since 2000. The delegation applauds the efforts of state and local officials to discover and implement creative solutions to many of the problems in their communities. It is also heartened by the energy of civil society to work toward positive electoral change. Despite this collective good will there are a number of existing problems that pose a substantial threat to the integrity of the 2004 General Election in the United States. Clearly, many of these thematic concerns are shared across states. Our recommendations are based on our findings and, as appropriate, on the standards and norms set by democracies around the world.

### 2.1 Administration of Elections

#### RECOMMENDATION REGARDING HAVA IMPLEMENTATION:

HAVA recognized the need for structural changes and a measure of uniformity in electoral laws. The delegation urges every state to move swiftly toward implementation of all HAVA provisions. International norms also reaffirm the need for federal oversight and/or regulations for minimum standards for election procedures, state and federal registration lists, and standardized voter ID requirements. HAVA, while no panacea, and lacking clear instructions for implementation, provides at least a best practice framework for many specific issues faced nationwide. HAVA provides targeted funding as well as guidelines for most of the areas of concern mentioned above, from disabled access to poll worker training. The delegation reiterates its understanding that the spirit of HAVA is in keeping with democratic principles of openness and inclusion, and cautions states against interpreting HAVA so narrowly that its intent is negated (as has happened with provisional balloting in some states). The delegation also notes its most positive experiences occurred when dealing with electoral systems

and elections officials who place a high value on procedural transparency. The delegation recommends implementing transparent systems across the board.

#### RECOMMENDATION REGARDING OBSERVATION OF U.S. ELECTIONS:

The delegation strongly endorses the recommendations of the OSCE, The Carter Center, the U.S. Commission on Civil Rights and other expert bodies that call for independent, non-partisan poll watchers, both domestic and international, to be welcomed at the polls and tabulation centers in 2004 and beyond. Democracies around the globe integrate observation without compromising the integrity of the polling station.

The delegation recommends that states invite domestic and international observers to help create an environment of civic transparency and voter confidence, and to address obstacles to participation on Election Day.

#### RECOMMENDATION REGARDING PARTISAN OVERSIGHT OF ELECTIONS:

The delegation strongly recommends a shift from the partisan administration and oversight of elections to a system of independent supervision of elections by bodies without partisan affiliation. Partisan oversight and administration of elections is not the international norm, as it builds in the possibility for the perception of conflict of interests. Elections officials have great power to protect the integrity of the voting process. They must be scrupulous in resolving all disputes in a way that is even handed and resists partisanship. The delegation recommends that states establish independent and impartial bodies to administer, oversee, and certify elections.

#### RECOMMENDATION FOR

## **STRENGTHENED PARTNERSHIPS BETWEEN OFFICIALS AND COMMUNITY:**

The delegation believes more needs to be done to ensure that a greater proportion of eligible citizens become active voters. As with efforts to restore the voting rights of ex-felons, encouraging people of color, youth and the poor to vote requires open dialogue and an earnest desire for partnership between election officials and civic leaders.

Ethnicity, age, income, religious beliefs and gender all affect the way we learn, our access to information, the way we interact with authority and government, and restrictions on our time. The delegation believes that open communication is the first step toward overcoming misunderstandings about electoral matters, from anxiety about the use of DREs to the more serious allegations of voter tampering and fraud. The delegation also recommends that election officials consult and cooperate far more closely with civil society organizations to determine the levels of targeted public education, outreach and information that will engender trust and create transparency. Community leaders should also proactively engage with their election officials to assess needs and determine ways to partner to achieve their aims. This work can and should start immediately; it is not too late to improve voter education, enhance training methods for poll workers, and build trust and transparency for the November 2004 elections and beyond.

## **RECOMMENDATION REGARDING RECRUITMENT AND TRAINING OF POLL WORKERS:**

A number of the problems encountered by voters in 2000 could have been resolved immediately, if not prevented entirely, had poll workers been sufficiently trained. Some counties are instituting exemplary poll worker training programs for high school and college students. This is rare, however. Poll workers in some U.S. counties are trained as seldom as every three years, while in other counties they receive an hour of training each year, regardless of the number of changes in election law. Internationally, greater importance is placed on the role of poll workers; in some countries it is an act not only of civic pride, but also of civic duty, similar to jury duty in the U.S. Poll workers must be given the fullest possible information and training to carry out their legal and moral responsibility to ensure that all eligible voters are allowed to cast a valid ballot even if they are confused about their voting place or have errors in their registration. The delegation has already recommended the immediate utilization of the HAVA funds

available for poll worker training, but it is worth reiterating here. The delegation also recommends that these funds be used creatively in the medium term, such as for youth poll worker training programs in schools, and that in the long term, legislation be enacted to transform poll working into a civic duty.

## **RECOMMENDATION REGARDING VOTER EDUCATION:**

The Election Assistance Commission (EAC) should develop minimum standards for voter education materials and guidelines for the frequency of distribution. Standard materials should include information on how to file a complaint and applicable voting rights laws. Local outreach efforts should also include distribution of sample ballots and technical demonstrations as well as public service announcements.

## **RECOMMENDATION REGARDING DISTRICTING:**

The current partisan system for districting allows and, in fact, encourages the current party in power to reshape districts in a manner that maintains and solidifies its power. This is inherently undemocratic. The delegation recommends that authority for re-districting be given to a non-partisan or at least bi-partisan, state committee in order to prevent both malapportionment and gerrymandering.

## **2.2 Voting Systems**

### **RECOMMENDATION REGARDING DIRECT RECORDING ELECTRONIC VOTING (DRE):**

Public trust is a cornerstone of the electoral process, and any loss of transparency is detrimental to the integrity of the process. Transparency at the polls is critical and cannot be readily established without voter verification. The delegation recommends that every DRE machine in the United States be equipped with a mechanism for voter verification and a paper record. The delegation also recommends that open source coding be incorporated, allowing system transparency into security matters for the public and for officials. In addition, front-end testing by an independent agency and parallel monitoring during elections should be adopted to achieve optimum transparency.

The high cost of initial investment, maintenance and security upgrades has made changes to voting technology prohibitive once it is adopted. The delegation recommends that any decision to purchase new technology or to upgrade be made with full public involvement, rather than by select

committees, as has been the case in some Florida counties and other locales.

Available statistical analysis in each state or county showing spoiled ballot rates by ethnic groups, age or gender would also help electoral officials determine which sectors most need specialized voter education. The delegation encourages election authorities to concentrate not only on preventing such spoilage but also on working with civil society groups to develop and implement targeted specialized voter education.

### **RECOMMENDATION REGARDING THE USE OF PROVISIONAL BALLOTS:**

The improper implementation of provisional balloting has great potential to be a significant source of disenfranchisement in the 2004 federal elections. In the immediate term, the delegation recommends that efforts to train poll workers on the correct distribution of provisional ballots are maximized and that to the extent possible, election administrators make adequate preparations for verifying and counting provisional ballots. Wherever provisional ballots are certain not to be counted or offered, poll workers should be provided with accurate lists of precinct locations for all registered voters, and should be required to direct voters to their correct polling stations. Voters, particularly those who have recently changed address or party affiliation or are first-time voters, should take precautionary steps by contacting their local Election Board well in advance of November 2 to ensure that they are registered, and to verify their polling precinct. In the longer term, provisional ballots should—in the spirit of HAVA—count for state and federal contests regardless of where the vote is cast.

### **RECOMMENDATION REGARDING THE USE OF ABSENTEE/MAIL-IN BALLOTS:**

Theoretically, absentee balloting is intended to facilitate the act of voting but there is a need to maintain minimum procedural standards. The lack of clear and uniform guidelines for the provision and verification of absentee ballots makes the entire process vulnerable to fraud, coercion and unintentional error. The delegation recommends that states standardize their processes and procedures through clear and concise regulation and use the HAVA monies available for training, implementing best practice models for verification and of course, for voter education. The delegation also recommends that states maintain statistics that will enable them to detect unusual activity regarding application or rejection rates.

## **2.3 The Franchise**

### **RECOMMENDATION REGARDING THE DISENFRANCHISEMENT OF EX-FELONS:**

Many countries restrict the voting rights of serious offenders while they are serving their sentence. The delegation's concerns center on the permanent disenfranchisement of former felons, a practice that falls outside of international or even U.S. norms and is an unreasonable restriction that creates subcategories of citizenship in the United States. In most states, it is assumed that ex-offenders have paid their debt to society, and that rehabilitated, they will lead productive lives in society. Ex-felons are expected to contribute to society as gainfully employed citizens, pay taxes and raise families, but their disenfranchisement gives them no say in how those tax dollars are spent, who sits on their children's school board, or who represents their interests in government. The delegation strongly recommends that those states that permanently disenfranchise felons — Florida, Virginia, Nebraska, Mississippi, Kentucky, Iowa, Arizona and Alabama — amend their laws and practices to restore full citizenship rights to ex-offenders. In addition, in those states where voting rights of ex-felons can be restored upon release, authorities should disseminate clear and precise materials in a variety of media informing ex-felons of their restored rights.

## **2.4 Financing of Elections**

### **RECOMMENDATION REGARDING PUBLIC FINANCING OF ELECTION CAMPAIGNS:**

In circumstances where the amount a candidate spends is directly related to the likelihood of success,<sup>7</sup> it is not surprising that voters may sense that politicians are more concerned with big campaign contributors than with individual voters. This perception is a significant contributor to voter apathy. Although limiting campaign expenditure is not an option in the U.S., curbing the perception of disproportionate influence over politicians by wealthy campaign contributors can be achieved adopting a system that provides a neutral source of funding for campaigns. The delegation strongly recommends that states adopt a system for the public financing of election campaigns. The delegation also strongly recommends that public financing be extended to federal House and Senate candidates.

# FLORIDA STATE REPORT

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## Florida Pre-Election Observation Delegation:

*Dr. Brigalia Bam (South Africa); Neerja Chowdhury (India); Roberto Courtney (Nicaragua); Caerwyn Dwyfor Jones (Wales).*

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Much of the attention currently focused on electoral preparation in Florida stems from the confused outcome of the November 2000 election and the resulting constitutional crisis. At that time it became clear that the problems with the electoral system were not unique to Florida, many states suffered the same or similar problems, including partisan electoral oversight, the use of questionable voter purge lists, exclusion of ex-felons from voting, and uncharted legal territory concerning recount procedures. Had the Florida results not been so evenly divided between Bush and Gore, the problems might have gone unnoticed—as is usually the case—with scant attention and marginal controversy.

In the years following the 2000 presidential election, Florida has been a hotbed of ideas and action designed to remedy flaws in the system. Within five months of the 2000 election, the Governor's Select Task Force on Election Procedures, Standards and Technology convened and drafted the report, "Revitalizing Democracy in Florida," with a list of 35 recommendations. On the Federal level, Congress passed the Help America Vote Act (HAVA) in 2002. Civic education groups, citizen task forces and watchdog groups emerged as strong, and in some cases new advocates of the Florida voter. Nonetheless, Florida has returned to the center stage in 2004.

During a week of in-state visits, meetings and public forums we focused on four counties: Leon (which includes the capital, Tallahassee), Orange, Broward and Miami-Dade. The delegation held meetings with election supervisors and staff in Broward, Miami-Dade and Leon counties; state and county election attorneys; local chapters and state leaders of civil society including the Miami-Dade Election

Reform Coalition, Latino Leadership, People for the American Way, and the Haitian American Grassroots Coalition; party representatives and elected officials; the Florida League of Women Voters; poll workers; and a cross section of Florida's population in public forums and community meetings.

As this report will show, overall election readiness in Florida is greater than it was in 2000. Officials have worked hard to implement new systems; and the delegation was heartened by the broad efforts of civil society to promote electoral transparency. Despite these admirable efforts, however, we found a highly charged atmosphere throughout the state, and a great many concerns on behalf of the electorate. As our findings and recommendations illustrate, there is still time to address issues of transparency in time for November 2004.

# 1. MAIN FINDINGS

## 1.1 Administration of Elections

Florida's election system is highly decentralized, overseen by 67 countywide Supervisors of Elections. Of those, 66 are elected posts, and one, Miami-Dade, is appointed under a county charter. With few exceptions, most Supervisors run, and are elected on a partisan basis. Despite the decentralized nature, the potential exists for the Florida State Legislature to exercise greater control on the elections process. This includes providing greater clarity and consistency on election law and on the responsibilities of state and county officials governing the elections process.

### OBSERVATION OF ELECTIONS:

The state law is silent on the matter of international and domestic observers, except to say that nonpartisan observers must obey the "50 foot rule" at polling precincts. This allows for a wide range of interpretations by Election Supervisors across the state, and each Supervisor has the authority to allow access to the polls to domestic and/or foreign observers. Currently provided for by law under county jurisdiction are partisan poll watchers, who must be endorsed by a candidate and are thus allowed to enter polling stations. Thus poll watching is only minding the interests of the political parties, not the general public or those who are registered as unaffiliated or who decline to state party affiliation.

### VOTER IDENTIFICATION:

There are circumstances under Florida law by which citizens are required to present any of a number of forms of identification in order to be allowed to vote at the precinct. In most cases, no identification is required. Many voter advocacy groups are recommending all voters bring identification to the polls in an effort to mitigate concerns about poll workers requiring identification in cases not provided by law. Requests to present ID traditionally affect low income and minority populations disproportionately.

## 1.2 Voting Systems

Following the 2000 election, Florida decertified a number of voting apparatus including punch card and lever machines, and certified optical scan technology and Direct Recording Electronic (DRE) machines exclusively. Other measures were instituted following the passage of HAVA,

including provisional ballots, early voting and a less-restrictive approach toward absentee ballots.

### ELECTRONIC VOTING:

Roughly 50 percent of Floridians now vote using DREs, which are used in 15 of the state's more populous counties. These machines are, in principle, a major advance in voting technology. They offer huge advantages in election administration and improve level of service offered to non-English speaking voters and those with disabilities. In principle, the machines should also offer greater accuracy. In practice, DREs have malfunctioned in varying degrees in every election since implementation and do not generate a voter verified paper record. In addition, three private companies manufacture the DRE touch-screen machines used in Florida and these machines' source coding is the "intellectual property" of these private companies—therefore the source code is maintained as a "trade secret." Open-source coding is available and is a public resource, which allows for greater transparency and accountability.

Public education and training on the use of these machines has been inconsistent throughout the municipalities, and some groups, including seniors and minority communities, may not have benefited from existing voter education efforts. In the 2002 elections and during the 2004 primaries, in instances where only one race was held, there were numerous cases of people entering the polls and leaving without having cast a vote, an occurrence known as "under-voting."

The delegation noted some innovative efforts to remedy these problems. In Broward County, for example, a DVD explaining the uses of the machines has been made available, which offers individuals an opportunity to learn on their own time, and to repeat the information as needed. Unfortunately, several voter advocacy groups with whom the delegation spoke in Broward were unaware of this resource, and were therefore not utilizing it.

Florida law requires a manual recount in elections that are decided by 0.25 percent or less of the votes cast. The DRE machines are not currently capable of producing an independent audit, nor are they equipped with a voter verification mechanism. While this issue is currently under litigation, regardless of the outcome it will not be possible to

provide a paper trail or other voter verification mechanism in time for the federal elections in November.

### PROVISIONAL BALLOTS:

Florida requires that a provisional ballot must be cast in the precinct in which the voter resides. HAVA also calls for provisional balloting as a means to address widespread reports of voter disenfranchisement, particularly among minority communities. This included instances of last minute changes in precinct locations, clerical errors and voter rolls at polling places that did not include newly registered voters.

Under HAVA, if a voter arrives in their *jurisdiction* and is eligible to vote but their name does not appear on the voter list, they must be allowed to vote provisionally, with their ballot counted later once that voter has been verified. It is important to note that jurisdiction in this case is defined as the jurisdiction of the registrar, not the precinct—this distinction has been the source of much confusion and mishandling of the provisional ballot. This difference between interpretations accounts for some claims regarding the misapplication of provisional ballots. The ACLU and others have also claimed that most provisional ballots are simply never processed. The State Division of Elections does not maintain records of the numbers of rejected provisional ballots.

### ABSENTEE BALLOTS:

In Florida, citizens may vote via absentee ballots without need to establish cause. In the last federal election, up to 12 percent of all votes were cast this way and based on requests for absentee ballot applications; up to 25 percent of voters may cast absentee ballots in 2004. This rise is due in part to a relaxation of the application requirements, which now require only a signature rather than notarization. Campaigns promoting absentee balloting have increased dramatically since 2000.

There are concerns that party activists can manipulate these votes during their emission and transport, and that provisions for signature verification for absentee ballots is, in many counties, insufficient protection against fraud. We found that those who will determine the validity of such signatures are in some cases insufficiently trained to do so.<sup>8</sup> In some counties signatures on ballots are checked against records containing party affiliation, which opens the process to political bias.

Because of the sharp rise in absentee balloting, the traditional processes of registering and collecting these ballots

may be inadequate to handle the increased workload. Current practice allows both partisan and nonpartisan groups seeking to increase voter turnout to run absentee ballot campaigns. Salaried employees and/or volunteers, who may or may not be compensated for items such as gas expenditure, operate those campaigns. This practice has come under scrutiny recently.

In Orlando, community efforts to promote absentee voting have fallen under a legal shadow following an investigation by the Florida Department of Law Enforcement (FDLE) into reimbursements to volunteers. The delegation spoke with Joe Egan, the legal representative of elderly African American absentee voters who report that they were visited late at night in their homes by armed state troopers dispatched by the FDLE. The situation has provoked widely repeated charges of voter intimidation and vote suppression in a community that historically votes 90 percent or more Democratic.

## 1.3 The Franchise

### REGISTRATION:

Voter registration levels have increased since 2000, due to efforts by civil society groups and officials. Registration advocates claim that the volume of applications for registration this year exceeded the capacity of the authorities to register them in a timely fashion, and have them on the voter rolls in time for the November election. The delegation shared these concerns with election supervisors in Leon, Broward and Miami-Dade counties. All deny being overwhelmed, and claim that they will be able to place every registered voter on the rolls.

### PURGING OF CITIZENS FROM VOTER LISTS:

The delegation was concerned by the practice of purging citizens from the voter lists. Miami-Dade county electoral officials confirmed the use of this practice for voters who have neither voted in two consecutive federal elections nor reported to the electoral authorities. Additionally, in 2004, the state issued a felon list containing over 47,000 names to be purged from county registers. This list was subsequently withdrawn when a media inquiry revealed that the list contained less than 70 Hispanics (Hispanics tend to vote Republican in Florida), a disproportionately high number of African Americans, and the names of 2,500 former felons who had had their rights restored.

### **PARTISAN CONTROL OF ELECTIONS:**

The U.S. electoral process allows both partisan oversight and control of elections, as well as Governors, Secretaries of State and Election Supervisors to run for office, be related to candidates running for office, and actively campaign for others who are running for office while presiding over the elections process. In some cases, they may even be allowed access to the tabulation rooms where the votes are counted.

In 2001, the Governor's Select Task Force on Election Procedures, Standards and Technology recommended that, "the Florida Legislature should prohibit members of County Canvassing Boards and of the statewide Elections Canvassing Commission from being active in partisan political activity while serving as members of these boards and require them to excuse themselves from service in any election cycle in which they have personal political interests." And furthermore that, "the Florida Legislature should change the elected county supervisors of Elections to non-partisan positions."

In the absence of legislative action on these matters, one Supervisor of Elections, Ion Sancho of Leon County, dropped his party affiliation, ran and was elected on a non-partisan ballot line. It should also be noted that Leon County has among the best error-rate records in the state.

### **FELON DISENFRANCHISEMENT:**

In Florida, 600,000 people cannot exercise their right to vote because they have been convicted of a felony. In the state of Florida, felons and ex-felons permanently lose their right to vote, unless they have had their rights restored by the Governor and his select panel. Florida is one of only eight states in the United States that permanently remove voting rights from convicted felons. Between states, laws range vastly, some allow felons to vote from prison, other restore voting rights once the sentence and/or probation has been served. African Americans are incarcerated in Florida at a rate that well exceeds the national average, making up nearly 54 percent of the prison inmate population in Florida as opposed to the national average of nearly 37 percent.<sup>9</sup>

The process for clemency is cumbersome, and inadequate to meet demand. The restitution of rights is a matter of grace by the Governor and the cabinet. The application process for restoring the rights can take years and the backlog as of December 2003 exceeds 30,000.<sup>10</sup> Eighty percent of the applicants have to attend a hearing by the Governor and the cabinet, and questioning of candidates is arbitrary and can include drinking habits, marriage status and anything else at the discretion of the cabinet. A request may be denied on any grounds or without reason. The ACLU reported that African Americans are twice as likely to remain disenfranchised than whites.<sup>11</sup>

## **2. DELEGATION RECOMMENDATIONS FOR FLORIDA**

### **RECOMMENDATIONS REGARDING OBSERVATION OF ELECTIONS:**

The delegation recommends that:

- The law at the state level be enacted to provide for non-partisan domestic and invited international observers. Domestic observers should be encouraged as a tool to promote the transparency of the process. For 2004, there is still time to make the process more transparent. To this end we recommend that Supervisors of Elections work with trusted nonpartisan election groups in their municipalities to invite observers in the process.

### **RECOMMENDATIONS REGARDING PARTISAN CONTROL OF ELECTIONS**

The delegation recommends that:

- The recommendations made nearly four years ago by the Governor's own select panel be enacted into law.
- We recommend that every election supervisor run on a non-partisan platform

### **RECOMMENDATIONS REGARDING ELECTRONIC VOTING:**

Because this technology is still new, there is no exacting international standard, however the best practice model would be to move toward greater transparency. The delegation recommends that:

- Open source rather than private source coding be used.
- All voting machines should be tested by the National Institute of Standards of Technology, as suggested by HAVA, and that they should in future be involved in selection and monitoring of machines.
- Electronic systems be vetted by independent technical teams rather than those employed by the manufacturer.
- Training efforts on the use of DREs be stepped up for poll workers, the elderly, and minorities, including better education packages produced in concert and cooperation with recognized civil society groups working on electoral issues.
- All machines be adapted to provide a voter verified paper record

### RECOMMENDATIONS REGARDING PROVISIONAL BALLOTS

We share the concern of the general public that a provisional vote is a vote thrown away. The delegation recommends that:

- Florida allows persons in the right jurisdiction, not simply the right precinct, to vote provisionally, as called for by HAVA.
- Each county have a central voter list to send people to the right precinct.
- Better training of poll workers be provided to ensure provisional ballots are given only to those that should receive them and that votes outside of their jurisdiction be properly redirected so as to be able to vote.
- Greater effort is placed upon verifying provisional ballots in a timely fashion.

### RECOMMENDATIONS REGARDING ABSENTEE BALLOTS:

Given the high proportion of the general vote that absentee ballots now represent, and the questions looming about

these ballots, their handling is crucial. The delegation recommends that:

- A transparent counting and a post election review of all disallowed ballots may go a long way to satisfy parties and citizens concerns about the accuracy of the validation and counting of these ballots.
- Statewide statistics be kept on absentee ballots, which may help local officials circle in on potential fraud, for example, if numbers are unusually high in a given election cycle.
- Immediate action be taken statewide to separate party affiliation from the process of signature verification for absentee ballots, and that benchmark requirements for training of signature analysts be standardized and upheld.
- The language of the law regarding the buying and selling of absentee votes be clarified immediately and applied evenly.

### RECOMMENDATIONS REGARDING REGISTRATION

The delegation recommends that:

- In following with International best practice, every new registered voter should receive confirmation that they have been placed on the voter rolls and the location of the polls.

### RECOMMENDATIONS REGARDING FELON DISENFRANCHISEMENT

The delegation recommends that:

- Florida automatically restores ex-offenders rights upon release from prison or following the end of their probation/parole.

# OHIO STATE REPORT

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## Ohio Pre-Election Observation Delegation:

*Irene Baghoomians (Australia); Horacio Boneo (Argentina); Somsri Hananuntasuk (Thailand); and Denis Kadima (South Africa).*

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Ohio was selected for pre-election observation because it is one of the most hotly contested states, has been the focus of heavy campaigning and has consistently been a bellwether for the Presidential election. With a diverse urban and rural population and a variety of industries as well as farming, it is considered a microcosm of the United States. In addition, while the issue of electronic voting has been widely debated in the state, punch card ballots will still be used by 70 percent of the population in the November 2, 2004 election.

The Ohio delegation visited Columbus (Franklin County), Cleveland (Cuyahoga County), and Akron (Summit County) where the delegation participated in town hall events; canvassed communities and held meetings with a range of civil society groups working on voter registration and education, get out the vote efforts, campaign finance reform, electronic voting issues, and felon disenfranchisement. The delegation met with the Ohio Voter Protection Coalition, Greater Cleveland Voter Registration Coalition, American Friends Service Committee, and the Association for Community Organizations for Reform Now (ACORN). The Ohio delegation also consulted with Ohio election law experts; the Directors and staff of the Boards of Elections of Franklin and Cuyahoga Counties; as well as the staff of the Secretary of State's office.<sup>12</sup>

Boards of Elections were very welcoming and open to discussion of their preparations and any challenges to election processes and administration, though emphatic that all care has been taken to guarantee the smooth running of the forthcoming election. On the contrary, the civil society organizations expressed a number of concerns, particularly in the areas of voter registration, provisional balloting, felon disenfranchisement, and voting equipment.

# 1. MAIN FINDINGS

## 1.1 Voting Systems

### ELECTRONIC VOTING VS. PUNCH CARD:

Ohio has had a heated debate about the purchase of DREs, resulting in the state legislature passing House Bill 262, which requires a voter verified paper trail for all voting equipment. This action was followed by a decision by the Secretary of State to suspend the procurement of DREs and request an extension for the fulfillment of HAVA requirements (as most states have done). The delegation was impressed with the level of debate on this issue, which is continuing around standards and the certification of acceptable manufacturers. The delegation is of the view that it is imperative that overall standards for DREs be developed urgently, preferably at the national level through the Election Assistance Commission in order to meet the requirements for the procurement, installation and training of poll worker well in advance of the 2006 elections. At the very least, manufacturers should be required to disclose the software to the electoral authorities for inspection and accreditation. Furthermore, the delegation noted the need for transparency and the importance of open source coding as a mean to achieving this.

As a result of these developments in Ohio, the voting systems throughout the state will remain essentially the same as in the 2000 election, with the majority of voters (70 percent, or 68 of 88 counties) using punch card ballots. The remainder will use pre-existing electronic voting machines<sup>13</sup> or optical scan. Accordingly, the same problems existing in 2000 are anticipated in 2004, such as generally high error rates for punch cards, and in particular, disproportionately high rates in minority and low income areas.<sup>14</sup>

### PROVISIONAL BALLOTS:

Confusion surrounding provisional balloting is one of the key concerns for this election as highlighted in a number of media reports and civil society reports. On September 16th (six weeks before the November election), the Secretary of State in Ohio issued a Directive to the effect that poll workers must not provide provisional ballots to voters who come to the wrong precinct. The office of the Secretary of State emphasized to the delegation that all Ohio poll workers have been instructed to direct voters to the correct

precincts to avoid the need for provisional ballots and how the timing of the directive could not be helped. Boards of Election of Ohio Counties and civil society immediately expressed their concern about the likely confusion resulting from the directive; some even arguing it is in direct contravention of the intent of the HAVA statute to assist voters in casting their ballots.

The Secretary of State's directive has since been challenged in two separate federal suits by the Ohio Voter Protection Project Coalition and the Democratic Party. Furthermore, the Cuyahoga County Board of Elections has recently announced that they will not follow the directive, but will instruct poll worker to provide provisional ballots to voters as needed.<sup>15</sup> In contrast, the Secretary of State's Office in Ohio has repeatedly stated that that it does not consider this a problem. In a meeting with the Ohio delegation, the Secretary of State staff emphasized that the directive merely reiterated current Ohio laws. Civil Society groups have expressed frustration at the late timing of the directive since they had developed much of their voter information and education material at great expense prior to the directive.

In light of the above concerns and notwithstanding the Ohio Secretary of State's assurance to the contrary, the delegation notes their concern at the likely confusion among voters, in particular among the transient voters from low-income groups which may be disproportionately affected by this Directive.

### ABSENTEE BALLOTS:

Ohio has restricted the use of absentee ballots, requiring individuals to meet one of the approved justifications, but it does not have in place any specific measure to protect the integrity of absentee ballots. Ballots are not required to be signed by witnesses, and can be collected and delivered to the Boards of Elections by either political parties or civil society groups. On the whole, this process might be open to abuse and the integrity of the ballots might be compromised if proper checks and balances are not in place to avoid such tampering.

## 1.2 The Franchise

### REGISTRATION AND IDENTIFICATION:

Voter registration remains a key issue in Ohio, with thousands of registration forms being turned in daily to County Boards for processing. Civil society organizations have raised concerns about whether these forms would be processed by the due deadline and whether the accuracy of voter lists would be ensured on November 2.

In Ohio, the delegation observed that the bulk of voter registration and education outreach is being conducted by civil society organizations. The delegation was extremely impressed with the organization and mobilization of community groups in their outreach efforts. While county Boards had some voter education efforts under way and the Secretary of State's office was planning to launch a campaign on September 27 (since launched), clearly civil society was taking the lead. In response to queries, the Elections Board Officials noted that any moneys allocated under HAVA were not being released by the Secretary of State and were earmarked for the purchase of new voting equipment and poll worker training beyond 2004.

The delegation heard numerous testimonials from groups engaged in voter registration regarding lack of registration confirmation for voters who had sent in their forms weeks and months prior to the election. The civil society groups felt that best practice should guide the Boards of Elections to process registration forms as quickly as possible in order to determine if any additional information is necessary and to notify voters of their polling precincts.

The delegation had first-hand experience observing the difficulties that some of the organizations undertaking voter registration have had in using inaccurate registration lists. On September 18, the delegation joined members of the community group the Association of Community Organizations for Reform Now (ACORN) as they went door-to-door to encourage people to vote, offer help with getting to the polls, and to register them if they were not already registered. ACORN used the voter lists given to them by the Franklin County Board of Elections. The delegation noted that approximately 80 percent of the people on one list in a predominantly African American neighborhood near East Columbus were no longer living at the stated addresses.

The delegation found that as a result of the inaccuracy of voter registration lists and the slow notification process by the Ohio Boards of Elections, the onus has been placed on the civil society groups to promote and follow up on voter registration and education, especially regarding the identification of correct polling precincts. In particular, the civil society groups emphasized the impact of delayed registration on lower income transient populations, newly eligible voters, absentee voters and ex-felons.

Adding further confusion to the process, the Secretary of State issued a directive in September 2004 stating that only registration forms printed on cardstock paper (specifically, 80 pound grade) would be processed. The decision was quickly repealed upon strong criticism from the civil society and the media.

The civil society groups with whom the delegation met expressed frustration at not being consulted adequately regarding election processes and any modifications; and more seriously, that the concerns of civil society were not given credence by the Secretary of State's office. The delegation noted that much of the distrust might stem from the bipartisan nature of all election administration which does not necessarily equate with impartiality. For the Republican and Democratic parties, the bi-partisan nature of the process is a guarantee of transparency but for individual voters and non-partisan civil society groups the process is much more opaque.

### FELON DISENFRANCHISEMENT:

According to Ohio state law, ex-felons are entitled to vote after their release from custody. However, according to the Prison Reform Advocacy Center (PRAC), former felons are rarely provided with information about their voting rights or are given incorrect information by County Boards of Elections and parole officers.<sup>16</sup> Attorneys specializing in prison reform have attempted to challenge these practices in federal courts and to settle the case with the office of the Ohio Secretary of State but have been unsuccessful so far.

At the time of the delegations meeting with PRAC, the Summit County Board of Elections was under fire for sending letters to convicted voters telling them that their registration is cancelled when they go to prison. In response to a lawsuit on behalf of The Racial Fairness Project, a federal judge has since ordered the Board to notify convicts of their right to re-register to vote if they are no longer in prison.<sup>17</sup>

## 2. DELEGATION RECOMMENDATIONS FOR OHIO

The Ohio delegation recommends that:

- The Secretary of State as well as relevant Elections Boards institute regular and transparent consultative mechanisms, where they do not exist, in order to engender public confidence and increase community participation.
- In order to increase efficiency and enhance trust in the system, registration forms contain proof of registration. This can be achieved via a detachable portion that the Elections Boards return to the voter upon receipt of the registration form. This “receipt” must be stamped and dated.
- The Boards of Election ensure that poll workers are adequately trained to support and assist voters who are unable to use punch cards correctly. For instance, voters should be offered the opportunity to practice on mock punch card machines if they express concerns prior to actual voting.
- In the spirit of maximizing enfranchisement, Ohio Secretary of State take the steps necessary to readily provide provisional ballots to voters as required, and to count the provisional ballots, even if cast in the wrong precinct or county, for the non-local offices/issues (i.e. if you vote in the wrong county, your votes will still be counted for President, Senator, statewide issues, etc., but not for local precinct or county offices or issues.)
- The Office of the Ohio Secretary of State provide information to former felons regarding their right to vote. This can be done cheaply and effectively in the form of public service announcements and material which could be disseminated through the prison system and relevant civil society groups.

# ARIZONA STATE REPORT

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## **Arizona Pre-Election Observation Delegation:**

*Kwesi Addae (Ghana); Edgardo Condeza Vaccaro (Chile); Oscar Gonzalez (Mexico); Shanta Martin (Australia).*

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Arizona was chosen as one of the observation sites because the state has been at the forefront of campaign finance reform experiments. For decades, there has been a lively debate in the U.S. about the proper role for corporate, union, and individual monies in elections. In recent years, Arizona has been at the heart of this debate and is currently one of only two states—the other being Maine—with a system of public financing for campaigns.

The delegation traveled to Arizona to hear from all sides and investigate whether public financing can help bolster citizen confidence in elections. The group traveled to Maricopa, Cocanino, and Apache counties to meet with representatives from faith based organizations, minority rights organizations, civil rights organizations, Native Americans, several election officials, election attorneys, and representatives on both sides of the Clean Elections System debate. In meeting with these various groups, the observation team wanted to not only discuss the issue of public financing, but also to assess the process of electoral management in Arizona and issues that affect the enfranchisement of voters. This report therefore canvasses public financing of election campaigns, electoral management matters, and enfranchisement issues. Further, as a result of the concerns raised by many of the citizens with whom the delegation met, this report comments on the role of the media in the electoral process.

# 1. MAIN FINDINGS

## 1.1 Administration of Elections

### ELECTORAL COLLEGE:

Civic organizations on both sides of the political spectrum expressed concern that since the 2000 election, in which the number of Electoral College votes determined the outcome of the election, the Electoral College system has contributed to widespread voter mistrust. They argued that the Electoral College system created an unnecessary barrier between candidates and voters. It was generally agreed that a constitutional amendment in this regard would be near impossible; however, reference was made to the Colorado Electoral College Initiative as a possible starting point for individual States to consider in the future. On November 2, 2004, residents of Colorado will vote on a state ballot initiative to allocate its electoral votes proportionately among the presidential candidates.

### THE TWO-PARTY SYSTEM:

The delegation heard that the two-party system is so built into the electoral process that it is difficult for independent or other party candidates to run for office. Critics felt that the restrictive nature of the two-party system has increased the feeling of voter apathy among those voters who feel that they cannot vote for the candidate for whom they would prefer to vote. In addition, citizens expressed concern that the two-party system contributed to a political system in which there is insufficient difference between the parties.

## 1.2 Voting Systems

The entire state of Arizona uses optical scan voting machines, with a trial being undertaken in the use of touch-screen optical scan devices to facilitate the disabled. Both civic groups and election officials claimed that the optical scans worked well for voters while also expediting the process of counting votes. In addition, officials indicated that until the issue of creating verifiable audits of touch screen machines is resolved they will continue to use optical scan.

The delegation found that a significant factor contributing to the acceptability of the optical scan technology was the practice of ensuring that voters scan their ballots while at the poll. This practice ensures that if the ballot is marked in such a way as to cause the machine to fail to read the ballot, voters have the opportunity to correct the error.

Although the delegation heard from county officials that voters often do not take the time to correct their vote when a machine rejects a ballot, the opportunity to make such a correction is essential to ensuring greater confidence and acceptance of voting technology by voters. Further, the practice is superior to the practice of collecting voters' completed ballots and waiting until the end of the day to process the ballots through the scanning devices when voters are not available to verify the accuracy of the scan.

Despite the benefits of the manner in which optical scan technology is being used in Arizona, the delegation was concerned about several issues. The delegation found that there are fundamental differences in the enabled features on the optical scan machines at different polling stations. For example, the Navajo nation election office set their optical scanners to pick up over-votes, but not under-votes, whereas the Maricopa County officials set their machines to pick up both. The lack of consistency in the set up of the machines deviates from international standards of best practice. Further, the observers were concerned to hear that the acceptable margin of error in the counting of optical scan ballots was 2 percent. In circumstances where elections may be determined by only a handful of votes, such a margin of error is unacceptably high. Indeed, while the delegation was meeting with officials in Maricopa County a court challenge was in process in relation to the September 2004 primary elections where one candidate won by just 4 votes. Nevertheless, the delegation is cognizant of the fact that the availability of paper ballots for a recount is a significant advantage to the optical scan technology.

## 1.3 The Franchise

### VOTER REGISTRATION LISTS:

The delegation was pleased to observe that Arizona is one of few states to have a statewide voter registration list. The delegation was also encouraged to hear that, unlike the practices pursued in other states (which resulted in the disenfranchisement of thousands of voters in the 2000 elections), there is no practice of actively purging the voter registration list. Further, if a voter becomes ineligible to vote (such as a person who has committed a felony), the name is removed only after it has been verified against a social security number and other identifying information.

The delegation also heard that, largely as a result of the efforts of civil society organizations such as ACORN, there has been a very successful drive to promote registration of new voters, with as many as 100,000 new registration applications in Arizona alone. Civil society organizations expressed their concern that with so many new voters, issues may arise in relation to ensuring that people attend the right polling stations, names are indeed placed on the roll, voters are aware of provisional voting mechanisms, and that provisional votes are actually counted. The refusal or failure to count provisional ballots is a significant issue. For example, the delegation was concerned to learn that in the primary elections in Maricopa County on September 7, 2004, almost 25 percent of verified provisional ballots were not counted.

### **FELON DISENFRANCHISEMENT:**

The law in Arizona states that a person who has committed a felony will have their name removed from the list of registered voters. Although voting rights for first time offenders are automatically restored following probation, the delegation was concerned to learn that second-time offenders must go through a court process to regain the right to vote. Such a process is likely to alienate citizens who have previously experienced criminal proceedings. Moreover, when election officials were questioned as to how a person might go about restoring their rights, the responses indicated that officials were not entirely sure and that citizens were not informed of this right. Given the disproportionately large number of minorities statistically represented in felony convictions, the delegation also noted that disenfranchisement of felons inequitably affects minority groups.

### **IMPACT ON NATIVE AMERICANS:**

In meeting with members of the Navajo nation, one of the largest Native American nations in the United States, the delegation observed several areas of concern. In particular, the delegation heard complaints that language barriers, electoral practices and institutionalization of undemocratic councils are disenfranchising Native Americans.

Navajo representatives expressed concerns about the language barrier for many Navajo on county, state and federal ballots. As the Navajo language is a highly complex language, Navajo council election officials had taken the initiative in ensuring that native council ballots contained pictorial representations to ensure that those voters unable to read the ballot could nevertheless vote. Disturbingly, no such initiatives had been undertaken by county and state officials. Although election officials suggested that voters could ask interpreters for assistance or bring in a relative or

friend to assist in reading the ballot, these solutions violate the right to privacy of the voter at the polls.

In addition, the delegation was very concerned to hear that the location of county and state polling stations are not always accessible to citizens living on remote areas of the reservations and are not always co-located with native council polling stations. Further, county and state polling station hours of operation tend to be different from the native council polling hours. The delegation was encouraged to hear that moves are afoot to make consistent the hours of operation; however, such a change should be expedited. Further, while the delegation was told by the Maricopa County's office that they were very careful to ensure that polling places were located close to Native American reservations, the delegation was unable to verify whether county officials responsible for the Navajo reservation were undertaking similar initiatives. These language barriers and logistical inconsistencies were seen as a considerable impediment to Navajo voter participation.

Of particular concern for the delegation were the complaints made by some members of the Navajo nation in relation to the extent to which the current representational structures for Native Americans might actually undermine their ability to have an active voice in issues that directly affect their nation. For example, the fact that the Navajo nation is split between three states (Arizona, New Mexico and Utah) impinges on the ability of the Navajo people to express a unified voice. In addition, the delegation heard from citizens that their attempts to use the voter initiative system to reform the Navajo council were stymied by extremely stringent rules, such as requiring that initiatives be passed not just by a majority of votes, but by the majority of eligible voters. Further, the delegation was very concerned to hear that the council continued to pursue issues that had previously been rejected by the electorate and that the manner in which the issue of gambling has been placed on the ballot for the November 2004 election may cause both a yes and a no vote to actually indicate support for the initiative.

### **IMPACT ON LATINO VOTERS:**

According to U.S. Census Bureau statistics, twenty-five percent of the population of Arizona is of Latino origin. Given the large proportion of Latinos in Arizona, the delegation was extremely concerned to learn that less than a third of eligible Latino voters are registered and that only approximately 30 percent of these registered voters actually vote. Consequently, only 10 percent of eligible Latino voters participate in the electoral process. The delegation heard that

lack of voter confidence and lack of voter education were largely responsible for this dismal voter turn-out. For example, the delegation was informed that many voters saw the irregularities of the 2000 election as an attempt to suppress the votes of minorities. Further, the differences between U.S. electoral processes and Mexican electoral processes were confusing to voters of Mexican descent. In addition, several civil society groups expressed their concern that the Latino vote was being undermined by the drawing of electoral boundaries in such a way as to pool most Latino citizens within a small number of electorates. Such a practice also detrimentally affects voter turnout as people believe their vote has little impact.

### **MEDIA AND POLITICS:**

During several town hall forums, the delegation heard fundamental concerns about the role of the media in the outcome of elections. Many expressed that they felt overwhelmed by the quantity of information disseminated by the media, much of which failed to contain relevant information. Citizens are concerned that the media is failing to deliver enough pertinent information about the issues at stake in the election and the positions of each candidate.

Further, many members of the community revealed their concern that the extent to which mass media is heavily controlled by a small group of individuals or companies is detracting from the availability of independent and credible information about candidates and their policies. In particular, citizens expressed concerns about the media's perceived bias towards particular candidates and the ability of the media to manipulate electoral outcomes through the use of opinion polls and the preemptive declaration of election results. In addition to the direct effects of media bias, the delegation was troubled by the extent to which the perception of media bias and corporate influence negatively impacted on voter confidence and contributed to voter apathy.

Given these concerns, the delegation was pleased to find that many citizens considered that public funding of election campaigns provided access to media by a variety of candidates who might not otherwise be able to afford such access.

## **1.4 Public Financing of Elections**

In 1998, Arizona voters passed the Citizens Clean Elections Act (CCEA), which created a voluntary public financing system for qualified candidates for state offices. The Act

requires that candidates agree to spending limits, accept very limited private donations, and prohibits candidates from accepting donations from political action committees (PAC) or corporate funds. The Clean Election Commission was created to administer and enforce the Act. The Commission is made up of five appointed members who cannot have been appointed to nor run for public office in the five years prior to, nor in the three years after, their appointment to the Commission. At the time of passing the initiative, 52 percent of the electorate voted in favor, and 48 percent voted against.

The response with which the implementation of the CCEA has been met in Arizona is diverse. Some advocacy groups say that the CCEA effectively tackles the need for the large and ever growing amount of money raised by politicians, which was creating the perception of corruption and undermining public confidence in the political system. Others argue that private financing of election campaigns creates a beneficial structure in which the most worthy candidates naturally receive the most donations. They further say that any restrictions on campaign finance infringes on the First Amendment right to freedom of speech by watering down the expression of support to one candidate through the provision of matching funds to other candidates. Similarly, the delegation heard criticisms that people should not be required to make available their money (that is, public funds) for the support of a candidate with whom they disagree.

Despite the diversity of opinions, the observation team found that most members of the public with whom the delegation met were very supportive of the public financing of election campaigns. The system makes candidates less dependent on large or special interest contributions, provides them with neutral sources of funding, and increases opportunities for people of color, women, and new candidates to enter politics. The delegation found that voters were generally pleased that the public finance system had diminished the capacity for 'big money' special interests to have disproportionate access to politicians. This voter perception alone is essential to greatly improving voter confidence and positively impacting on the participation of citizens in democratic processes.

While there was significant support for the public financing system, the delegation observed that all sides concurred that the Clean Elections system in Arizona has administrative flaws that require rectification. The most common complaint the delegation heard, from advocates and critics alike, was that the reporting requirements were too burden-

some and needed to be streamlined. Further, proponents of privately sponsored candidates felt that the system of matching funds disproportionately benefited publicly funded candidates as it failed to account for the costs involved in raising such funds. Lastly, concerns were raised regarding

the ability of the Clean Election Commission, which administers the system, to make determinations that have widespread implications without a process of appeal.

## 2. DELEGATION RECOMMENDATIONS FOR ARIZONA

The Arizona delegation recommends that:

- A public financing system be replicated in other states with provisions made for more citizen education about the benefits of such a system. Administrative reform should also be sought in Arizona, with streamlining of reporting requirements for candidates and requiring the Clean Election Commission to be more accountable. Further, provision should be made for ensuring that the system of matching funds recognizes that the raising of private funds for candidates often requires expenditure.
- The state of Arizona standardize the features for all optical scan machines in order to reduce the risk of inconsistencies and confusion both at the polls and in the counting of votes.
- In order to promote greater participation of Navajo voters, there be polling stations that are conveniently accessible to reservations. In addition, greater efforts should be taken in making available audio recordings in native languages at polling stations. Further, investigation into institutional structures should be undertaken to determine whether Native Americans are able to democratically participate in issues affecting their nations as well as county, state and federal issues.
- Greater voter education initiatives be implemented so as to overcome confusion and fears that may contribute to the low voter turn-out among Latinos.
- Persons who are eligible to apply to have their names restored to the voter registration list be automatically provided with information as to how to go about the process. Moreover, ex-felons should have their right to vote automatically reinstated. Alternatively, at the very least, the process of seeking restoration to the voters list should be removed from the court system to a less intimidating environment
- Some amount of free airtime and press space be mandatorily made available for political candidates on radio, TV, and in the print media. In addition, black out periods prior to the day of an election, in which campaign ads cannot be aired would provide a 'cooling off' period to allow voters to analyze and assess the information received to date.
- Media outlets be prohibited from announcing the 'winners' of election results until voting in all parts of the United States has concluded.

# GEORGIA STATE REPORT

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## **Georgia Pre-Election Observation Delegation:**

*John Cameron (Australia); Elijah Rubvuta (Zambia); Victoria Sommers (Ireland); and Luis Tonelli (Argentina).*

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Georgia was selected for pre-election observation primarily because it is one of only two states<sup>18</sup> that will exclusively use paperless DRE electronic voting machines in all of its counties in the upcoming national elections. In addition, Georgia attracted national attention in 2000 over Congressional redistricting battles and in 2000 and 2002 due to reports of voting day disenfranchisement.

The delegation met with elections officials, non-profit organizations, community groups, elected officials and citizens. A partial list includes the State Director of Elections, the Director of the State Center for Elections Systems, and representatives from the American Civil Liberties Union, Common Cause Georgia, the League of Women Voters of Georgia, the Georgia Coalition for the Peoples' Agenda, Georgia Association of Black Elected Officials, and the League Opposed to Virtual Elections.<sup>19</sup>

The delegation noted the presence of non-partisan voter registration drives taken on by non-governmental organizations and the absence of major political campaigns. Additionally, the delegation was impressed by the level of civic engagement encountered among community organizations, though concerned by the apprehension many of these groups expressed regarding the new electronic voting machines.

# 1. MAIN FINDINGS

## 1.1 Administration of Elections

### ELECTION OBSERVERS:

The delegation is concerned that neither international nor domestic non-partisan observers are allowed in Georgia. Only representatives of registered political parties may observe, the delegation was told. As home to the most prominent non-governmental elections monitoring organization in the world, The Carter Center, Georgia should be a leader in facilitating domestic and international observation of its elections.

### DISTRICTING:

The delegation heard testimony about pre-electoral practices that effectively limit voters' choices on the day of the elections. One example cited was that Congressional districts are said to be drawn to solidify the incumbent politician's hold on power or the fluid transfer of power within the incumbent's party. Activists pointed to Congressional District 13, which they called "The Hand of God" in reference to the reach of its splintered geographical fingers. Citizens felt that partisan control over the re-districting process enabled politicians to choose their voters.

Redistricting makes it difficult for new candidates or minority candidates to mount effective campaigns. The Georgia State Senate has only one woman and four minority candidates.<sup>20</sup> The delegation felt that the high voter apathy—Georgia ranks 43 in voter turnout—is a result of the lack of competitiveness in the races stemming predominantly from districting practices.

## 1.2 Voting Systems

### ELECTRONIC VOTING:

The delegation found a high level of concern among community groups on the issue of electronic voting machines, principally the security of the electronic voting systems and the lack of a voter-verified paper record.

The same model of DRE machine, the Diebold AccuVote-TS, is used in all 2823 precincts in Georgia. Quality control audits and acceptance testing of the voting units are performed by the Center for Elections at Kennesaw State University. The machines were first used for the 2002 elec-

tion. The Secretary of State's Division of Elections met with the delegation and made several presentations on their security precautions. Officials also referenced a state survey of 807 randomly selected Georgians that showed 70 percent of the public preferred to vote using touch-screen voting machines.<sup>21</sup>

Community groups, however, expressed concern over the vulnerability of modem connections, saying that results were transmitted using public school fax lines, which have publicly available numbers. Many expressed concern over the degree to which representatives of a private corporation are involved in designing and administering elections software and machines. Diebold President's financial contributions to and public support of the Republican Party led many to be concerned about the company's impartiality. In addition, the Diebold source coding is proprietary and does not allow for the same level of transparency that is available through open-source coding.

The delegation found widespread criticism of the lack of a voter-verified paper record, or paper trail. At the public hearing held at the Georgia State Capitol on September 20, numerous citizens testified that without the paper trail, they would not have confidence in the voting process. One said: "I have lost my power as a voter because I have lost my knowledge of what has happened to my vote." In response to questions about the paper trail, the Division of Elections officials said that the paper trails were an unnecessary expense. The receipts, they said, would create conflict between the paper and machine results in conducting recounts. If the paper records were the official results, that would make the voting machines little more than "million-dollar electric pencils."

The group also heard testimony from a wide spectrum of the community that poor poll-worker training has caused significant confusion in recent elections.

## 1.3. The Franchise

### VOTER REGISTRATION:

The delegation was greatly impressed by the voter registration efforts of community groups such as the Georgia Coalition for the Peoples' Agenda and the League of

Women Voters of Georgia. However, the laudable achievements of these groups in registering tens of thousands of voters in the past few months underscores a vacuum in the state's voter registration policies; that is, how many have been left behind by more passive state and county voter registration programs.

The delegation heard testimony that the Motor Voter law—enabling citizens to register to vote when applying for a drivers license—had helped increase voter registration in Georgia, but still left many who do not own automobiles or have a driver's license out of the effort. While state drivers' licenses are the predominant form of government-issued identification in the United States, those who do not own automobiles and have not had the opportunity to learn how to drive are disproportionately from low-income and minority communities.

The Election Division informed the group that they were concentrating on processing the large numbers of voter registration forms coming into their office. The group heard testimony, however, that many of these forms were being disqualified for technical errors and potential voters might not be notified of their disqualified registration form in time to re-register before the November election.

The most common reason for disqualification reported was the failure to check the box declaring that the signatory is a United States citizen. Since the signature line on the form states that by signing the individual declares under penalty

of perjury to be a United States citizen, it appears some thought the box to be redundant, and left it unchecked.<sup>22</sup>

### IMPACT ON MINORITY COMMUNITIES:

The group heard serious testimony as to the formal and informal impediments to voting facing Georgia's African-American and other minority communities. Many voters report they cannot get off work to vote on Tuesdays, and say that their votes are ineffective as a result of being pooled in gerrymandered districts, believe that media coverage discourages voting, and still experience significant levels of social intimidation in participating in the electoral process. One African-American local elected official said: "This is the atmosphere we face: we have to knock on the door and tell a family with five children living on a plantation to come and register to vote and that same day they get fired for attending a meeting."

## 1.4 Financing of Elections

Members of smaller political parties testified to the financial and institutional blocks on their access to the ballot. In Georgia, an independent candidate or a candidate from a smaller party must submit a petition with supporting signatures of 4 percent of the voters from the previous election. The costs of media advertising and outreach make this requirement insurmountable for all but the independently wealthy. This limits the plurality of choices available to voters in any given election.

## 2. DELEGATION RECOMMENDATIONS FOR GEORGIA

The Georgia delegation recommends that:

- The upgrading of machines to incorporate a paper-verified record be investigated further by the state as a way of increasing accountability and public confidence in the system.
- Source code for the DREs be made available to the State for certification and also made available to the public as open source.
- More thorough poll worker training be implemented prior to the November 2004 election.
- Limits be considered on the amount of money spent on television campaigns and that an advertising blackout period established prior to the election.
- Voter registration forms are revised to make them easy to fill out and to eliminate redundancy.
- Georgia should facilitate and encourage domestic and international observation of its elections.
- Independent oversight of districting be put in place to end district gerrymandering.

# MISSOURI STATE REPORT

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## Missouri Pre-Election Observation Delegation:

*Terence Humphreys (Britain); David MacDonald (Canada); Damaso Magbual (The Philippines); and Pansy Tlakula (South Africa).*

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While much of the attention in 2000 was focused on Florida, the state of Missouri—St. Louis in particular—was also in the spotlight. At that time, thousands of voters were turned away from the polls because they had been erroneously placed on the State's inactive voter list due to the State's inability to verify their addresses. Two years later, the Secretary of State in conjunction with the U.S. Department of Justice responded with a Consent Decree that places election specialists at the polls to assist voters who find themselves on this list. Additionally, the 2000 St. Louis Board of Elections has since been replaced. This history, coupled with the anticipated closeness of the 2004 presidential contest in Missouri was of great interest to the delegation.

In Missouri, local election authorities conduct elections. There are 116 election authorities in Missouri—110 County Clerks and six Boards of Election Commissioners—who oversee elections at the county level.<sup>23</sup> Bi-partisan representatives are appointed to the Boards, while the County Clerks are elected. The State and the Counties are responsible for providing one Republican and one Democratic poll worker in each polling precinct, in addition to the specialist.

The delegation met with the office of the Secretary of State, county officials, party representatives, and a cross section of voter advocacy groups and civil society organizations. In St. Louis and Kansas City, the delegation met with the American Civil Liberties Union (ACLU), Metropolitan Congregations United, Urban League, Association for Community Organizations for Reform Now (ACORN), and a coalition of St. Louis organizations called Missouri

Vote Protection. The delegation also met with legal representatives involved in election/vote protection litigation relevant to the upcoming election. Finally, the delegation met with the Missouri Ethics Commission, an independent state-level appointed committee, which handles all campaign finance related complaints for the state.

# 1. MAIN FINDINGS

Considerable efforts have been made by officials and voluntary groups to rectify the problems voters experienced in 2000. In particular, the current St Louis Board of Elections was open about previous failures, enthusiastic about joining the international election community and stated that international and domestic monitors would be welcome to observe elections in St. Louis. In Boone County, an energetic County Clerk, Wendy Noren, impressed the delegation with her knowledge of local and international practice and with her innovative solutions to improve registration and voting.

## 1.1 Administration of Elections

### ELECTION OBSERVATION:

Non-partisan domestic election observation groups do not exist in Missouri. While their deployment was welcomed by the St Louis Board of Elections who promised access for them and their foreign counterparts, state law forbids access by such groups. These groups and activities are sanctioned and encouraged by Paragraph 8 of the 1990 OSCE Copenhagen Document, which has been agreed and signed by the United States. They should be granted access to all levels of election administration in Missouri.

### PARTISAN OVERSIGHT OF ELECTIONS:

Under Missouri law and by state tradition, election managers frequently stand as candidates for office. Currently the Secretary of State, the Chief Election Officer, is running for Governor and, if elected, would be in the position of certifying his own election. Representatives of the Secretary of State's office stressed that the Secretary of State plays no role in vote counting as this is done by County Clerks and the Board of Elections; there is nevertheless a potential conflict of interest, with implications for voter confidence.

### POLL WORKERS:

The average age of poll workers in Missouri is 73, largely due to the low-pay and long hours required on a traditional workday. While this is not unusual in the United States, because of the bipartisan requirement for poll workers in Missouri, it presents an additional challenge, particularly in counties where one party is predominant. All county-level officials we met with shared their concern about the dearth of well-trained personnel to operate the polling precincts on voting day. Precinct judges with sufficient capabilities

to conduct their responsibilities are of greatest concern, with the absence of qualified Republican judges being particularly noteworthy in the more Democratic friendly counties of St. Louis. These inadequacies have led to inconsistent application of state law in different counties—particularly in regard to precinct judges failing to allocate provisional ballots appropriately, which led to widespread claims of voter disenfranchisement in 2000.

### VOTER EDUCATION:

The delegation noted that voter education was principally the responsibility of civil society and voluntary groups. The delegation believes more attention should be paid by public authorities to civic and voter education both within the educational system and outside.

### REDISTRICTING:

The delegation found that redistricting as currently carried out serves only the narrow interest of those who stand most to benefit while effectively ignoring the majority of those who need to be fairly represented.

## 1.2 Voting Systems

In Missouri, voting systems have changed very little since 2000, as the Secretary of State has released a very small amount of the \$60 million of HAVA funding from the federal government. Part of the funding was earmarked to upgrade voting systems from punch cards to optical scan systems; however, most of Missouri will continue to vote on punch cards this election—a system in which, in the wake of the Florida 2000 events, voters express less confidence. In three hours of meetings with the Secretary of State's staff, it was clear that despite the concerns heard by the delegation on a number of issues, the State believes that sufficient systems are in place for November 2004 with little cause for worry or concern.

### PROVISIONAL BALLOTS:

Under State law, a voter whose eligibility cannot be immediately determined may cast a provisional ballot in any polling place; however, the ballot will not be counted unless the voter is in his/her correct precinct. The Missouri Democratic Party and three Kansas City residents sued Secretary of State, Matt Blunt, and the Kansas City Board of Elections on claims that the state law regarding provi-

sional ballots conflicted with the federal law. The residents who sued cast provisional ballots at the wrong polling places in the Aug. 3 primary but said their votes should count towards races for state and federal offices.

To add to the confusion, in Kansas City, which has separate elections administration for the county and city, application rules for provisional ballots are different. While the delegation was in Missouri, it became clear that many voters do not want to vote by way of provisional ballots because of the confusion. However, provisional ballots offer a fundamental democratic right, particularly in a state that often changes precinct locations when it cannot find enough available bi-partisan poll workers to meet requirements.

The delegation found that Missouri's narrow interpretation of provisional balloting issues and regulations, inconsistent and restrictive application of rules on absentee voting and notarization requirements tend to discourage potential voters, particularly among the low-income and mobile voters.

## 1.3 Franchise

The delegation felt that an excessive burden was placed upon individual voters to demonstrate a right to vote. The overall approach implied that voting was more a privilege than a basic right and although an adult U.S. citizen is eligible to vote in Missouri, in practice a number of hurdles and obstacles are placed in the way.

### REGISTRATION:

The delegation observed that the voting electorate is energized and registration is up. In addition, voter protection

groups are engaged to watch for repeats of previous errors. While a higher percentage of the voting population is desirable, the delegation noted that in both the larger urban areas in Missouri, the Board of Elections remarked that they were overstretched and understaffed to actually confirm and register all the voters for whom they had received applications. The delegation also felt that while the St. Louis Board of Elections seemed to be addressing problems stated in the Consent Decree, there was little measure being taken to go beyond the issues described in the Consent Decree. While other counties seemed to be addressing issues before they became problems, the St. Louis Board of Elections was content with its activities to meet the requirements of the Decree.

## 1.4 Election Finance

### CONTRIBUTIONS:

The delegation was informed that funding requirements on running for office reduces the number of potential candidates, particularly from poor and minority groups, effectively diminishing public confidence in the election process.

### CONTRIBUTION REGULATION AND ENFORCEMENT:

The delegation was informed by the Missouri State Ethics Commission that the regulatory reforms for election contributions had failed to ensure a more transparent and reasonable level of financial support to the electoral process. The Commission admitted a difficulty in enforcing abuses without formal complaints being made and also noted the absence of pro-active investigation.

## 2. DELEGATION RECOMMENDATIONS FOR MISSOURI

The Missouri delegation recommends that:

- Immediate discussions be held to draw a clear distinction between candidates for public office and responsibility for the electoral process. International law does not support the practice of partisan oversight of elections under any circumstances. The current situation in Missouri offers an example where conflict of interest only complicates the issue at hand and in most countries the official would be required to step down from office while campaigning. The delegation also recommends that Missouri Law consider the ramifications on voter confidence that this system creates and weigh this against requiring those running for political office to step down from positions, should there be a conflict of interest, real or perceived.
- Training, recruitment and compensation of poll workers be improved, in addition to the pro-active recruitment of third party or non-partisan poll workers. The delegation also recommends that civic and voter education be pursued more vigorously and consistently within formal education, through public agencies and in the voluntary sector.
- Resources be made available from HAVA and through the Federal Election Assistance Commission be allocated and spent as soon as possible to upgrade and standardize electoral practice including use of the voting equipment with the greatest potential to increase voter confidence in the electoral process.
- Conditions for the use of provisional ballots be clarified, standardized and widely publicized before Election Day. In addition, due to recent confusion and changes in counting practices, the delegation strongly recommends a special module in training for poll workers be created to ensure that voters know that the mere issuance of provisional ballots does not mean that the vote will be counted.
- Missouri make provisions for the creation and implementation of a statewide voter database before the mid-term elections in 2006. In addition, the delegation did not hear any convincing argument for maintaining separate voter active and inactive lists in St. Louis. Few counties maintain this system and in the city of St. Louis this split resulted in more confusion than benefits. The delegation recommends that the system be clarified or discontinued.
- Serious consideration be given by officials and law-makers to ensure real limits to campaign contributions and expenditures. In the long term, the delegation suggests that the experience of those other states that have tried public funding of elections be evaluated and considered for duplication in Missouri.



# APPENDIX A

## PRE-ELECTION OBSERVATION DELEGATION BIOGRAPHIES

### Argentina

**HORACIO BONEO** has been involved in electoral assistance and observation in more than 60 countries, including countries of Latin America and the Caribbean, Asia, and Africa. Since 2000, Boneo has served as a consultant on issues of democratic governance and elections for the United Nations, the United Nations Development Program (UNDP), the Swedish International Development Agency, the National Democratic Institute, the Organization for Security and Cooperation in Europe, and the International Foundation for Electoral Systems, as well as a visiting professor at the Universidad Nacional de San Martin.

**LUIS ALBERTO TONELLI** is a professor of Political Science at the University of Buenos Aires specializing in the comparative design of political institutions. In addition, he is a Member of the Advisory Council of Poder Ciudadano, a top public elections watchdog organization in Argentina. In addition, he makes regular contributions to public debate through weekly magazine and newspaper columns.

### Australia

**IRENE BAGHOOMIANS** is currently a part time professor at the University of Sydney Law School. As a human rights lawyer based at the Center for Constitutional Rights, she has participated in the conduct of the Alien Tort Claim Act Litigation, as well as civil rights litigation relevant to the protection of rights guaranteed under the 1st, 4th, 5th, and 6th Amendments of the U.S. Constitution. In addition, she has served as legal policy advisor for the Human Rights and Equal Opportunity Commission (HREOC) on racial discrimination.

**JOHN CAMERON** has had a wide-range of experience in political and electoral matters, as well as in human rights. In Australia, Dr. Cameron has acted in the Federal Court proceedings challenging elections to the Aboriginal and Torres Strait Islander Commission. In addition, he has been involved in representing asylum seekers in the High Court of Australia and the Federal Court of Australia with considerable success.

**SHANTA MARTIN** is an international legal advisor currently working for the Commission for the Verification of Codes of Conduct (COVERCO) in Guatemala. She has done extensive research and writing on human rights and labor law in both Central America and in Australia, with particular emphasis on the effects of corporate activity on the enjoyment of human rights.

### Canada

**HONORABLE DAVID MACDONALD** is a former Minister of Communications and Secretary of State. He served as a Progressive Conservative MP during the Pearson, Trudeau, Clark and Mulroney governments from 1965 to 1993. In the 1980's, he was the Canadian Ambassador to Ethiopia and Sudan.

### Chile

**DR. EDGARDO CONDEZA VACCARO** is the President of Movimiento por Los Derechos y La Consulta Ciudadana, which has played an important role promoting democracy in Chile as a response to the Pinochet dictatorship.

## England

**TERENCE HUMPHREYS** is currently the Chief Executive of Electoral Reform International Services (ERIS) where he provides overall direction for all ERIS programs worldwide. In addition, Mr. Humphreys has monitored elections and implemented voter education and youth training throughout Africa.

## Ghana

**KWESI ADDAE** is the founder of Pollwatch Africa, which carries out election monitoring and consulting services to the Election Commissions of various African countries including Ghana, South Africa, Togo and Botswana. He has also served as Chairman of the Council of District Chief Executives in Ghana.

## India

**NEERJA CHOWDHURY** is the Political Affairs Editor for the widely respected New Indian Express. For the last ten years, she was the Political Editor of the Indian Express, New Delhi. In addition, she was the Civil Rights Correspondent for the Statesman—the only one so far in the country.

## Ireland

**VICTORIA SOMERS**, a health social worker in community psychiatry by profession, has wide experience with the Irish electoral process and international elections. Ms. Somers has observed elections in South Africa, Bosnia, Tanzania, Kosovo and Sri Lanka on behalf of the Irish Government, United Nations and European Union.

## Mexico

**OSCAR GONZALEZ** received the UNESCO Award on Human Rights in 2002. Mr. Gonzalez has been President of the Mexican Academy of Human Rights (1997-2002), undertaking pioneer initiatives and efforts for free and fair elections in Mexico. Former diplomat, he was DPR of Mexico at the Security Council of UN (1981), also he was the Ambassador head of the Mexican delegation at the World Conference on Transnational Organized Crime (United Nations, 1994), Mexico's Ambassador of the United Nations Committee of Government Experts for the Prevention of Massive Flows of Refugees (1985), and he is a member of the Citizenship Council of *Allianza Civica*, Citizen Movement

for Democracy, and Peace and Democracy.

## Nicaragua

**ROBERTO COURTNEY** is the Executive Director of *Etica y Transparencia*—the principal electoral and clean government watchdog organization in Nicaragua, which specializes in anti-corruption, governance, and monitoring of electoral and judicial activities.

## Philippines

**DAMASO GUERRERO MAGBUAL** is a member of the National Council and concurrently Chairman of the National Capital Region and Deputy Secretary General for the National Citizens Movement for Free Elections (NAMFREL), which was the very first election monitoring organization in Asia. He has trained civic and religious groups on election monitoring, served as an international observer in several elections, and has been a consultant and trainer on electoral systems, administration, and reforms.

## South Africa

**DENIS KADIMA**, Executive Director of the Electoral Institute of Southern Africa (EISA), has published extensively on the field of elections, democracy and governance. He has also been involved in regional efforts towards the development of common electoral standards in Southern Africa, and has coordinated election observer missions in a dozen Southern African Development Community (SADC) countries.

**ADVOCATE PANSY TLAKULA** is Chief Electoral Officer of the Independent Electoral Commission (IEC) of South Africa, a position that makes her the overall head of elections in the country. An advocate by training, Tlakula was previously a member of the Human Rights Commission. She takes an active role in gender rights and was formative in the rights commission's work on combating racism. Tlakula played a key role in South Africa's contribution to the UN World Conference Against Racism, held in Durban in 2001.

**DR. BRIGALIA BAM** is the Chairperson of the Independent Electoral Commission. She has held a variety of posts throughout the world: Africa Regional Secretary and Coordinator of the Women Worker's Programme for the International Food and Allied Workers' Association, General Secretary of the South African Council of Churches, and Executive Programme Secretary for the

Women's Department of the World Council of Churches. She is the Founder and President of the Women's Development Foundation.

## Thailand

**SOMSRI HANANUNTASUK**, Executive Director for the Asian Network for Free Elections (ANFREL), has extensive experiences in election monitoring in Indonesia, Afghanistan, Cambodia, Thailand, Sri Lanka, East Timor, Bangladesh, Pakistan, Malaysia, Laos, and Vietnam.

## Wales

**CAERWYN DWYFOR JONES** has over 30 years of experience in the field of electoral registration. As an electoral officer and electoral service manager for Wrexham county, Mr. Jones insured that the necessary administrative arrangements were undertaken and that all statutory legal requirements were met in connection with Parliamentary, European, Local Government elections and referenda. Additionally, Mr. Jones has participated in election moni-

toring in 10 countries, including supervising the first ever elections in Cambodia.

## Zambia

**ELIJAH RUBVUTA** is currently Executive Director of the Foundation for Democratic Process (FODEP) in Zambia, which is a leading national civic Non-Governmental Organization involved in election monitoring, governance and electoral reforms advocacy work. During his time at FODEP, Mr. Rubvuta has worked in close collaboration with the Carter Center on many projects, including the Center's observation of the 2001 Presidential elections in Zambia. In addition, he has served as team coordinator for the SADC Electoral Support Network Observer Mission to Mozambique and Zimbabwe, he has observed elections in Kwa-Zulu Natal Province, and participated in the observation of the 2004 South African Elections. Recently, Mr. Rubvuta participated in the Carter Center's February 2004 consultation in South Africa on the principles of election observation.

# APPENDIX B

## UNIVERSAL PRINCIPLES FOR ELECTION OBSERVATIONS

The delegation set forth some universal principles toward evaluating pre-electoral conditions in the United States. They are:

**FRANCHISE:** the right to vote and principles of inclusion

**FINANCE:** relates to fairness and corruption

**ACCURACY:** the accuracy of the voting procedures

### **Texts that Inform the Universal Principles**

Universal Declaration of Human Rights

International Covenant on Civil and Political Rights

U.S. Constitution and Bill of Rights

OSCE Copenhagen Standards (apply to the U.S.)

Venice Commission; Standards for Free and Fair Elections

OAS Democracy Principles (Santiago Declaration)

Inter American Agreement on Democracy

# APPENDIX C

## RESOURCES AND LIST OF STATE MEETINGS

### Arizona

The League of Women Voters, [www.azvoterservice.org/](http://www.azvoterservice.org/)  
Friends of Flagstaff's Future, [www.friendsofflagstaff.org](http://www.friendsofflagstaff.org)  
American Association of Retired Persons (AARP),  
[www.aarp.org/states/az/](http://www.aarp.org/states/az/)  
Arizona Chamber of Commerce, [www.azchamber.com/](http://www.azchamber.com/)  
Arizona Homebuilders Associations, [www.hbaca.org/](http://www.hbaca.org/)  
Arizona Advocacy Network, [www.azadvocacy.org/](http://www.azadvocacy.org/)  
Arizona Farm Bureau, [www.azfb.org/](http://www.azfb.org/)  
Clean Elections Institute, [www.azclean.org/](http://www.azclean.org/)  
Lisa Hauser, Elections Attorney  
Maricopa County Recorder,  
<http://recorder.maricopa.gov/home.htm>  
Mormon Church Forum  
Navajo Community Forum  
Navajo Nation Elections Office, <http://www.navajo.org/>

### Florida

ACLU, Broward, Bruce Glaser, Esq., President  
[www.aclufl.org/take\\_action/chapters/broward/browarda-clu.cfm](http://www.aclufl.org/take_action/chapters/broward/browarda-clu.cfm)  
ACLU Florida, [www.aclufl.org/](http://www.aclufl.org/)  
AFSCME/AFL-CIO, [www.afscme.org/](http://www.afscme.org/), [www.aflcio.org/](http://www.aflcio.org/)  
Broward County Supervisor of Elections,  
[www.browardsoe.org/](http://www.browardsoe.org/)  
Leon County Supervisor of Elections,  
[www.co.leon.fl.us/elect/](http://www.co.leon.fl.us/elect/)  
Miami-Dade County Supervisor of Elections, <http://elections.metro-dade.com/>  
Florida League of Voters (FLV) Eugene Poole, President  
Haitian-American Grassroots Coalition, Jean-Robert

Lafortune, President, <http://hagcoalition.freehosting.net>  
Latino Leadership Forum, Orlando Marytza Sanz, President  
Miami Dade Electoral Reform Committee (MDERC), Lida Rodriguez-Taseff, Esq.,,  
Chair, [www.reformcoalition.org/](http://www.reformcoalition.org/)  
NAACP, Fort Lauderdale Branch, Bill McCormick,  
President, [www.ournaacp.com/](http://www.ournaacp.com/)  
State Senator Gary Sipling (Dist 19),  
[www.flsenate.gov/Legislators/index.cfm?Members=By+County&Tab=Legislators&Submenu=1](http://www.flsenate.gov/Legislators/index.cfm?Members=By+County&Tab=Legislators&Submenu=1)  
Joe Egan, Esq.; Egan, Levinson and Swica, P.A. [www.egan-lev.com](http://www.egan-lev.com)

### Georgia

Common Cause, <http://georgia.commoncause.org/>  
David Adelman, Attorney on the Gore vs. Bush case in 2000.  
Center for Elections Systems, Kennesaw State University,  
[elections.kennesaw.edu/](http://elections.kennesaw.edu/)  
League Opposed to Virtual Elections  
Georgia Association of Black Elected Officials,  
TyroneBrooks- State Senator, [www.gabeo.org/](http://www.gabeo.org/)  
Fannie Lou Hamer Project, Dexter Wimbish, Attorney,  
[www.flhp.org](http://www.flhp.org)  
Voter Choice Coalition, [www.voterchoice.org](http://www.voterchoice.org)  
Georgia Green Party, [www.greens.org/georgia/](http://www.greens.org/georgia/)  
Georgia Rural UrbanSummit, Executive Director, [www.georgiasummit.org/](http://www.georgiasummit.org/)  
Radio Free Georgia, [www.wrfg.org/](http://www.wrfg.org/)  
Representative Robert Holmes,  
[http://www.legis.state.ga.us/legis/2003\\_04/house/bios/Holmes,%20Bob/Holmes,%20Bob%2048-1.htm](http://www.legis.state.ga.us/legis/2003_04/house/bios/Holmes,%20Bob/Holmes,%20Bob%2048-1.htm)

Secretary of State's Office, Kathy Rogers, Director of  
Elections Administration,  
[www.sos.state.ga.us/default800.asp](http://www.sos.state.ga.us/default800.asp)

League of Women Voters,  
[www.lwvga.org/columbus/default.htm](http://www.lwvga.org/columbus/default.htm)

Georgia Coalition for the Peoples' Agenda, [www.dogonvil-  
lage.com/peoplesagenda/](http://www.dogonvil-<br/>lage.com/peoplesagenda/)

ACLU, [www.acluga.org/](http://www.acluga.org/)

The Carter Center, [www.cartercenter.org/](http://www.cartercenter.org/)

Representative John White

## Missouri

ACLU of Eastern Missouri, [www.aclu.org](http://www.aclu.org)

Alan Lamberg

Molly Kottmeyer, Attorney

Elijah Lovejoy Foundation, Bob Tabscott,

Boone County Clerk, [www.showmeboone.com/CLERK/](http://www.showmeboone.com/CLERK/)

Voter Protection Coalition, Kate Hollingsworth

Metropolitan Congregations United (MCU)

Monica Allen, Attorney, Harr and Woods

Rob Heggie, attorney, Beach Stewart, Heggie, Mittleman &  
Curtis, LLC

Secretary of State's Office, [www.sos.mo.gov/](http://www.sos.mo.gov/)

St. Louis Board of Election Commissioners, [www.co-st-  
louis.mo.us/elections/](http://www.co-st-<br/>louis.mo.us/elections/)

The Association of Community Organizations for Reform  
Now (ACORN), [www.acorn.org](http://www.acorn.org)

The Urban League, [www.nul.org/affiliates/](http://www.nul.org/affiliates/)

The Missouri Ethics Commission,  
[www.moethics.state.mo.us/](http://www.moethics.state.mo.us/)

Todd Patterson, Senior Advisor to McCaskill Campaign

## Ohio

ACORN, [www.acorn.org](http://www.acorn.org),

American Friends Service Committee, [www.afsc.org/](http://www.afsc.org/)

Cuyahoga County Board of Elections, Michael Vu, Director,  
<http://www.cuyahoga.oh.us/BOE/>

Franklin County Board of Elections, Matthew  
Damschroeder, Director,  
<http://www.co.franklin.oh.us/boe/>

Citizens Association for Secure Elections (CASE),  
[www.caseohio.org](http://www.caseohio.org)

Cliff Arneback, Attorney

Ohio State University Moritz College of Law, Dan Tokaji,  
Associate Professor, <http://moritzlaw.osu.edu/electionlaw/>

Greater Cleveland Vote Protection Coalition,  
<http://www.clevelandvotes.org/>

Ohio Voter Protection Coalition,  
[www.ohaficio.org/vote\\_protect/index.htm](http://www.ohaficio.org/vote_protect/index.htm)

Election Protection Coalition, [http://www.electionprotec-  
tion2004.org/](http://www.electionprotec-<br/>tion2004.org/)

Prison Reform Advocacy Center, [www.prisonreform.com/](http://www.prisonreform.com/)  
Senator Theresa Fedor,

Secretary of State's Office, [www.sos.state.oh.us/sos/](http://www.sos.state.oh.us/sos/)

United Streets Block Club

## Washington, DC

Advancement Project, Eddie Hailes, Senior Attorney,  
[www.advancementproject.org](http://www.advancementproject.org)

American Association for People with Disabilities,  
Jim Dickson, Vice President of Governmental Affairs,  
[www.aapd-dc.org](http://www.aapd-dc.org)

Caplin & Drysdale, Trevor Potter, Attorney,  
Former Chairman of the FEC, [www.capdale.com](http://www.capdale.com)

Center for Voting and Democracy, Rob Richie, Executive  
Director, [www.fairvote.org](http://www.fairvote.org)

Brennan Center, Jessie Allen, Associate Counsel, [www.bren-  
nancenter.org](http://www.bren-<br/>nancenter.org)

Brookings Institute

Anthony Corrado, Visiting Fellow in Governance Studies  
and Professor of Government at Colby  
College, [www.brook.edu/scholars/acorrado.htm](http://www.brook.edu/scholars/acorrado.htm)

DemosSteve Carbo, Director of the Democracy Program,  
[www.demos-usa.org](http://www.demos-usa.org)

Election Assistance Commission, [www.eac.gov](http://www.eac.gov)

Electronic Frontiers Foundation, Matt Zimmerman, Staff  
Attorney, [www.eff.org](http://www.eff.org)

Election Reform Information Project, Doug  
Chapin, Director, [www.electionline.org](http://www.electionline.org)

Electronic Voting consultant, Eric Lazarus, [www.decision-  
smith.com](http://www.decision-<br/>smith.com)

ES&S Voting Equipment, [www.essvote.com](http://www.essvote.com)

Federal Elections Commission, [www.fec.gov](http://www.fec.gov)

George Washington University Law School, Spencer  
Overton, [www.law.gwu.edu/facweb/soverton/default.htm](http://www.law.gwu.edu/facweb/soverton/default.htm)

International Foundation for Election Systems (IFES),  
[www.ifes.org](http://www.ifes.org)

People for the American Way, Vicky Beasley, Deputy  
National Field Director, [www.pfaw.org](http://www.pfaw.org)

Public Citizen,

Craig Holman, Legislative Representative, [www.citizen.org](http://www.citizen.org)

# APPENDIX D

## GLOSSARY OF TERMS

### ABSENTEE BALLOTS

A ballot that is cast in absentia (usually mailed in prior to election day).

### DRE

Direct recording electronic: DREs are rapidly replacing other technologies—most have no paper ballot—the voter makes selection by touching the screen.

### HAVA

The Help America Vote Act passed by the United States Congress in 2002 is the first large-scale federal investment in state and local election administration in U.S. history.

### DISTRICTING

The process by which legislative districts are apportioned. In the United States this usually happens every ten years based on raw census data.

### GERRYMANDERING

A practice by which legislative districts are geographically manipulated for partisan gain.

### MALAPPORTIONEMENT

Occurs when the principle of equal representation according to population is violated in apportioning legislative districts.

### OPTICAL SCAN

A system in which ballots are marked manually and then counted by a device that reads these marks.

### PROVISIONAL BALLOTS

Ballots given to voters whose names do not appear on the voter rolls. These ballots are segregated from other ballots and counted only after election officials have verified the voter's eligibility.

### SOFT MONEY

Contributions made outside the limits and prohibitions of federal law, including large individual or PAC contributions and direct corporate or union contributions. The Bipartisan Campaign Reform Act that took effect in November 2002 effectively banned the national parties and federal candidates from raising soft money.

# ENDNOTES

- 1 <http://www.osce.org/docs/english/1990-1999/hd/cope90e.htm>
- 2 [http://www.osce.org/documents/odihr/2004/09/3655\\_en.pdf](http://www.osce.org/documents/odihr/2004/09/3655_en.pdf) (p.12)
- 3 The Constitution Project, *Federal Election Reform: Executive Summary*, 17 January 2004, <http://www.constitutionproject.org/eri/reportindex.html> (15 October 2004).
- 4 These states are: Virginia, Nebraska, Mississippi, Kentucky, Iowa, Florida and Alabama. Arizona disenfranchises those that have committed felonies twice. An application process for possible clemency exists in all these states, but it is often not well publicized, cumbersome, and time consuming; few persons have their rights restored this way.
- 5 The Sentencing Project, *Felony Disenfranchisement Laws in the United States*, September 2004, [www.sentencing-project.org/pubs\\_05.cfm](http://www.sentencing-project.org/pubs_05.cfm), (14 October 2004).
- 6 Ibid.
- 7 Statistically, candidates who outspend their opponents win an electoral race the great majority of the time. In 2002, for example, House candidates who spent more than their opponents won 94 percent of the time: Public Campaign, *Color of Money 2003*, (2003)
- 8 In some cases, training for signature matching was as brief as one hour, despite the intricacies of the task.
- 9 Criminal Justice Institute (CJI), *The Corrections Yearbook: 2001*, 2001, <http://www.cji-inc.com/cyb/CYB01.html> (13 October 2004).
- 10 Interview with Courtney Strickland, ACLU Voting Rights Project Director. September 2004.
- 11 Ibid.
- 12 Please refer to the Ohio resource list in Appendix.
- 13 Seven counties in Ohio, including Franklin County where Columbus is located, use electronic voting machines purchased prior to the 2000 election.
- 14 Tova Andrea Wang, "African Americans, Voting Machines, and Spoiled Ballots: A Challenge to Election Reform," *The Century Foundation*, 15 September (2004), <http://www.tcf.org> (14 October 2004).
- 15 John McCarthy, "Ohio's Largest County to Defy Provisional Ballot Order," *The Associated Press*, 5 October 2004, <http://www.silive.com/newsflash/politics/index.ssf?/base/politics-0/1096995851213511.xml&storylist=politics> (13 October 2004).
- 16 David A. Singleton and Breean Walas, "The Disenfranchisement of the Re-Enfranchised: How Confusion Over Felon Voter Eligibility in Ohio Keeps Qualified Ex Offender Voters From the Polls," *Prison Reform Advocacy Center*, August (2004), [http://www.prisonreform.com/reports\\_main.shtml](http://www.prisonreform.com/reports_main.shtml) (13 October 2004).
- 17 Lisa A. Abraham, "Convicts to be Told of Rights," *The Akron Beacon Journal*, 28 September 2004
- 18 Maryland is the other state.
- 19 For a full list of organizations, please refer to the Appendix.
- 20 Center for Voting and Democracy, *Fast in Focus*, 12 May 2004, [www.fairvote.org/dubdem/ga.htm](http://www.fairvote.org/dubdem/ga.htm) (13 October 2004).
- 21 Carl Vinson Institute of Government, *Voting Without Paper: Public Attitudes Related to Georgia's Touchscreen Voting System*, 23 January 2004, <http://www.cviog.uga.edu/peachpoll/#polls> (13 October 2004).
- 22 Note that in Ohio, the Secretary of State issued a Directive allowing registration forms that did not have the citizen box checked to be processed provided the statement confirming citizenship was signed.
- 23 Terry M. Jarrett (General Counsel), "Letter to Carleen Pickard," 14 October 2004, Personal Email (14 October 2004).





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