

I. In Focus This Week

Director's Note: John Gideon 1947-2009

By [Doug Chapin](#)

The election community lost one of its most dedicated and persistent voices with the sudden death of John Gideon earlier this week at age 62. John's "Daily Voting News" e-mail newsletter – which hit my PDA with impressive regularity right about 7pm Eastern every weekday and Sunday – was a thorough look at coverage of voting technology issues across the nation.

Every day's edition was full of news coverage laced with a heavy dose of John's fierce commentary and eager demands for vigilance and/or change in the technology that Americans use to cast ballots. At *electionline.org* and Pew alike, we have always considered DVN a valuable resource for our own coverage of election issues across the country.

Indeed, I often referred journalists to John for comment both because I knew he had an opinion and because he would have no hesitation in sharing it on the record in blunt, forceful, *quotable* language – as he did with me regularly when he felt I wasn't paying sufficient attention.

The word *amateur* gets a bad rap in our current language; in particular, current usage suggests that not being paid (i.e not being a professional) makes one unprofessional and thus implies lower quality or reliability of the work. The truth is that the word *amateur* is derived from the French and Latin words for "love", suggesting that an *amateur* is someone who engages in a pursuit simply because they love and believe in it.

John Gideon's devotion to the issue of voting technology – and his dedication to assembling and delivering DVN almost every day without fail – made him an *amateur* in the very best sense of the word. His skilled contributions to the field of election reform are significant and will be sorely missed – by me and many others, as this [tribute page to John](#) attests. On behalf of all of us here, I extend my sympathies to his family and friends at this sad and sudden loss.

Maryland postal mix-up worries Montgomery County election officials

USPS launches investigation into delayed ballots

By [Alysoun McLaughlin](#)

The phones were quiet last week at the [Board of Elections in Montgomery County, Md.](#), as 11 percent of eligible voters cast ballots in a special primary election for a seat on the county council.

The biggest concern was boredom for election officials, who had scrutinized every aspect of their procedures, expanded poll worker training, and arranged for extra signs, personnel and voting equipment to be deployed at the slightest hint of a problem.

For Margaret Jurgensen, Election Director, the slow day meant that she had plenty of time to worry about a problem outside of her control – a gap in the chain of custody within the [U.S. Postal Service](#) (USPS) for a large number of absentee ballot applications.

Her concerns about the mix-up, which prevented absentee ballot applications from being processed for more than 300 voters, only grew as the margin between the top two candidates in a hotly contested Democratic primary dwindled to only 73 votes.

Jurgensen had hit the emergency button as soon as she learned of the problem. After confirming with the state that they were unable to accept the applications – which had been received one day after the statutory deadline – she immediately directed her employees to notify all 314 voters of their option to either vote at their polling place or cast an in-person absentee ballot.

“We did everything we could,” says Jurgensen. “It is frustrating because this is a situation where we are statutorily wed to the U.S. Postal Service and yet we have no control over their process.”

On April 15, the Montgomery County Board of Elections had received 314 absentee ballot applications that had been postmarked up to two weeks earlier, more than 10 percent of which had already been opened and stapled shut.

Alarmed, Deputy Election Director Sara Harris brought samples to the post office and learned that each had been processed as incoming mail in the USPS Shady Grove Distribution Center between the dates of April 1 and 7. The envelopes should then have been sent by truck less than 5 miles to the post office in the county seat of Rockville, then placed in a dedicated post office box for absentee ballot applications that has its own 9-digit ZIP code.

However, the postal service does not track envelopes after they have left the distribution center. As a result, election officials and postal inspectors can only speculate on where these absentee applications – postmarked over the course of a week – were actually sent and how they made it back into the mail system where they were processed as incoming mail for a second time in the early morning on April 15th.

Jurgensen’s first worry is that more than 300 envelopes, which were clearly marked and barcoded for the Board of Elections with the proper 9-digit ZIP, were sent to the wrong address over the course of an entire week. Her second worry is that such a large volume of misdirected mail was then reintroduced to the mail stream without any way of flagging or tracking it.

“From their testimony before the Board,” says Jurgensen, “it was clear that the U.S. Postal Service does not know if the envelopes were put into a blue box or if someone hand-delivered them back to Rockville or Shady Grove. That was astounding to me”.

The U.S. Postal Service has launched an investigation into the incident. Inspectors are interviewing employees and contacting mail recipients with post office boxes immediately surrounding those for the Board of Elections. Meanwhile, the postal service is implementing procedures normally only used for the presidential election to identify election mail at their distribution center and expedite delivery to the Board of Elections, hoping that will reduce the likelihood that this will ever happen again.

These steps are scant consolation to election officials, however.

“To this day,” says Harris, “nobody knows what happened. The U.S. Postal Service supposedly has this great tracking system. To hear so much about it and then learn that it is so incomplete – that doesn’t wash. There is simply no mechanism to tell us who picked it up, where did it go, and how did it get back into the mail system.”

II. Election Reform News This Week

In the last hearing of the 2009 session, the U.S. Supreme Court heard arguments in the [*Northwest Austin Municipal Utility District Number One v. Eric H. Holder Jr., Attorney General*](#), and split along a familiar ideological battle line in its consideration of the Voting Rights Act, apparently leaving Justice Anthony M. Kennedy in the pivotal position of deciding the fate of what a government lawyer called “one of the most transformative acts in American history.” The case involves what Justice Samuel A. Alito Jr. noted was “this immense constitutional question” brought by “this tiny utility board.” The Northwest Austin Municipal Utility District No. 1 is subject to the preclearance requirements because it is in Texas, one of the covered

states, even though the district board has never been accused of discrimination. A lower court ruled that the district does not meet the statute's definition of the kind of jurisdiction that can "bail out" of the law, and the district agreed to serve as a test case for Gregory S. Coleman, a former Texas solicitor general. According to *The Washington Post*, the court has found Section 5 -- which covers Virginia, Alaska, Alabama, Arizona, Georgia, Louisiana, Mississippi, South Carolina and Texas and parts of seven other states -- constitutional four times over the years. Before the court announces its decision in the case before the term ends in June, speculation will be on whether Kennedy is ready to declare the law unconstitutional or whether there is a way out, perhaps by loosening the requirements on how covered jurisdictions can bail out.

In a follow-up to last week's [electionlineWeekly](#), there were more changes in the administration of elections this week in Tennessee. [McNairy County](#) administrator Kevin Lipford was the latest in what is now between 15 to 20 election administrators who have been let go, or are being considered for termination by newly installed election commissions that are now GOP-controlled. Also replaced in the last week are: Jo Roberts in [Greene County](#) (23 years experience), and Suzanne Smith in [Cumberland County](#) (33 years experience). In [Unicoi County](#), Sarah Bailey will keep her job for now. [Other administrators whose jobs are "up in the air"](#) include administrators in the following counties: Anderson, Union, Sevier, Roane, Knox, Jefferson, and Cooke. "Everybody is scared, it's been a hectic time," Tony Brown, Roane County administrator told a local television station. "We were well-respected, and it wasn't because of me. It was because of the people I surrounded myself with." In addition to the ongoing shake-ups in election administrators, the Hamilton County election commission that had [recently voted](#) to put the employees of the elections office under the county personnel system [reversed course slightly](#) this week and decided to wait until May 13 to make a decision.

Former Hillsborough County, Fla. supervisor of elections [Buddy Johnson was back in the news this week](#) when a review by the *Tampa Tribune* found that Johnson's staff approved invoices, often for \$10,000 or more, that were submitted by paid consultants with vague descriptions and no evidence the work had been completed. The money spent on consultants is a key focus in an ongoing federal investigation of Johnson and his office, as well as an audit of his office requested last month by the Florida Department of State.

[ES&S agreed this week to pay the state of California \\$3.2 million](#) to settle a lawsuit claiming it sold unauthorized machines to Colusa County and four other counties. Secretary of State Debra Bowen sued Omaha, Neb.-based Election Systems & Software Inc. in November 2007. She alleged the company sold 972 machines that the state had not tested and certified.

A [controversial election reform bill introduced to the Florida Legislature](#) last week is all but dead this week. House Majority Leader Adam Hasner, R-Boca Raton, said the bill is needed to battle fraud but that lawmakers have run out of time to consider it. The bill called for limiting contact with voters standing outside polls, putting in deadlines to turn in voter registration forms and eliminating some forms of voter ID including retirement center cards issued to elderly voters. House Republicans were willing to strip out most controversial provisions, but Democrats wanted other changes made. A spokesman for the House Democrats told the *Associated Press*, that even with the changes many Democratic legislators would have still opposed the bill.

III. Research and Report Summaries

electionline provides brief summaries of recent research and reports in the field of election administration. Please e-mail links to research to sgreene@pewtrusts.org.

[Public Attitudes on State Election Administration, Goals, and Reforms](#) - David Konisky and Michael A. Powell, Institute of Public Policy, Truman Policy Research, Harry S Truman School of Public Affairs, April 2009
2008 survey data on American attitudes toward state election administration is examined:

- Nearly two-thirds of respondents thought state government should do more to increase voter participation, yet a strong majority agreed that limiting fraud was more important than maximizing turnout;
- 77 percent approved of mandating photo identification at the polls while 9 percent disapproved;
- 68 percent approved of early voting – casting a ballot at a polling place before Election Day – while 17 percent did not approve;
- 43 percent approved of vote-by-mail while 33 percent did not approve; and
- 44 percent of respondents disapproved of election day registration while 40 percent approved, although 64 percent said it would increase voter turnout and 47 percent said it would increase voter fraud.

[Election Law Journal: Rules, Politics, and Policy](#) – June 2009

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IV. Opinion

Voting Rights Act: [I](#), [II](#), [III](#), [IV](#), [V](#), [VI](#), [VII](#), [VIII](#)

Arizona: [Voting process](#)

California: [Paper ballots](#)

Florida: [Election reform](#), [II](#), [III](#), [IV](#), [V](#), [VI](#)

Minnesota: [Election reform](#), [Recount](#)

New Jersey: [Voting system](#)

New York: [Paper ballots](#); [Number of elections](#); [Voting system](#), [II](#)

Oklahoma: [Voter ID](#)

Oregon: [Voter registration](#)

South Carolina: [Early voting](#), [II](#), [III](#); [Election reform](#); [Beaufort County](#)

Tennessee: [Paper ballots](#)

Texas: [Voter ID](#), [II](#), [III](#); [Early voting](#)

Vermont: [Deb Markowitz](#)

Washington: [Voter registration](#)

***some sites require registration*

V. Job Opportunities

All job listings must be received by 12 p.m. Eastern on Wednesday for publication in our Thursday newsletter. Job listings are free but may be edited for length. Whenever possible, include Internet information. Please email job postings to mmoretti@electionline.org