

electionlineWeekly — July 10, 2008

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I. In Focus This Week

States Differ on Voting Rights for the Dead

Conflicts could loom as absentee balloting grows

By [Stanford Turner](#)

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Florence Steen, the South Dakota woman who, as her health deteriorated in a hospice, cast a ballot for Sen. Hillary Clinton became something of a [cause célèbre](#) in some [quarters](#).

The ballot, cast in May, would not be counted until June.

In that time, however, Steen died, and, per state law, her ballot was discarded, reopening [the issue](#) of what to do with the legally cast ballots of the dead. Clinton talked about Steen and her ballot at campaign stops. The media joined in.

The uproar over the ballot passed. But not the question of what do to with the ballots of those that pass away in the increasingly significant period of time between when ballots are cast and when they are counted.

What to do with ballots cast weeks or even months before Election Day by voters who then die before their vote is counted could become a more prominent issue. The use of no-excuse absentee voting has grown as more states legalize the practice.

Currently, [31 states](#) allow voters to cast no-excuse absentee or early ballots. Where available, it's popular, with as many as a quarter of all American voters casting early or absentee ballots in the 2008 primaries.

Tens of millions of Americans will cast absentee or early in-person ballots before Election Day in November. And, inevitably, some of them will die before polls close on November 4. Occasionally, whether dead people voted is the center of post-election controversies. [It happened](#) in Washington's contentious gubernatorial race in 2004.

This time, however, it appears the specter of dead people voting has raised the issue of end-of-life rights. Four years ago, the contentious recount and purported votes from beyond the grave generated cries of fraud.

In South Dakota, the rules are [clear](#): the ballots of the deceased cannot be counted. The state's Department of Health must provide each county auditor with an updated list of those people who have died in the past month. When they receive the update, any mail-in ballot cast by a now-dead voter has to be removed from the pile of those to be counted.

While the practice might have struck the former Democratic presidential candidate as unfair, South Dakota Secretary of State Chris Nelson said everything was by the book.

"The ballot was handled properly according to state law," Nelson said. "There was some discussion in the media saying that the law was not fair."

Not every state treats ballots the same way. According to a media report before the 2004 election, California, West Virginia, Texas, Tennessee, Ohio and Florida allow the ballots of deceased voters to be

counted. Early votes, which are tabulated on-the-spot in Florida and elsewhere, cannot be re-connected with their voter.

While no comprehensive statewide studies could be found, a survey of 12 mostly Western states by the [National Conference of State Legislatures](#) revealed either a lack of clarity in some state's law – no provisions were found six states – and varying ways of treating the ballots of the deceased in others.

Colorado officials will “make [a] notation of the death...[and]none of the ballots shall be counted.” Idaho will also reject the ballot, as will Minnesota. In Montana, “the deceased elector's ballot must be counted.”

In Oregon, where virtually all votes are cast by mail, ballots are considered cast and final when they arrive in the mail.

“A ballot is counted if a person casts the ballot prior to their death,” said Eric Sample, spokesperson for Multnomah County, Ore. “As ballots are received, the signature is verified and the ballot is prepared for counting on Election Day. A voter has cast their ballot when they mail it or deliver it to a drop site.”

It gets particularly thorny when the voter is a member of the U.S. military stationed overseas. With 4,700 U.S. [military casualties](#) in Iraq and Afghanistan since 2001 – and with military and overseas ballots sent out sometimes months before an election – there is a possibility that some of those ballots could belong to those who made the ultimate sacrifice.

According to Lt. Col. Les' A. Melynk of the [Federal Voting Assistance Program](#), the issue has rarely come up. But the federal government has no policy in place telling states what to do with ballots of military members who died before an election.

Nelson considers the current law in place fair, arguing that if a voter is dead on Election Day, their name is no longer on the registration list and they can't vote. With this rationale the same should apply to absentee voters. It also appears to be a sporadic problem and one that doesn't happen often.

But he said he realizes the controversy around Steen – stoked by candidate Clinton – could lead to changes.

“I suspect there will be an attempt in the 2009 legislative session to change that law and allow [the] counting of such a vote,” Nelson said. “I will oppose that change. The fact is that the voter is dead on election day. Their name is no longer on the registration list and they obviously don't qualify to vote on the day of the election. If the voter is not qualified to vote on election day, their vote shouldn't be counted. The same rationale applies to someone who may vote absentee and receive a subsequent disqualifying felony conviction prior to election day.”

II. Election Reform News This Week

- When current events collide, you get a headline like the one which appeared in this week's *Columbus Dispatch*: [Foreclosed-on voters using old addresses could snag election](#). While the potential problem is troubling nationwide, it is particularly acute in Ohio. According to the article, nearly 3,700 people are registered to vote at Columbus addresses the city lists as vacant, according to records maintained by the city's code-enforcement office and the Franklin County Board of Elections. The number of voters on the move, though, is higher than that. The board of elections sent out a plea in January to about 27,000 Franklin County residents who had filled out change-of-address forms with the U.S. Postal Service but hadn't updated their voter registrations. Only about 10,000 had responded through the end of May, but Deputy Director Matthew Damschroder said that still helped fuel a 25 percent increase compared with 2004 in registration activity — new registrations and address changes. “It's a real issue,” said Daniel Tokaji, an Ohio State University law professor who wonders whether foreclosures might explain the increasing

percentages of provisional votes cast between 2004 and Ohio's latest election, the presidential primary in March.

- Even as increasing numbers of states make the switch to paper balloting, one of the largest is standing by its electronic machines. According to an article in the *American Statesman* [Texas is sticking with DRE machines](#) because of the large investment in the machines (at least \$93 million) and the solid track record of e-voting during the recent record-turnout primaries. "When everyone woke up, the conversation was about who won or lost, and not about voting systems," said Jack Dyer, general counsel to the Texas Secretary of State, the state's chief elections officer. Most of the problems reported this spring in Texas were about long lines, not counting ballots. After a hearing on the topic last month, Rep. Leo Berman, chairman of the House Elections Committee, pronounced it unlikely that the Legislature would mandate a switch to paper ballots in 2009, barring "wholesale fraud with the machines." "If the Legislature tried to mandate paper ballots," said Berman, a Tyler Republican, county election officials "would think we're out of our minds."
- A civil grand jury recently released a [report](#) claiming that [San Francisco's election facilities are inadequate](#) and expressed uncertainty about the city's new elections machines state certification. The report emphasizes that city Elections Department workers observed by the grand jurors during elections in the past year "performed well despite working in unsafe and unsecured locations scattered across the city." According to the grand jury, the Elections Department lacks a permanent, secure storage space for voting machines, and also does not have sufficient training space or adequate working conditions for employees. Among the report's conclusions were that Elections Department headquarters, currently based in the basement of City Hall, are a maze of confusing and cluttered office spaces and hallways that do not provide sufficient room to store voting equipment, train poll workers and process paperwork such as election ballots and registers. State law requires the Board of Supervisors, Mayor Gavin Newsom's office, the Department of Elections, and other city departments to respond to the grand jury report in the coming weeks.

III. Research and Report Summaries

electionline provides brief summaries of recent research in the field of election administration. Note some articles require a subscription. Please e-mail research links to sgreene@electionline.org.

The [July issue of American Politics Research](#) is a special issue on election administration and voting technology. Three articles were summarized last week and the final three are summarized this week.

[Worth a Thousand Words?: An Analysis of Georgia's Voter Identification Statute](#) - By M.V. Hood, III and Charles S. Bullock, III, *American Politics Research*, July 2008

Using data from the Georgia voter registration and history databases and the Georgia department of motor vehicles, the authors analyze the contentious requirement of providing photo identification at the polls. They find registered voters from minority groups (especially if they are black or Hispanic and are older) are less likely to have a driver's license. They do not find evidence that requiring a photo ID would discriminate against poor or rural residents. There is mixed evidence showing that Democrats are less likely to possess a valid driver's license. The research is not conclusive but suggests that requiring a government-issued photo ID to vote could potentially deter participation. Recommendations for future research include evaluating the ability of voter ID laws to counteract fraud.

[Voters' Evaluations of Electronic Voting Systems: Results From a Usability Field Study](#) – By Paul S. Herrnson, Richard G. Niemi, Michael J. Hanmer, Peter L. Francia, Benjamin B. Bederson, Frederick G. Conrad and Michael W. Traugott, *American Politics Research*, July 2008

Focusing on the usability of electronic and paper-based voting systems utilizing expert reviews, a laboratory experiment, and a large-scale field test, the authors find that voters generally view the systems favorably but that differences in design have a substantial impact on voters' satisfaction. In the field study,

participants rated their confidence that their votes were recorded accurately higher in the touch-screen systems than the paper-based system. Overall ratings were high, however most of the lower ratings on all the systems involved the ability to change votes.

["At Your Service": Voter Evaluations of Poll Worker Performance](#) – By Ryan L. Claassen, David B. Magleby, J. Quin Monson and Kelly D. Patterson, *American Politics Research*, July 2008

Using exit polls from the 2006 general election in two Ohio counties, voter reactions to poll workers and the effects on their voting experience are examined. While there is much research on customer service in the private sector, little research has been done about service in the world of elections. The authors find that the evaluation of poll workers is affected by a number of factors including wait times, feelings of privacy while voting, poll worker training, and poll worker recruiting efforts. When interactions with poll workers are positive, voters have more confidence in elections and feel better about their voting experience.

Other research:

[You Go to Elections with the Voting System You Have: Stop-Gap Mitigations for Deployed Voting Systems](#) - By J. Alex Halderman, Hovav Shacham, Eric Rescorla and David Wagner, to be presented at the USENIX/ACCURATE [Electronic Voting Technology \(EVT\) workshop](#), San Jose, CA July 28-29, 2008

Citing recent reviews of the vulnerabilities of electronic voting systems, the authors examine how to mitigate outside attacks on these systems, primarily focusing on preventing the viral spread of malicious code. Risks and potential mitigations are discussed at five stages of the election process: device initialization - programming polling place equipment; voting; early reporting of results; tabulating official results; and post-election auditing. The potential mitigations are then applied to the most common combinations of voting technology in use in jurisdictions including optical scan systems with electronic ballot markers for accessibility, optical scan with DREs for accessibility, and pure DRE systems.

IV. Opinion This Week

National: [Online voting](#); [Voter ID](#)

Alabama: [Primary problems](#); [Vote fraud](#)

Arizona: [Pima County](#)

California: [Dean Logan](#)

Florida: [League of Women Voters](#); [Ex-felon voting rights](#); [New voting system](#), [II](#)

Hawaii: [Absentee voting](#)

Indiana: [Presidential primary system](#)

Kansas: [County Web sites](#); [Ballots](#)

Michigan: [Absentee voting](#), [II](#); [Roger's Law](#)

Minnesota: [Vote for sale](#)

New Jersey: [Accessible voting](#)

Ohio: [Jennifer Brunner](#)

Texas: [Secretary of State](#)

Washington: [Veteran's Administration](#)

***some sites require registration*

V. Request for Proposals

- Pew's Make Voting Work Project Announces Funds Available for Research-- Make Voting Work (MVW), a project of the Pew Center on the States, seeks proposals to examine alternatives to precinct-based election day voting, including early in-person and absentee voting and vote by mail systems. In partnership with the JEHT Foundation, MVW is issuing a Request for Proposals (RFP) to advance research in this area and as a complement to the broader MVW research agenda. MVW will fund a set of grants that will analyze the impact of these modes of balloting on election costs, administration, ballot security and voter participation. Proposals are encouraged

from an array of organizations, individuals and teams, but preference will be shown to partnerships between elections officials and academic researchers. Interested applicants can apply for funds through the RFP, available on the [Web](#). For more information, please contact Zachary Markovits at (202) 552-2157 or ZMarkovits@pewtrusts.org.

V. Job Postings This Week

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

- **Elections Director**, Salt Lake County, Utah — we are looking for an individual with exceptional project planning and management skills and demonstrated professional managerial experience who can lead a highly functioning team of elections officials in a county well-respected for excellence in elections administration. We believe in respect, collaboration, creativity accountability and teamwork and we invite those who share these values to join us. The Elections Division is responsible for administering all local, state and federal elections in Salt Lake County. The division is responsible for keeping current on election laws, maintaining voter registration records, managing voting precincts, and identifying polling locations for registered voters across Salt Lake County. The Elections Division Administrator is responsible for overall management, oversight and planning for the conduct of all local, state and federal elections in Salt Lake County. Salt Lake County has nearly 600,000 registered voters (500,000 active), 979 voting precincts and currently 433 polling locations. We operate Premier Accuvote TSX touch screen voting machines at the polls and central count optical scan for absentee and by-mail voters. For further information, visit our [Web site](#) or e-mail: jyocom@slco.org or call: (801) 468-3519. **Application**. **Salary**: \$78-648-\$116,376. **Deadline**: Open, but priority will be given to those submitting applications before July 15, 2008.
- **Election Director**, Baltimore County, Md.— is the supervisory or managerial level of work directing elections in local jurisdictions within the state. Employees supervise office support staff, which may include subordinate supervisors. Employees receive managerial supervision from the State Administrator or Deputy State Administrator of Election Laws. Employees may be required to work evenings and weekends. The work may require travel throughout the State to exchange information regarding the election process and promote voter registration. Qualifications: graduation from an accredited high school or possession of a high school equivalency certificate; and five years experience applying federal, state and local election laws and regulations applicable to conducting elections, which much have included at least one presidential or gubernatorial election. **Salary**: \$52,950-\$90,706. **Application**: May be obtained by visiting our website at: www.dbm.maryland.gov; by writing to DBM, OPSB, Recruitment & Examination Division, 301 W. Preston Street Baltimore, Maryland 21201; or by calling 410-767-4850, toll-free: 800-705-3493; TTY users call Maryland Relay Service, 800-735-2258. **Deadline**: July 15, 2008.
- **Election Information Specialist**, Wicomico County, Md. — is the full performance level of work providing information technology support to staff members of a local election board. Employees in this classification coordinate maintenance and troubleshooting of election information systems and work in conjunction with State Board of Elections information technology staff, local government information technology staff, software vendors and contractors to resolve microcomputer hardware and software problems. Employees in this classification do not supervise. Employees receive general supervision from an Election Director or Election Deputy Director of a local election board. Employees may receive assignments and technical direction from the Chief Information Officer of the State Board of Elections. Employees may be required to work evenings, weekends and holidays and to travel to polling sites during Election Day. Employees in this classification are assigned to work in one or more local election board offices. Employees assigned to work in more than one local election board office will be required to travel between offices. **Qualifications**: Graduation from an accredited high school or possession of a

high school equivalency certificate; two years of experience in computer programming; implementing, troubleshooting or supporting local or wide area networks; installing and troubleshooting personal computers or evaluating, implementing or maintaining microcomputer hardware and software. **Salary:** \$36,280- \$57,567. **Application:** May be obtained by visiting our website at: www.dbm.maryland.gov; by writing to DBM, OPSB, Recruitment & Examination Division, 301 W. Preston Street Baltimore, Maryland 21201; or by calling 410-767-4850, toll-free: 800-705-3493; TTY users call Maryland Relay Service, 800-735-2258. **Deadline:** July 24, 2008.

- **Executive Director, Midwest Democracy Network**— MDN is a non-partisan alliance of political reform advocates committed to improving democratic institutions in Illinois, Michigan, Minnesota, Ohio and Wisconsin. Partners include state-based and national advocacy groups, as well as prominent academic and policy institutions. Network members share the belief that our fundamental democratic values and principles – especially those that speak to honesty, fairness, transparency, accountability, citizen participation, competition, respect for constitutional rights and the rule of law, and the public’s need for reliable information – must be continuously reinforced and fiercely protected against those who see politics as a means to promote narrow interests rather than the common good. Toward these ends, participating organizations seek to reduce the influence of money in politics, keep our courts fair and impartial, promote open and transparent government, create fair processes for drawing congressional and legislative districts, guarantee the integrity of our election systems, promote ethical government and lobbying practices, and democratize the media. **Responsibilities:** Maintaining the MDN [Web site](#); fundraising; organizing meetings; project development; maintain and diversify network partnerships; assist with capacity building and strategic planning; media outreach and communications; general management and financial oversight. **Qualifications:** College degree and at least five years of progressively responsible work experience. Advanced degree preferred. The position requires a detail-oriented, flexible, self-starter with a professional presentation. A qualified candidate for the position would have the following attributes: Previous non profit or management experience; strong interest in and commitment to the mission of the Network and familiarity with the Great Lakes region; proven research and written skills, particularly in grant writing; administrative experience and the ability to juggle multiple assignments; organizational and meeting planning skills; familiarity with Web sites and solid computer skills; strong communications and interpersonal skills. This is a permanent, part-time position that will require approximately 27 hours per week. We offer a competitive salary and flexible benefits package. Some travel and evening hours will be required. The MDN Executive Director will be housed with one of the MDN partner groups. That group will serve as the MDN fiscal agent; provide basic accounting and administrative support, to ensure communication, efficiency and the ability to establish an office economically. The Executive Director will regularly consult with, report to, and be accountable to the MDN steering committee or board of directors. **Application:** candidates should send or fax their resume and a cover letter stating qualifications and salary requirements to Cynthia Canary, Illinois Campaign for Political Reform, 325 W. Huron, Suite 500, Chicago, IL 60610; (312) 335-1067 fax; cprcanary@aol.com. No calls please. **Deadline:** August 8, 2008.