

electionlineWeekly — September 18, 2008

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I. In Focus This Week

Justice Department discusses Election Day preparations

Questions about non-interference policy, use of election observers linger

By [Kat Zambon](#)

Electionline.org

As Election Day approaches with potentially record-shattering numbers of new voters, officials from the U.S. Department of Justice (DOJ) this month used a meeting with activists and a Senate hearing to detail their preparations for November 4.

Despite their efforts at increasing communication, the tenor of the talks revealed a continuing rift between the department and the advocates, who worry that the department is [more concerned with prosecuting cases of voter fraud than ensuring ballot access](#). The department reached out to advocates to demonstrate their willingness to maintain a dialogue with groups that have in the past questioned their commitment to pursuing cases of violations of voting.

DOJ will deploy hundreds of Election Day monitors and observers and will have both a toll-free hotline with translation services available and a Web site for voters to report any problems they experience at the polls, said Grace Chung Becker, acting assistant attorney general for civil rights.

"The Justice Department must make every effort to help ensure that the November elections are run as smoothly as possible and, equally important, that the American people have confidence in our electoral process," said Attorney General Michael Mukasey. "Communicating openly with groups interested in the protection of voting rights and with the state and local officials primarily responsible for administering our elections is vital to that effort."

The session with advocates was followed by a meeting with national organizations representing state and local election officials, secretaries of state and attorneys general as part of DOJ's [Ballot Access and Voting Integrity Initiative](#).

In particular, advocates said they were concerned about the use DOJ criminal division lawyers as election monitors and observers, noting that their presence at the polls may be seen as intimidating or threatening to voters.

Becker responded that election monitors must go through a screening process to ensure that they're not working on a high-profile voter fraud case and won't be recognized at the polls. Also, criminal division attorneys are useful as election monitors because some have foreign language skills, Becker said.

However, the goals of federal prosecutors conflict with those of election monitors, said Kristen Clarke, a representative of the NAACP's Legal Defense Fund.

"These are not the people who should be entangled in the process of making sure polling places are open and free on Election Day," she said.

At the Senate hearing, Gilda Daniels, assistant professor at University of Baltimore law school said that DOJ "should stress voter access issues instead of voter fraud ... DOJ's focus is wrong and needs adjusting."

The number of voter fraud prosecutions is very small compared to the number of provisional ballots that don't get counted, Daniels said. "I think those are the numbers DOJ should concentrate on."

Deceptive practices bill stalled

DOJ also said they are working with the Senate on the [Deceptive Practices and Voter Intimidation Act](#) (S. 453) authored by presidential nominee Barack Obama, D-Ill., and encouraged advocates to get in touch when they identify cases of deceptive practices and voter intimidation.

Sen. Benjamin Cardin, D-Md., said he agreed with the need to combat deceptive practices but expressed his disappointment that the deceptive practices bill has languished in the Senate since October 2007.

Reports of deceptive practices that have concerned Cardin in recent elections include the distribution of misleading flyers in minority communities and [a letter](#) that was sent to Hispanic voters in southern California that said it's a crime for immigrants to vote in federal elections.

Sabin said that preventing deceptive practices and voter suppression is a DOJ priority and said the deceptive practices bill would make it explicit that such acts are illegal, though he warned that policing political rhetoric may conflict with the First Amendment. Cardin said deceptive practices aren't covered by the First Amendment and reiterated his support for the bill.

"If there are changes that you need, let's sit down and talk about it," he said. "I think it's already illegal. If it's not, let's make it illegal."

Becker said that DOJ has the tools it needs to protect voters but it will reach out to the Senate in the future if that changes.

Election process made easier for military and overseas voters

Federal Write-In Absentee Ballot online tool launched

Washington, D.C. — An estimated six million Americans who are members of the military or live overseas have a new way to ensure their vote for president counts this November, according to experts speaking at a high-level summit on military and overseas voters.

Attended by members of Congress, secretaries of state and other election officials, "Democracy at a Distance: A Summit to Make Voting Work for Military and Overseas Voters" was convened by the [Pew Center on the States](#), in collaboration with the [JEHT Foundation](#).

At the summit, Pew and the Overseas Vote Foundation launched a new online tool that allows voters to complete the Federal Write-In Absentee Ballot (FWAB) more easily and with fewer errors. This tool can be used by Americans covered under the Uniformed and Overseas Citizens Absentee Voting Act who have requested an absentee ballot from election officials but have not yet received it.

The need to help [military and overseas voters](#) is supported by a new bipartisan Tarrance/Lake poll commissioned by the Pew Center on the States and released at the summit. It found 96 percent of Americans believe it's important that these voters get the chance to participate and vote in U.S. elections. The poll results also show that 81 percent of Americans favor creating a uniform national set of rules for military and overseas voters.

The new FWAB tool, available at www.overseasvotefoundation.org, provides an immediate solution for registered voters whose ballots are late or lost in transit. The site offers easy access to the "Vote-Print-Mail" system.

"Military and overseas voters do not share an equal opportunity to vote," said Michael Caudell-Feagan, director of Make Voting Work, a project of the Pew Center on the States. "According to research from the

[U.S. Election Assistance Commission](#), only one-third of the nearly one million ballots mailed to these voters were cast or counted in the 2006 general election. FWAB is a powerful tool for these voters.”

“It is unacceptable in this day and age that administrative hurdles should impede the counting of overseas military and civilian votes,” said Nicole Gordon, vice president of the JEHT Foundation, which has supported the Overseas Vote Foundation in efforts to partner with states to facilitate the registration process for overseas voters. “The launch of the FWAB tool is a significant step in easing and modernizing this outdated process.”

The FWAB tool works by matching users’ 9-digit zip code for their U.S. residence to their voting district. The system automatically presents candidate lists for federal races in one’s district. Voters select their candidates for office and then download, print, sign and send the FWAB into the local election office.

“Through our help desk, I’ve heard thousands of stories from voters who have been frustrated during presidential campaigns as they anxiously waited for their absentee ballots to arrive,” said Susan Dzeduszycka-Suinat, President and CEO of Overseas Vote Foundation. “The new FWAB tool replaces that worry with an immediate, user-friendly, online and secure process that overseas and military voters from all 50 states and the District of Columbia can use.”

II. Election Reform News This Week

After receiving [reports](#) from [SAVE R VOTE](#) that Riverside County’s election officials failed to properly account for all ballots and otherwise appeared to violate election law on countless occasions during the June primary, the county board of supervisors demanded an [independent audit of the county’s voting process](#). “I think that the only way to restore confidence in voting in Riverside County is to have an outside consultant come in and review from top to bottom the procedures that the registrar is entrusted to deliver and report back to the board,” Supervisor Jeff Stone told the *Press Enterprise*. Registrar Barbara Dunmore told supervisors that SAVE R VOTE’s accusations were “inflammatory” and contained distortions and misrepresentations. Her office welcomes an audit and would comply fully, she said.

A civil-rights group filed an appeal this week again calling into question the constitutionality of a [state law that requires that residents show proof of citizenship](#) when registering to vote, as well as ID at the polls. The Mexican American Legal Defense and Educational Fund (MALDEF), filed its appeal with the U.S. 9th Circuit Court of Appeals and seeks to overturn an August ruling by U.S. District Judge Roslyn Silver. Silver upheld the law - known as Proposition 200 – which was approved by voters in 2004. According to *The Arizona Republic*, plaintiffs in the MALDEF suit maintain that Prop. 200’s ID requirements are too onerous and have resulted in the rejection of more than 30,000 voter-registration applications in Arizona.

What once was lost now is found. Like the [coelacanth](#), the 3,500 [missing ballots in Palm Beach County were discovered](#) late last week in the county’s vote-tabulating center. However, as one would imagine, this was [not the end of the story](#). After resorting and recounting the ballot, auditors discovered that 110 ballots from one precinct were never included in the election night results and that after the recount there were 139 more paper ballots on hand than were actually cast. On Tuesday a Circuit Judge ordered the county to [recount the votes and to place the race on the November 4 ballot](#) should a winner not be determined by the recount. Of course all of this has led to calls to [overhaul the elections office](#) in Palm Beach County.

In other primary-related news, [Alaska](#) finally completed the tabulation of ballots from the August 26 primary and 35-year incumbent Don Young was declared the victor by 239 votes. More than a week after the [New Hampshire](#) primary, the state’s attorney general is looking into reports that the computer system used by election officials automatically changed people’s party preference. And [Massachusetts](#) held its primary on Tuesday with a light turnout and a few reported problems including a fried memory pack in an optical scan machine and [problems locating new polling places](#). Louisiana residents start early voting for their Oct. 4 primary on Saturday and Hawaiians head to the polls on Tuesday.

III. Research and Report Summaries

In a new feature, electionline will provide brief summaries of recent research and reports in the field of election administration. Please e-mail links to research to sgreene@electionline.org.

[Voting in 2008: Ten Swing States](#) – By Tova Wang, Samuel Oliker-Friedland, Melissa Reiss and Kristen Oshyn, co-sponsored by Common Cause and The Century Foundation, September 2008

The election administration challenges of ten battleground states are examined: Colorado, Florida, Georgia, Michigan, Missouri, New Mexico, Ohio, Pennsylvania, Virginia and Wisconsin. The report notes while the states have made some progress it finds ongoing issues in a number of areas including voter registration, voter ID, voter challenges, deceptive practices, provisional ballots, voting machines allocation, poll worker recruitment and training, voter education and student voting rights. A [state-by-state summary](#) is also provided.

[Federal Programs for Accrediting Laboratories That Test Voting Systems Need to Be Better Defined and Implemented](#) - Report to the Chairman, Committee on House Administration, House of Representatives from the Government Accountability Office, September 2008

The GAO credits both the National Institute for Standards and Technology (NIST) and the Election Assistance Commission (EAC) for their roles in accrediting laboratories that test voting systems. However the GAO found essential elements are still missing from both programs – for NIST, not defining requirements for assessor qualifications or ensuring that assessments are completely documented. For the EAC, not developing program management practices that NIST has found to be part of a robust accreditation program, nor specifying how evaluations are performed and documented. GAO makes a series of recommendations for both organizations.

IV. Opinion This Week

National: [Turnout](#); [Veteran's Administration, II](#); [Voter suppression](#); [Unregistered voters](#); [College voters](#); [Vote fraud](#); [Storm survivors](#)

Colorado: [Mike Coffman](#)

District of Columbia: [Primary, II](#)

Florida: [Palm Beach County, II, III, IV, V, VI, VII, VIII](#); [Turnout, II](#); [Voting rights](#); [Vote fraud](#)

Georgia: [Early voting](#)

Idaho: [Absentee voting](#)

Indiana: [Satellite voting, II](#); [Early voting](#)

Louisiana: [Early voting](#)

Maine: [Voting system](#)

Maryland: [Paper ballots](#)

Mississippi: [Ballot position](#)

New York: [Voting system](#)

Ohio: [Licking County](#)

Vermont: [Primary](#)

Wisconsin: [Registration lawsuit](#); [Voter fraud, II](#); [Voter registration](#)

***some sites require registration*

V. Available Grants

Fair Elections Projects 2008—Mitchell Kapor Foundation recognizes the importance of voting and the need to protect the utmost integrity of the electoral process. The foundation is interested in work which addresses the following categories: voter participation, with a focus on implementing nonpartisan strategies to improve voter education and registration; and election protection, with a focus on ensuring that every eligible voter can vote and that every ballot cast is counted. For the remainder of 2008, the foundation is only considering efforts that are national in scope. **Eligibility:** Nonprofit organization.

Deadline: Open. **Funds:** \$1.3 million available to fund awards ranging from \$25,000 to \$50,000. **Web site:** www.mkf.org/votingaccess/index/html.

VI. 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

Chief Deputy — L.A. County Clerk and Recorder's Office, Los Angeles, Calif. The Chief Deputy Registrar-Recorder/County Clerk reports to the Registrar-Recorder/County Clerk, and acts as assistant head of the Department of the Registrar-Recorder/County Clerk. This one position is distinguished by its executive and administrative responsibility for assisting the Registrar-Recorder/ County Clerk in the planning, organization, and direction of all operations of the Department including those of the County Clerk operations, Registrar operations, and Recorder operations. Minimum Requirements: Five years of progressively responsible experience in an administrative or management capacity directing or assisting in directing through subordinate managers, a major organizational unit with responsibility for multiple high profile functions or services, including elections administration and legal document processing or functions of a similar level of complexity. This experience may have been in either a public or private agency or businesses providing public services. **Salary:** \$129,045-\$195,320. **Application:** Submit statement of interest and resume to: Marco Morejon, Department of Human Resources, Executive Recruitment; Kenneth Hahn Hall of Administration; 500 West Temple Street, Room 555; Los Angeles, CA 90012; Phone: (213) 974-2675; Fax: (213) 613-4773
E-mail: mmorejon@hr.lacounty.gov. **Web site:** **Deadline:** Open.

Election Law Experts — Open Voting Consortium (OVC) is seeking election law expert(s) to sign on to a proposal for which funding is anticipated. Part of this work will involve drafting language to be included in a bill to be introduced in the CA state legislature next January. OVC is best known as the developer of free open source software for public voting systems. See OVC's [Web site](#) for more information. For more details contact Alan Dechert at alan@openvoting.org.

General Counsel—U.S. Elections Assistance Commission, Washington, D.C. The incumbent serves as the general counsel of the EAC and will directly support the mission of the Commission by providing real-time advice to the Commissioners and senior leadership on legal issues affecting EAC activities and operations. **Requirements:** Candidate must be able to obtain top secret security clearance; occasional travel. **Salary:** 115,317.00 - 139,600.00. **Application:** An application and more details can be found on the USAJobs [Web site](#). **Deadline:** September 26.

Poll Workers — American University's Center for Democracy and Election Management (CDEM) is recruiting Washington, D.C. area college students to serve as poll workers in Washington, D.C. on November 4th, 2008. For more info and to apply, please visit the [Web site](#). You can contact CDEM at cdem@american.edu.