

September 2009

# VOTERS WITH DISABILITIES

## Additional Monitoring of Polling Places Could Further Improve Accessibility



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# Highlights

Highlights of [GAO-09-941](#), a report to congressional requesters

## Why GAO Did This Study

Voting is fundamental to our democracy, and federal law generally requires polling places to be accessible to all eligible voters for federal elections, including voters with disabilities. However, during the 2000 federal election, GAO found that only 16 percent of polling places had no potential impediments to access for people with disabilities. To address these and other issues, Congress enacted the Help America Vote Act of 2002 (HAVA), which required each polling place to have an accessible voting system. We examined (1) the proportion of polling places during the 2008 federal election with features that might facilitate or impede access for voters with disabilities compared to our findings from 2000; (2) actions states are taking to facilitate voting access; and (3) steps the Department of Justice (Justice) has taken to enforce HAVA voting access provisions. GAO visited 730 randomly selected polling places across the country, representing polling places nationwide, on Election Day 2008. GAO also surveyed states and interviewed federal officials.

## What GAO Recommends

GAO recommends that Justice expand its monitoring and oversight of polling place accessibility. Justice generally agreed with this recommendation, but had concerns about expanding the scope of Election Day observations.

View [GAO-09-941](#) or [key components](#). For more information, contact Barbara Bovbjerg at (202) 512-7215 or [bovbjergb@gao.gov](mailto:bovbjergb@gao.gov); or William O. Jenkins, Jr. at (202) 512-8777 or [jenkinswo@gao.gov](mailto:jenkinswo@gao.gov).

## VOTERS WITH DISABILITIES

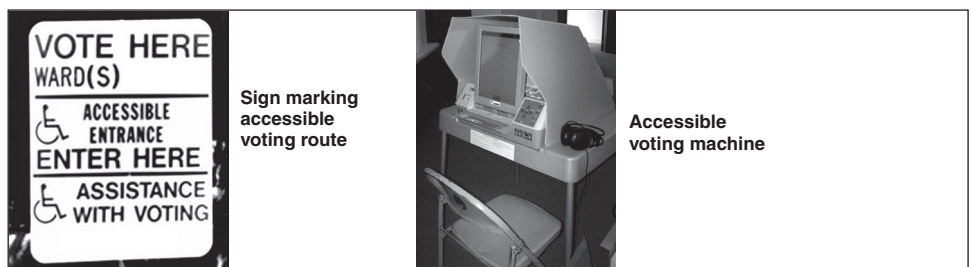
### Additional Monitoring of Polling Places Could Further Improve Accessibility

#### What GAO Found

Compared to 2000, the proportion of polling places without potential impediments increased and almost all polling places had an accessible voting system. In 2008, based upon our survey of polling places, we estimate that 27.3 percent of polling places had no potential impediments in the path from the parking to the voting area—up from 16 percent in 2000; 45.3 percent had potential impediments but offered curbside voting; and the remaining 27.4 percent had potential impediments and did not offer curbside voting. All but one polling place we visited had an accessible voting system—typically, an electronic machine in a voting station—to facilitate private and independent voting for people with disabilities. However, 46 percent of polling places had an accessible voting system that could pose a challenge to certain voters with disabilities, such as voting stations that were not arranged to accommodate voters using wheelchairs.

Most states have established accessibility requirements and funded improvements to help facilitate accessible voting, and all states reported that they required local jurisdictions to offer alternative voting methods. In 2008, 43 states reported that they required accessibility standards for polling places, up from 23 states in 2000. Additionally, most states reported that they used federal HAVA funds to improve the physical accessibility of polling places. Further, all states reported that they required local jurisdictions to offer alternative voting methods, such as absentee voting. At the same time, 31 states reported that ensuring polling place accessibility was challenging.

Justice provided guidance on polling place accessibility and conducted an initial assessment of states' compliance with HAVA's January 2006 deadline for accessible voting systems. Since then, Justice's oversight of HAVA's access requirements is part of two other enforcement efforts, but gaps remain. While Justice provided guidance on polling place accessibility, this guidance does not address accessibility of the voting area itself. Justice currently conducts polling place observations for federal elections that identifies whether an accessible voting system is in place, but it does not systematically assess the physical accessibility of polling places or the level of privacy and independence provided to voters with disabilities. Justice also conducts a small number of annual community assessments of Americans with Disabilities Act compliance of public buildings, which includes buildings designated as polling places. However, these assessments do not provide a national perspective on polling place accessibility or assess any special features of the voting area and the accessible voting system that are set up only on Election Day.



Source: GAO.

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## **Abbreviations**

ADA	Americans with Disabilities Act of 1990
DCI	data collection instrument
DRE	direct recording electronic
EAC	Election Assistance Commission
HAVA	Help America Vote Act of 2002
HHS	Department of Health and Human Services
VAEHA	Voting Accessibility for the Elderly and Handicapped Act

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United States Government Accountability Office  
Washington, DC 20548

September 30, 2009

### Congressional Requesters

Voting is fundamental to our democratic system, and federal law generally requires federal election polling places to be accessible to all eligible voters, including the elderly and voters with disabilities. In particular, the Voting Accessibility for the Elderly and Handicapped Act (VAEHA) requires that, with a few exceptions, political subdivisions responsible for conducting elections ensure that polling places used in federal elections are accessible to voters with disabilities. These requirements can present a challenge to state and local election officials because achieving accessibility—which is affected by a person’s type of impairment as well as by various barriers posed by polling place facilities and voting methods—is part of a larger set of challenges these officials face in administering elections on a periodic basis. In fact, during the 2000 federal election, we found that only 16 percent of polling places had no potential impediments to voting access for people with disabilities—although most polling places with potential impediments offered curbside voting.<sup>1</sup> The number of voters who may face difficulties exercising their right to vote due to mobility and other impairments could grow as the proportion of the population age 65 and older is expected to grow from 12 percent of the population in 2003 to more than 20 percent of the population by 2030. Disability increases with age and studies have shown that with every 10 years after reaching the age of 65, the risk of losing mobility doubles.<sup>2</sup>

Congress enacted the Help America Vote Act of 2002 (HAVA) to address these and other challenges encountered during the 2000 federal election. HAVA required each polling place to have at least one voting system for use in federal elections that is accessible for people with disabilities by January 1, 2006. This voting system can be a direct recording electronic voting system (e.g., touch screen) or another system that, according to HAVA, must provide people with disabilities the same opportunity for voting privately and independently as is afforded to other voters. In

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<sup>1</sup>GAO, *Voters with Disabilities: Access to Polling Places and Alternative Voting Methods*, [GAO-02-107](#) (Washington, D.C.: Oct. 15, 2001).

<sup>2</sup>Wan He, Manisha Sangupta, Victoria A. Velkoff, and Kimberly A. DeBarros, *65+ in the United States: 2005, Current Population Reports Special Studies* (Washington, D.C.: December 2005), pp. 23-209.

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addition, HAVA created the Election Assistance Commission (EAC) to serve, among other purposes, as a clearinghouse and information resource for election officials with respect to the administration of federal elections. HAVA also required the Department of Health and Human Services (HHS) to provide annual grants to state and local governments to improve the accessibility of voting systems and polling places, and a total of \$79.5 million has been appropriated for this purpose since 2003.<sup>3</sup> While our work since the passage of HAVA has reported improvements in state provisions and local practices to ensure accessibility of polling places, the extent to which these provisions and practices have improved accessibility nationally is unknown.<sup>4</sup> To address these issues, you asked us to examine voting access for people with disabilities at polling places on Election Day, November 4, 2008. Specifically, this report examines (1) the proportion of polling places that have features that might facilitate or impede access to voting for people with disabilities and how these results compare to our findings from the 2000 federal election; (2) the actions states are taking to facilitate voting for people with disabilities; and (3) the steps the Department of Justice (Justice) has taken to enforce HAVA voting access provisions. We provided some preliminary findings on the proportion of polling places that had features that might facilitate or impede access to voting for people with disabilities and how these results compare to our findings from the 2000 federal election in a report that we issued earlier this year.<sup>5</sup> We also plan to issue a report on voting practices in long-term care facilities later this year.

To estimate the proportion of polling places with features that might facilitate or impede access to voting for people with disabilities, we visited randomly selected polling places across the country on Election Day, November 4, 2008. We used a two-stage sampling method that created a nationally representative sample of polling places in the contiguous United States, with the exception of those in Oregon.<sup>6</sup> The first stage involved

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<sup>3</sup>Kevin J. Coleman and Eric A. Fischer, *Election Reform: Overview and Issues*, Congressional Research Service Report for Congress, 7-5700 (Washington, D.C.: Mar. 13, 2009), pp. 6-7.

<sup>4</sup>GAO, *Elderly Voters: Some Improvements in Voting Accessibility from 2000 to 2004 Elections, but Gaps in Policy and Implementation Remain*, [GAO-08-442T](#) (Washington, D.C.: Jan. 31, 2008).

<sup>5</sup>GAO, *People with Disabilities: More Polling Places Had No Potential Impediments Than in 2000, but Challenges Remain*, [GAO-09-685](#) (Washington, D.C.: June 10, 2009).

<sup>6</sup>We excluded Alaska and Hawaii for cost and efficiency reasons, and Oregon because voters exclusively use mail-in ballots.



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selecting a random sample of counties weighted by their total populations. We based the probability of each county's selection on the size of its population so that heavily populated counties, which tend to have more polling places than less-populated counties, would have a greater chance of being selected in the sample. Each time a county was selected, we returned it to the sample universe, which gave it an additional chance of being selected. Therefore, some counties with large populations were selected multiple times, resulting in a final selection of 84 unique counties in 31 states (which was the equivalent of 100 counties). This method allowed us to select a sample that was representative of polling places across the country on Election Day. The second stage involved randomly selecting 8 polling places in each county for each time the county was selected. On Election Day 2008, we visited a total of 730 polling places.<sup>7</sup> At each polling place, we took measurements and made observations of facility features that could facilitate access to the voting area—such as accessible parking and door thresholds that do not exceed ½ inch in height. We also identified voting methods and features that could facilitate or impede private and independent voting for people with disabilities in the voting area, such as voting stations that were properly configured for a wheelchair.<sup>8</sup> In addition, we conducted short interviews with chief polling place officials to identify other accommodations for voters—such as curbside voting outside the polling place. We documented our observations and interviews with poll workers in a data collection instrument (DCI) we developed. The DCI was similar to the one used in our 2000 study of polling places, but we updated it to incorporate changes that have occurred in federal laws and guidance since 2000.<sup>9</sup>

This study focused on features in the path leading from the parking area to the voting area that might facilitate or impede access to voting for people with disabilities, as well as challenges to private and independent voting in

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<sup>7</sup>The 730 polling places we visited on Election Day 2008 were located in 79 of the 84 counties we selected for our sample because 5 counties did not grant GAO access to polling places on Election Day. In addition, in several counties, state or county officials granted us access but placed restrictions on our visits, such as not permitting access to the voting area itself.

<sup>8</sup>This report focuses on access to voting for people with physical disabilities, but does not specifically address access for voters with hearing impairments.

<sup>9</sup>To update our DCI, we reviewed relevant laws, such as HAVA, and documentation related to polling place accessibility, such as the Department of Justice, Civil Rights Division, Disability Rights Section, *Americans with Disabilities Act: ADA Checklist for Polling Places* (Washington, D.C.: February 2004).

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the voting area. However, because the extent to which any given feature may affect access is dependent upon numerous factors—including the type or severity of an individual’s disability—we were not able to determine whether any observed feature prevented access. Accordingly, we did not categorize polling places as “accessible” or “inaccessible.” Moreover, we did not determine whether curbside or other accommodations offered at polling places actually facilitated voting. Finally, we did not assess polling places for legal compliance with HAVA accessible voting system requirements or other federal laws, and we did not test the accessible capabilities of these voting systems.

To address our second and third objectives, we administered a Web-based survey of election officials in all 50 states, the District of Columbia, and 4 U.S. territories (American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands)<sup>10</sup> between December 2008 and February 2009. We received a 100 percent response rate. We also searched state election Web sites to better understand and illustrate states’ actions to facilitate voting for people with disabilities, and obtained and reviewed relevant documentation for selected states. The scope of this work did not include contacting election officials from each state and local jurisdiction to verify survey responses or other information provided by state officials. Also, we did not analyze states’ laws to determine their voting access requirements, but instead relied on the states’ responses to our survey.

To determine what actions Justice has taken to enforce HAVA voting access provisions, we interviewed Justice officials and reviewed relevant federal laws, guidance, and other documentation. We also reviewed citizen complaints from Election Day 2008 that Justice provided to us, and all three complaints containing a HAVA voting access claim that Justice filed against states or election jurisdictions since HAVA was enacted in 2002. In addition, we interviewed officials from EAC, HHS, national organizations that represented election officials, and disability advocacy organizations. We conducted our work from April 2008 through September 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions

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<sup>10</sup>We selected the District of Columbia, American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands for this review because they are required to comply with HAVA provisions.

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based on our audit objectives. See appendix I for additional information on our scope and methodology, and appendix II for a list of counties that we randomly selected for site visits on Election Day.

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## Background

Holding federal elections in the United States is a massive enterprise, administered primarily at the local level. On federal Election Day, millions of voters across the country visit polling places, which are located in schools, recreation centers, churches, various government buildings, and even private homes.<sup>11</sup> For the 2008 federal election, state and local election officials recruited and trained about 2 million poll workers across the country. Generally, each of the 50 states, the District of Columbia, and U.S. territories also play a role in elections, by establishing election laws and policies for their respective election jurisdictions. While federal elections are generally conducted under state laws and policies, several federal laws apply to voting and some provisions specifically address accessibility issues for voters with disabilities. These federal laws collectively address two issues that are essential to ensuring that voters with disabilities can go to polling places and cast their ballots independently and privately as do nondisabled voters. These two issues are physical access and voting systems that enable people with disabilities to cast a private and independent vote.

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## Voting Accessibility for the Elderly and Handicapped Act

In 1984, Congress enacted VAEHA, which required political subdivisions responsible for conducting elections to ensure that all polling places for federal elections are accessible to elderly voters and voters with disabilities, with limited exceptions. One such exception occurs when the chief election officer of the state determines that no accessible polling places are available in a political subdivision, and that officer ensures that any elderly voter or voter with a disability assigned to an inaccessible polling place will, upon advance request, either be assigned to an accessible polling place or will be provided with an alternative means to cast a ballot on the day of the election. Under the VAEHA, the definition of “accessible” is determined under guidelines established by the state’s chief election officer, but the law does not specify standards or minimum requirements for those guidelines. Additionally, states are required to

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<sup>11</sup>Federal elections are held on the first Tuesday after the first Monday in November in even-numbered years. In the interests of convenience and economy, most states and many local jurisdictions also hold many of their elections on the federal Election Day.

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make available voting aids for elderly voters and voters with disabilities, including instructions printed in large type at each polling place and information by telecommunications devices for the deaf.

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## Americans with Disabilities Act of 1990

Title II of the Americans with Disabilities Act of 1990 (ADA) also contains provisions that help increase the accessibility of voting for individuals with disabilities. Specifically, title II and its implementing regulations require that people with disabilities have access to basic public services, including the right to vote. Although the ADA does not strictly require all polling places to be accessible, public entities must make reasonable modifications in policies, practices, or procedures to avoid discrimination against people with disabilities. Moreover, no person with a disability may, by reason of disability, be excluded from participating in or be denied the benefits of any public program, service, or activity. State and local governments may comply with ADA accessibility requirements in a variety of ways, such as redesigning equipment, reassigning services to accessible buildings or alternative accessible sites, or altering existing facilities or constructing new ones.<sup>12</sup> However, state and local governments are not required to take actions that would threaten the historical significance of a historic property, fundamentally alter the nature of a service, or impose any undue financial and administrative burdens. Moreover, a public entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance.

Title III of the ADA covers commercial facilities and places of public accommodation, such as private schools and privately operated recreational centers that may also be used as polling places.<sup>13</sup> Public accommodations must make reasonable modifications in policies, practices, or procedures to facilitate access for people with disabilities. These facilities are also required to remove physical barriers in existing buildings when it is “readily achievable” to do so, that is, when the removal can be done without much difficulty or expense, given the entity’s resources. When the removal of an architectural barrier cannot be

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<sup>12</sup>28 C.F.R. § 35.150(b)(1). All newly constructed public buildings where construction commenced after January 26, 1992, must be readily accessible to individuals with disabilities. 28 C.F.R. § 35.151(a). Alterations to existing facilities commenced after January 26, 1992, must also to the maximum extent feasible be done in such a way that the altered portion of the facility is readily accessible. 28 C.F.R. § 35.151(b).

<sup>13</sup>Exempted from these requirements generally are private clubs and religious organizations, including places of worship.

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accomplished easily, the entity may take alternative measures to facilitate accessibility. All buildings newly constructed by public accommodations and commercial facilities must be readily accessible, and any alterations to an existing building are required, to the maximum extent feasible, to be readily accessible to people with disabilities, including those who use wheelchairs.<sup>14</sup>

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### The Voting Rights Act of 1965

The Voting Rights Act of 1965, as amended, provides for voter assistance in the voting room. Specifically, the Voting Rights Act, among other things, authorizes voting assistance for blind, disabled, or illiterate persons. Voters who require assistance to vote by reason of blindness, disability, or the inability to read or write may be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union.

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### Help America Vote Act of 2002

Most recently, Congress passed HAVA, which contains a number of provisions to help increase the accessibility of voting for people with disabilities. In particular, section 301(a) of HAVA outlines minimum standards for voting systems used in federal elections. This section specifically states that the voting system must be accessible for people with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation as is provided for other voters. To satisfy this requirement, each polling place must have at least one direct recording electronic or other voting system equipped for people with disabilities.

HAVA established the EAC as an agency with wide-ranging duties to help improve state and local administration of federal elections. Among other things, the EAC is responsible for (1) providing voluntary guidance to states implementing certain HAVA provisions; (2) serving as a national clearinghouse of election-related information and a resource for information with respect to the administration of federal elections; (3) providing for the certification of voting systems; and (4) periodically conducting and making publicly available studies regarding methods of ensuring accessibility of voting, polling places, and voting equipment to all voters, including people with disabilities. The EAC also makes grants for

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<sup>14</sup>28 C.F.R. § 36.401-406. This requirement applies to the new construction of facilities for first occupancy after January 26, 1993, or alteration commenced after January 26, 1992.

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the research and development of new voting equipment and technologies and the improvement of voting systems. Furthermore, HAVA requires the Secretary of HHS to make yearly payments to each eligible state and unit of local government to be used for (1) making polling places accessible for people with disabilities and (2) providing people with disabilities with information on accessible polling places.

HAVA vests enforcement authority with the U.S. Attorney General to bring a civil action against any state or jurisdiction as may be necessary to carry out specified uniform and nondiscriminatory election technology and administration requirements under HAVA. These requirements pertain to HAVA voting system standards, provisional voting and voting information,<sup>15</sup> the computerized statewide voter registration list, and voter registration by mail. The Voting Section, within Justice's Civil Rights Division, is responsible for enforcement of civil provisions of federal voting laws, such as HAVA. The Voting Section's internal process for initiating HAVA-related matters and cases consists of four phases: initiation, investigation, complaint justification, and litigation. See appendix III for an overview of this internal process. The Disability Rights Section, also within the Civil Rights Division, is primarily responsible for protecting the rights of persons with disabilities under the ADA, which includes ensuring that people with disabilities have access to basic services, such as voting.

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## Accessible Voting Systems for People with Disabilities

Providing an accessible voting system encompasses both the voting method and the operation of the system. In terms of the voting method, HAVA specifically identifies direct recording electronic systems to facilitate voting for people with disabilities or other voting systems equipped for people with disabilities. For the most part, these systems are electronic machines or devices equipped with features to assist voters with disabilities. A brief description of these types of systems follows.

**Direct Recording Electronic (DRE) Devices.** DRE devices capture votes electronically (see fig. 1). These devices come in two basic models: push button or touch screen. DRE ballots are marked by a voter pressing a button or touching a screen that highlights the selected candidate's name

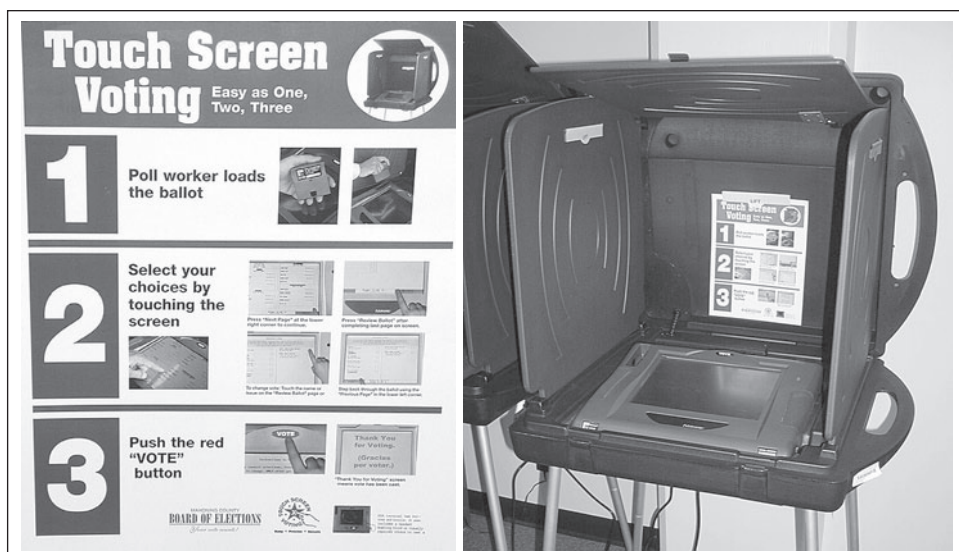
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<sup>15</sup>Provisional voting is also generally used by states to address certain voter eligibility issues encountered at the polling place on Election Day. A provisional ballot cast by an individual with an eligibility issue typically would not be counted until the individual's eligibility to vote under state law has been verified.

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or an issue. Voters can change their selections until they select the final “vote” button or screen, which casts their vote. These devices can be equipped with such features as an audio ballot and audio voting instructions for the blind.

**Figure 1: Example of DRE Instructions and Equipment**



Source: GAO.

Note: DRE voting instructions (left), DRE voting unit (right).

**Ballot Marking Devices.** These devices use electronic technology to mark an optical scan ballot at voter direction, interpret the ballot selections, communicate the interpretation for voter verification, and then print a voter-verified ballot. A ballot marking device integrates components such as an optical scanner, printer, touch-screen monitor, and a navigational keypad (see fig. 2). Voters use the device’s accessible interface to record their choices on a paper or digital ballot. For example, voters with visual impairments will use an audio interface as well as a Braille keypad to make a selection. Voters who prefer to vote in an alternate language can also utilize the audio interface. Voters with disabilities can make their selection using a foot-pedal or a sip-and-puff device.<sup>16</sup>

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<sup>16</sup> A sip-and-puff device is a straw-like accessory that allows a voter to make selections by either blowing or sucking into the device.

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**Figure 2: Ballot Marking Device**



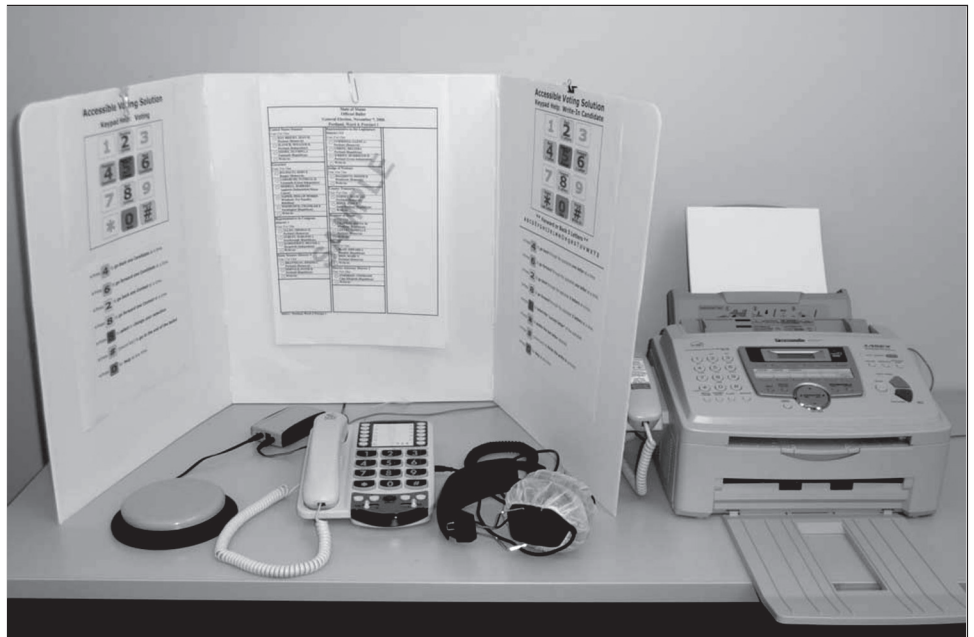
Source: Election Systems & Software.

**Vote-by-Phone.** Vote-by-phone systems use electronic technology to mark paper ballots. This system is made up of a standard touch-tone telephone and a printer (see fig. 3). When voters call from a polling place to connect to the system, the ballot is read to the voters who then make choices using the telephone keypad. The system then prints out a paper ballot at either a central location (central print) or a polling site (fax print). Central print ballots are read back to the voter over the telephone for verification, after which the voter can decide to cast the ballot or discard it and revote. Fax print ballots produce a physical ballot at the polling place for the voter to review, verify, and cast in a ballot box.



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**Figure 3: Vote-by-Phone System**



Source: Maine, Department of the Secretary of State, Division of Elections.

Regarding accessible voting system operation, HAVA specifies that the voting system must be accessible for people with disabilities, in a manner that provides the same opportunity for access and participation as is provided for other voters. The operation of the voting system is the responsibility of local election officials at individual polling places. For the voting system to be accessible,<sup>17</sup> the system should be turned on, equipped with special features such as ear phones, set up to accommodate voters using wheelchairs, and positioned in a way to provide the same level of privacy as is afforded to other voters. Also, poll workers should be knowledgeable of the operation of the voting system to provide assistance, if needed.

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## Alternative Voting Methods

As we have previously mentioned, the VAEHA requires that any elderly voter or voter with a disability who is assigned to an inaccessible polling place, upon his or her advance request, must be assigned to an accessible

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<sup>17</sup>We are not making a legal assessment of what is required under HAVA for a voting system to be accessible.

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polling place or be provided with an alternative means for casting a ballot on the day of the election. However, states generally regulate absentee voting and other alternative voting method provisions, which provide voters with disabilities with additional voting options.<sup>18</sup> Alternative voting methods may include curbside voting; taking a ballot to a voter's residence; allowing voters to use another, more accessible polling location either on or before Election Day; voting in person at early voting sites; or removing prerequisites by establishing "no excuse" absentee voting or allowing absentee voting on a permanent basis.<sup>19</sup>

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## The Proportion of Polling Places Without Potential Impediments Increased Since 2000

Compared to 2000, the proportion of polling places without potential impediments increased and almost all polling places had an accessible voting system. In 2008, based upon our survey of polling places, we estimate that 27.3 percent of polling places had no potential impediments in the path from the parking area to the voting area—up from 16 percent in 2000; 45.3 percent had potential impediments but offered curbside voting; and the remaining 27.4 percent had potential impediments and did not offer curbside voting. All but one polling place we visited had an accessible voting system to facilitate private and independent voting for people with disabilities. However, 46 percent of polling places had an accessible voting system that could pose a challenge to certain voters with disabilities, such as voting stations that were not arranged to accommodate voters using wheelchairs.

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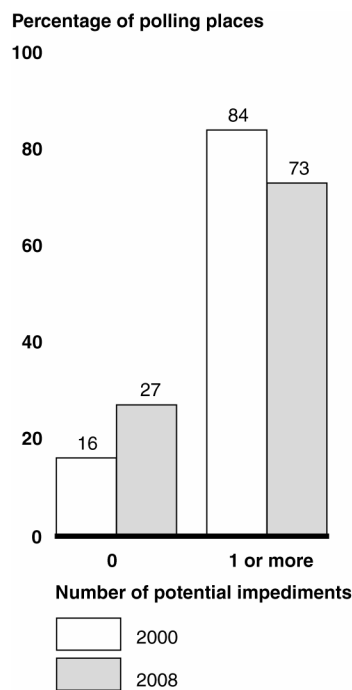
<sup>18</sup>For the purposes of this study, we define "alternative" voting methods as any voting method other than traditional in-person voting at a polling place on Election Day.

<sup>19</sup>"No excuse" absentee voting is available to all voters—that is, voters do not need to give a reason to vote absentee. In permanent absentee voting, the voter may request that an absentee ballot be automatically mailed to them, rather than applying separately, for each election. However, voters may need to periodically reapply for permanent absentee ballot status.

**While Polling Places Without Potential Impediments Increased, Most Had Potential Impediments Outside of or at Building Entrances**

In 2008, we estimate that 27 percent of polling places had no potential impediments in the path from the parking area to the voting area—up from 16 percent in 2000 (see fig. 4).<sup>20</sup> Potential impediments included a lack of accessible parking and obstacles en route from the parking area to the voting area.

**Figure 4: Comparison in Prevalence of Potential Impediments in 2000 and 2008**



Source: GAO analysis of polling place data collected on November 7, 2000, and November 4, 2008.

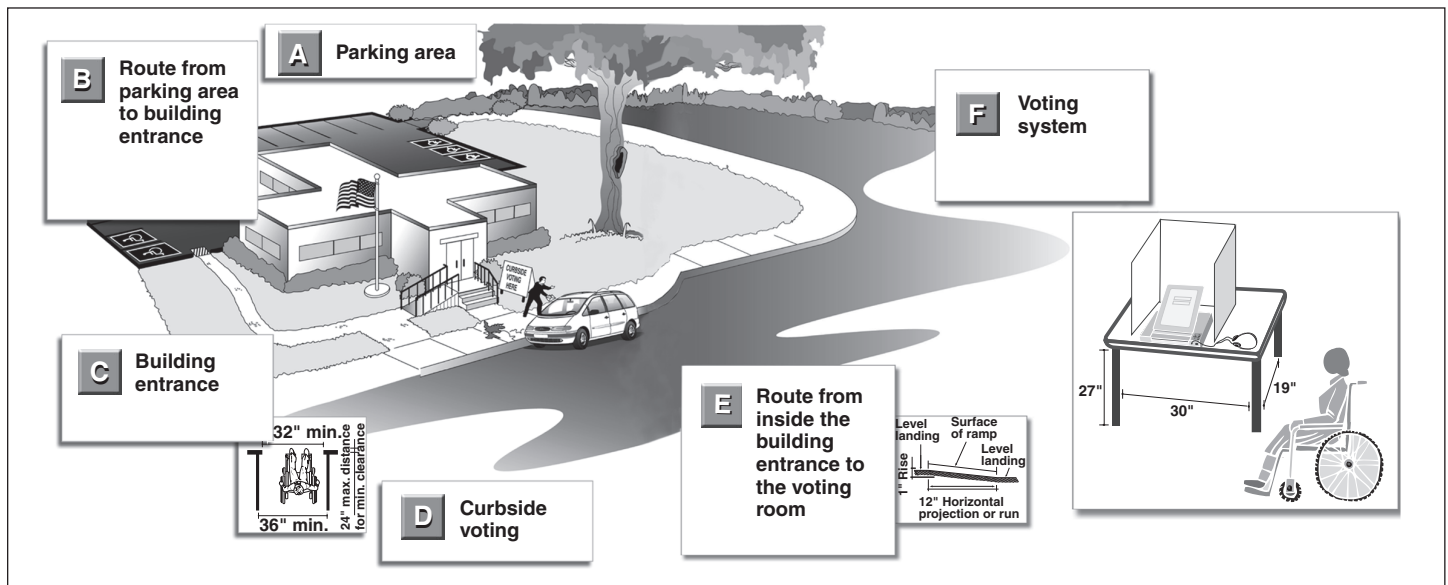
Note: The difference between the 2000 and 2008 estimates are statistically significant. For 0 impediments, the 95-percent confidence interval for 2000 data is 11.3 to 21.6 and for 2008 data is 21.9 to 32.7. For 1 or more impediments, the 95-percent confidence interval for 2000 data is 78.4 to 88.7 and for 2008 data is 67.3 to 78.1

Figure 5 shows some key polling place features that we examined, and appendix IV contains a complete list of potential impediments. These

<sup>20</sup>The 95-percent confidence interval for 2000 data is 11.3 to 21.6 and for 2008 data is 21.9 to 32.7. The difference between the 2000 and 2008 estimates are statistically significant.

features primarily affect individuals with mobility impairments, in particular voters using wheelchairs.<sup>21</sup>

**Figure 5: Key Polling Place Features That We Examined**



Sources: Americans with Disabilities Act Accessibility Guidelines; GAO and Art Explosion (images).

Many of the polling places that had potential impediments offered curbside voting or other accommodations to assist voters who may have had difficulty getting to or making their way through a polling place. For all polling places, we found that 45.3 percent had one or more potential impediments and offered curbside voting, 27.4 percent had potential impediments and did not offer curbside voting, and 27.3 percent had no potential impediments.<sup>22</sup> Some polling places provided assistance to voters by bringing a paper ballot or provisional ballot to a voter in a vehicle. In

<sup>21</sup>For the purposes of this study, we treated all of the potential impediments with equal significance, although we recognize that, in practice, the effect of any one impediment will depend on an individual's type or severity of disability. For example, the width of a door would not necessarily affect a blind individual without mobility impairments, but it could prevent a person using a wheelchair from entering a polling place.

<sup>22</sup>The 95-percent confidence interval for polling places with no impediments is 21.9 to 32.7. The 95-percent confidence interval for polling places with one or more potential impediments that offered curbside voting is 37.4 to 53.2. The 95-percent confidence interval for polling places with one or more potential impediments that did not offer curbside voting is 20.4 to 34.4.

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addition to curbside voting, officials we interviewed at most polling places said they would provide assistance to help people with disabilities vote in the polling place. For example, some polling places had wheelchairs available, if needed.

Similar to our findings in 2000, the majority of potential impediments at polling places in 2008 occurred outside of or at the building entrance, although improvements were made in some areas. Fifty percent of polling places had one or more potential impediments in the path from the parking area to the building entrance (see fig. 6).<sup>23</sup> At the same time, the percentage of polling places with potential impediments at the building entrance dropped sharply—from 59 percent in 2000 to 25 percent in 2008.<sup>24</sup> As shown in table 1, the most common potential impediments in 2008 were steep ramps or curb cuts in the parking area, unpaved or poor surfaces in the path from the parking lot or route to the building entrance, and door thresholds exceeding ½ inch in height. Figure 7 shows an example of a polling place with two potential impediments from the parking area to the building entrance. It is important to note that our assessment of polling places in 2000 did not include measurements of ramps or curb cuts in the parking area.<sup>25</sup> With this additional accessibility indicator, we did not see a reduction of potential impediments in the parking area overall. However, polling places made significant gains in providing designated parking for people with disabilities, which decreased from 32 percent with no designated parking in 2000 to only 3 percent in 2008.<sup>26</sup>

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<sup>23</sup>The 95-percent confidence interval for 2008 data is 44.4 to 54.9.

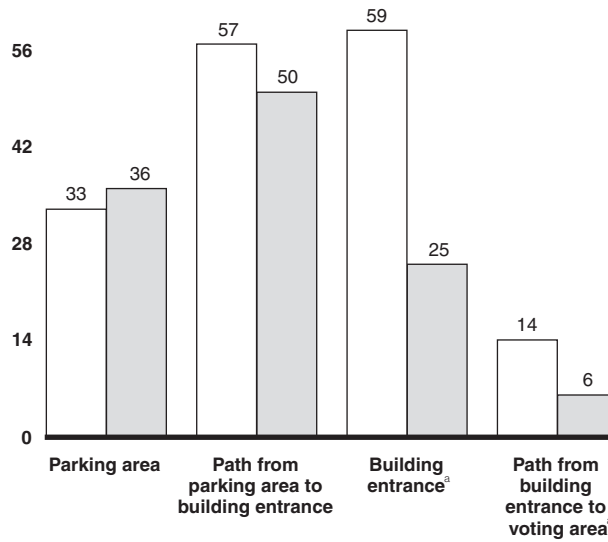
<sup>24</sup>The 95-percent confidence interval for 2000 data is 51.6 to 66.4 and for 2008 data is 16.7 to 34.2.

<sup>25</sup>The Election Day 2008 DCI was updated to include the measurement of steep ramps or curb cuts in the parking area on the basis of Justice's *ADA Checklist for Polling Places*.

<sup>26</sup>The 95-percent confidence interval for 2000 data is 24.2 to 40.2. The 95-percent confidence interval for 2008 data is 1.6 to 6.0.

**Figure 6: Key Locations of One or More Potential Impediments at Polling Places in 2000 and 2008**

Percentage of polling places with potential impediments  
70



Area at polling place

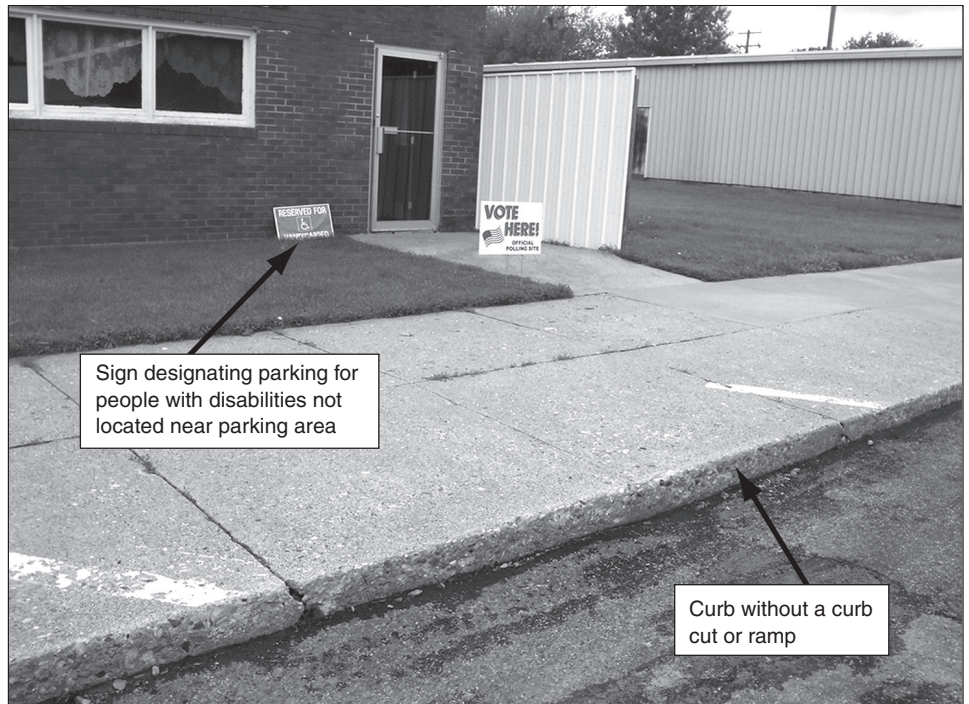


Source: GAO analysis of polling place data collected on November 7, 2000, and November 4, 2008.

Note: For parking area data, the 95-percent confidence interval for 2000 data is 24.7 to 41.3 and for 2008 data is 29.2 to 42.5. For the path from the parking area to the building entrance data, the 95-percent confidence interval for 2000 data is 50.2 to 63.9 and for 2008 is 44.4 to 54.9.

<sup>a</sup>The difference between 2000 and 2008 data is statistically significant. For the building entrance data, the 95-percent confidence interval for 2000 data is 51.6 to 66.4 and for 2008 data is 16.7 to 34.2. For the path from the building entrance to the voting area, the 95-percent confidence interval for 2000 data is 9.8 to 18.2 and for 2008 data is 3.7 to 8.0.

**Figure 7: Example of a Polling Place with Inadequately Marked Parking for People with Disabilities and Unramped and Uncut Curb**



Source: GAO.

**Table 1: Comparison of Specific Features from the Parking Area to the Voting Area of Polling Places That Might Impede Voting Access in 2000 and 2008**

Location of features that might impede access to voting in a polling place	2000 percentage	2008 percentage
<b>Parking area</b>		
One or more ramps or cut curbs is steeper than 1:12	<sup>a</sup>	24.0%
No designated parking for people with disabilities <sup>b</sup>	32.2%	3.3
One or more unramped or uncut curbs <sup>b,c</sup>	8.1	2.6
No parking for any voters	1.2	0.6
Other potential impediments in parking lot	4.1	8.2
<b>Path from parking area to building entrance</b>		
Unpaved or poor surface in parking lot or route to building entrance	23.2	23.5
Ramp in path from parking area to building entrance is steeper than 1:12 <sup>b</sup>	21.5	16.4
Sidewalk/path is steeper than 1:12 <sup>d</sup>	19.6	12.0
Improper or no handrails on ramp	5.8	8.2

<b>Location of features that might impede access to voting in a polling place</b>	<b>2000 percentage</b>	<b>2008 percentage</b>
No sidewalk/path from parking area to building entrance	8.2	4.2
Ramps in path from parking area to building entrance do not have a level landing at the top and bottom of each section that is at least 60 inches long	<sup>a</sup>	4.0
Leaves, snow, or litter in path from parking area to building entrance	1.5	2.0
Sidewalk/path from parking area to building entrance < 36 inches wide <sup>b</sup>	1.4	1.5
Ramps in path from parking area to building entrance is < 36 inches wide	0.5	1.4
Steps required in path from parking area to building entrance <sup>b</sup>	7.1	1.3
Other potential impediments in the path from parking area to building entrance	9.8	6.4
<b>Building entrance</b>		
Doorway threshold exceeds ½ inch in height	37.4	23.3
Single doorway opening is < 32 inches wide	9.6	6.5
Doors that would be difficult for a person in a wheelchair to open <sup>b</sup>	25.7	6.3
Double door opening is < 32 inches wide, including situations in which one of the doors cannot be opened	5.0	3.4
Other potential impediments at the building entrance	6.1	4.7
<b>Path from building entrance to voting area</b>		
Doorway threshold exceeds ½ inch in height	2.3	3.7
Single doorway opening is < 32 inches wide	4.8	3.6
Corridors that do not provide an unimpeded width of at least 36 inches or can go down to 32 inches for 2 feet	0.9	2.7
Ramp is steeper than 1:12	2.4	2.7
Improper or no handrails on ramp	0.7	1.8
Doors that would be difficult for a person using a wheelchair to open	3.2	0.5
Steps are required to gain access to voting area	2.1	0.5
Double door opening is < 32 inches wide, including situations in which one of the doors cannot be opened	1.8	0.5
Elevator is not operational or is not properly equipped for people with disabilities	<sup>a</sup>	0.5
One or more ramps that are < 36 inches wide or can go down to 32 inches wide for 2 feet	1.4	0.3
Wheelchair lift or buttons are not proper dimensions	<sup>a</sup>	0.3
Other potential impediments with corridors	1.0	3.1
Other potential impediments at doorways and entrances	1.3	2.9
Other potential impediments with ramps	0.7	0.2

Source: GAO analysis of polling place data collected on November 7, 2000, and November 4, 2008

Note: The estimates depicted in the table are derived from survey data and have sampling errors associated with them. The 95-percent confidence intervals are provided in appendix VI.

<sup>a</sup>We did not measure these items in 2000. We collected data on these items in 2008 following our review of Justice's *Americans with Disabilities Act: ADA Checklist for Polling Places* and per interviews with experts.

<sup>b</sup>The difference between the 2000 and the 2008 data is statistically significant. The 95-percent confidence intervals do not overlap.

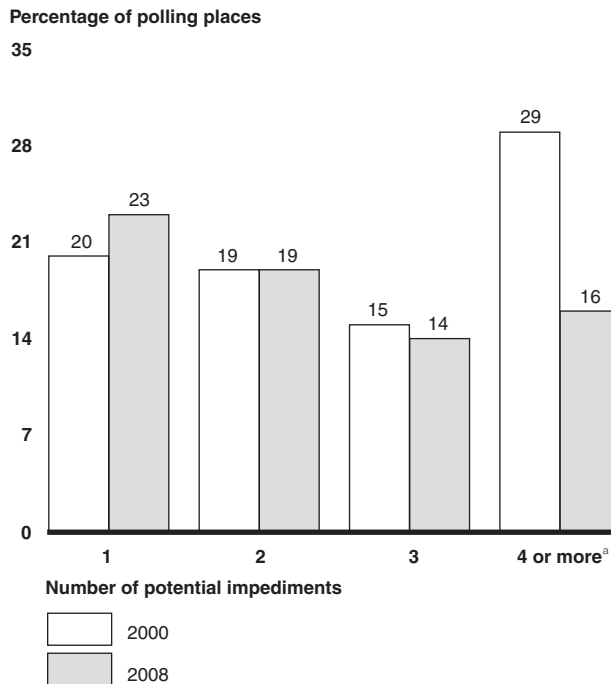
<sup>c</sup>This feature was listed in the path from the parking area to the building entrance in the 2000 study.



<sup>4</sup>We based this measurement on Justice's ADA Standards for Accessible Design, 28 C.F.R. Part 36, Appendix A, which states that any part of an accessible route with a slope greater than 1:20 shall be considered a ramp and the maximum slope of a ramp is 1:12, except in certain cases where space limitations prohibit the use of 1:12 slope or less.

In comparison to our findings in 2000, the proportion of polling places with multiple potential impediments decreased in 2008. Specifically, polling places with four or more potential impediments decreased significantly—from 29 percent in 2000 to 16 percent in 2008 (see fig. 8). At the same time, the percentage of polling places with one, two, or three potential impediments stayed about the same as in 2000.

**Figure 8: Comparison of the Proportion of Polling Places That Had One or More Potential Impediments in 2000 and 2008**



Source: GAO analysis of polling place data collected on November 7, 2000, and November 4, 2008.

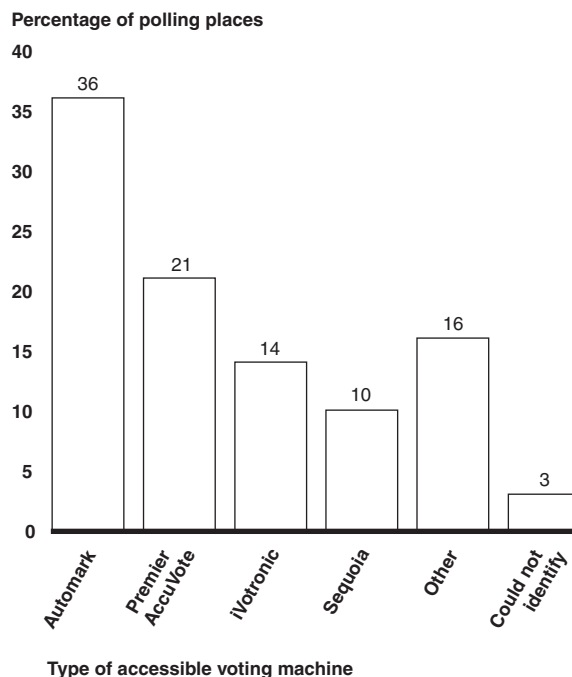
Note: The margin of error for the 2000 sample estimates range from 3 to 10 percentage points, unless otherwise noted. The margin of error for the 2008 sample estimates range from 3 to 5 percentage points, unless otherwise noted.

<sup>a</sup>The difference between 2000 and 2008 data is statistically significant. The 95-percent confidence interval for 2000 data is 22.8 to 36.2. The 95-percent confidence interval for 2008 data is 12.2 to 21.1.

## Virtually All Polling Places Had Accessible Voting Systems, Although Some Could Pose Challenges for People with Disabilities

All but one polling place we examined had at least one accessible voting system—typically, an accessible machine in a voting station—to facilitate private and independent voting for people with disabilities.<sup>27</sup> Accessible voting machines had special features for people with disabilities, such as an audio function to allow voters to listen to ballot choices. According to an election official we interviewed, the accessible voting systems have been significant in helping some voters with disabilities—such as blind voters—vote independently for the first time. The most common type of accessible voting machine was the Automark, followed by the Premier Accuvote, iVotronic, and Sequoia, respectively (see fig. 9).

**Figure 9: Types of Accessible Voting Machines**



Source: GAO analysis of polling place data collected on November 4, 2008.

Note: The margin of error ranges from 5.5 to 15.4 percent at the 95-percent confidence interval.

To help facilitate the use of accessible machines, polling place officials told us that they received training and would provide assistance to help

<sup>27</sup>We did not assess polling places' legal compliance with HAVA accessible voting system requirements. For our 2008 Election Day DCI, we compiled a list of commonly known accessible voting machines by consulting with disability experts and others.

voters with disabilities operate voting machines or overcome difficulties while voting. Almost all (98 percent) of the 626 polling place officials we interviewed said that some or all of the poll workers working on Election Day received training on how to operate the accessible machine.<sup>28</sup> In addition, polling place officials told us they would provide assistance to help people with disabilities with the voting process. All polling place officials we interviewed said they would explain how to operate the machine, and 79 percent said they would demonstrate how to operate the machine (see table 2).<sup>29</sup> Virtually all polling place officials we interviewed told us they would allow a friend or relative to assist a person with a disability with voting.

**Table 2: Type of Assistance That Polling Place Officials Would Provide to Help People with Disabilities Operate or Overcome Difficulties While Voting on the Accessible Machine**

Type of assistance polling place officials would provide	Percentage of polling places
Explain how to operate the accessible machine <sup>a</sup>	100%
Demonstrate how to operate the accessible machine <sup>b</sup>	79
Operate the machine for the person if having difficulties voting <sup>b</sup>	56
Let the person practice on the machine before voting <sup>b</sup>	40
Other <sup>c</sup>	46

Source: GAO analysis of polling place data collected on November 4, 2008.

<sup>a</sup>The margin of error is less than 1 percentage point.

<sup>b</sup>The margin of error is between 6 and 7 percentage points.

<sup>c</sup>The margin of error is 14 percentage points.

Although polling places had accessible voting systems, nearly one-half (46 percent) had systems that could pose challenges for people with disabilities to cast a private or independent vote.<sup>30</sup> We assessed four aspects of the accessible voting system that, if not met, could pose a challenge to private or independent voting: (1) voting system is set up and

<sup>28</sup>The number of polling place officials we interviewed excludes the 104 polling places for which (1) we were prohibited from interviewing the officials on or after Election Day, (2) the polling place official declined to be interviewed, or (3) we were not allowed to interview the officials on Election Day and could not reach the officials after Election Day to conduct the interview. The 95-percent confidence interval for the data is 94.9 to 99.4.

<sup>29</sup>The 95-percent confidence interval for the data is 73.0 to 84.9.

<sup>30</sup>The 95-percent confidence interval for the data is 36.3 to 54.9.

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powered on; (2) earphones are available for audio functions; (3) voting system is set up to accommodate people using wheelchairs; and (4) accessible voting system provides the same level of privacy for voters with disabilities as is offered to other voters.<sup>31</sup> Figure 10 shows an accessible voting station for people with disabilities. Overall, 35 percent of polling places did not meet one of these four aspects, 10 percent did not meet two aspects, and 1 percent did not meet three aspects.<sup>32</sup>

**Figure 10: Example of Voting Station for People with Disabilities**



Source: GAO.

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<sup>31</sup>We did not assess polling places' legal compliance with HAVA accessible voting system requirements.

<sup>32</sup>The 95-percent confidence interval for polling places with one challenge is 27.6 to 41.8. The 95-percent confidence interval for polling places with two challenges is 5.9 to 15.7. The 95-percent confidence interval for polling places with three challenges is 0.2 to 2.1.

As shown in table 3, the feature most commonly not met—at 29 percent of polling places—was an accessible voting machine located in a voting station with the minimum height, width, or depth dimensions to accommodate a voter using a wheelchair. This was followed by 23 percent of polling places that offered people with disabilities less privacy for voting than is provided for other voters. For example, some voting stations were not positioned to prevent other voters from seeing how voters using the accessible machine were marking their ballots.

**Table 3: Extent to Which Voting System Features to Facilitate Private and Independent Voting at Polling Places Were Not Met**

Voting system features that, if not met, could pose a challenge to voting privately and independently	Percentage of polling places where features were not met
Set up to accommodate voters using a wheelchair	29% <sup>a</sup>
Provides the same level of privacy for voters with disabilities as is offered to other voters	23 <sup>b</sup>
Earphones are attached or prominently visible	6 <sup>c</sup>
Set up and powered on	5 <sup>d</sup>

Source: GAO analysis of polling place data collected on November 4, 2008.

<sup>a</sup>The 95-percent confidence interval for the data is 19.3 to 40.5.

<sup>b</sup>The 95-percent confidence interval for the data is 16.0 to 30.3.

<sup>c</sup>The 95-percent confidence interval for the data is 3.8 to 9.7.

<sup>d</sup>The 95-percent confidence interval for the data is 2.8 to 8.3.

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## Most States Have Established Requirements and Funded Improvements to Help Facilitate Voter Accessibility

The majority of states have established accessibility requirements and funded improvements to help facilitate accessible voting, and all states reported that they required local jurisdictions to offer alternative voting methods. Forty-three states reported on our survey that they required accessibility standards for polling places in 2008, up from 23 states in 2000. Additionally, most states reported that they used federal HAVA funds to improve the physical accessibility of polling places. Further, all states reported that they required local jurisdictions to offer alternative voting methods, such as absentee voting.

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## Most States Have Established Accessibility Standards and Funded Improvements, But Reported That Ensuring Accessibility Is Challenging

To help facilitate voting for people with disabilities, most states have established standards by which to evaluate the accessibility of polling places and have required inspections of polling places to help ensure accessibility.<sup>33</sup> The number of states with requirements specifying polling place accessibility standards grew from 23 states in 2000 to 43 states in 2008 (see fig. 11).<sup>34</sup> These standards can vary in terms of specificity of requirements and which aspects of accessibility they address. For example, California established requirements for ramps and entrances, among other things. By comparison, Indiana required that the voting area must have adequate maneuvering space for voters who use wheelchairs or other mobility aids and must allow space for a person who uses a wheelchair to navigate behind and around the accessible machine. Figure 12 is an example of state guidance for setting up the voting room and for placement of the accessible voting system. The number of states that required accommodation of wheelchairs in the voting area has more than doubled—increasing from 17 in 2000 to 38 states in 2008. In addition to specifying standards, since 2000, more states have required polling places to be inspected and local jurisdictions to submit inspection reports to the state to help ensure the accessibility of polling places. Like the accessibility standards, these practices can also vary from state to state.

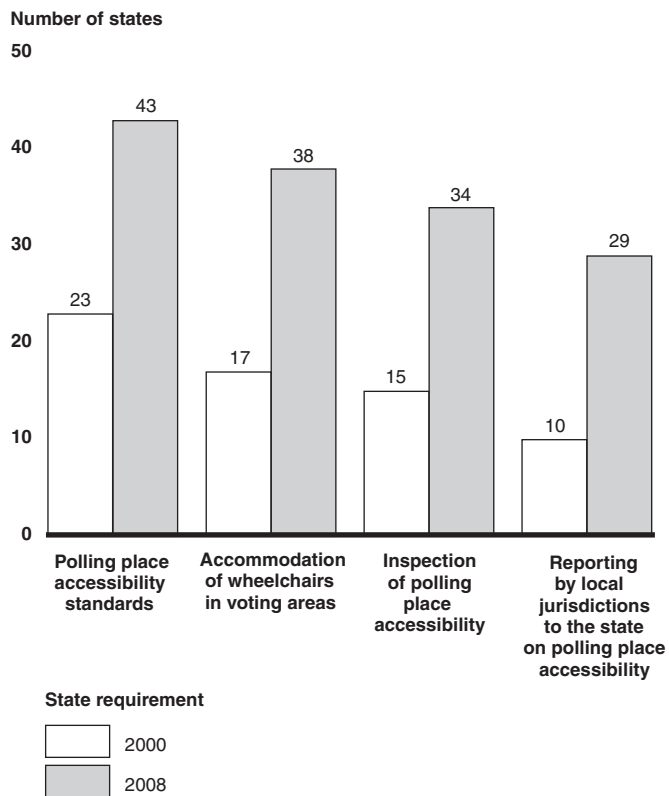
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<sup>33</sup>Although we included the 4 U.S. territories in our survey to compare the results of our 2008 survey of state election officials to our 2000 survey, we are only reporting data from the 50 states and the District of Columbia in our discussion of states' actions to help facilitate voting for people with disabilities.

<sup>34</sup>For the purposes of our study, we defined "requirements" as requirements under state law, regulation, or executive order/directive. It does not include federal requirements. We did not analyze state laws, regulations, or executive orders/directives to determine what they required, but instead relied on state responses to our survey.

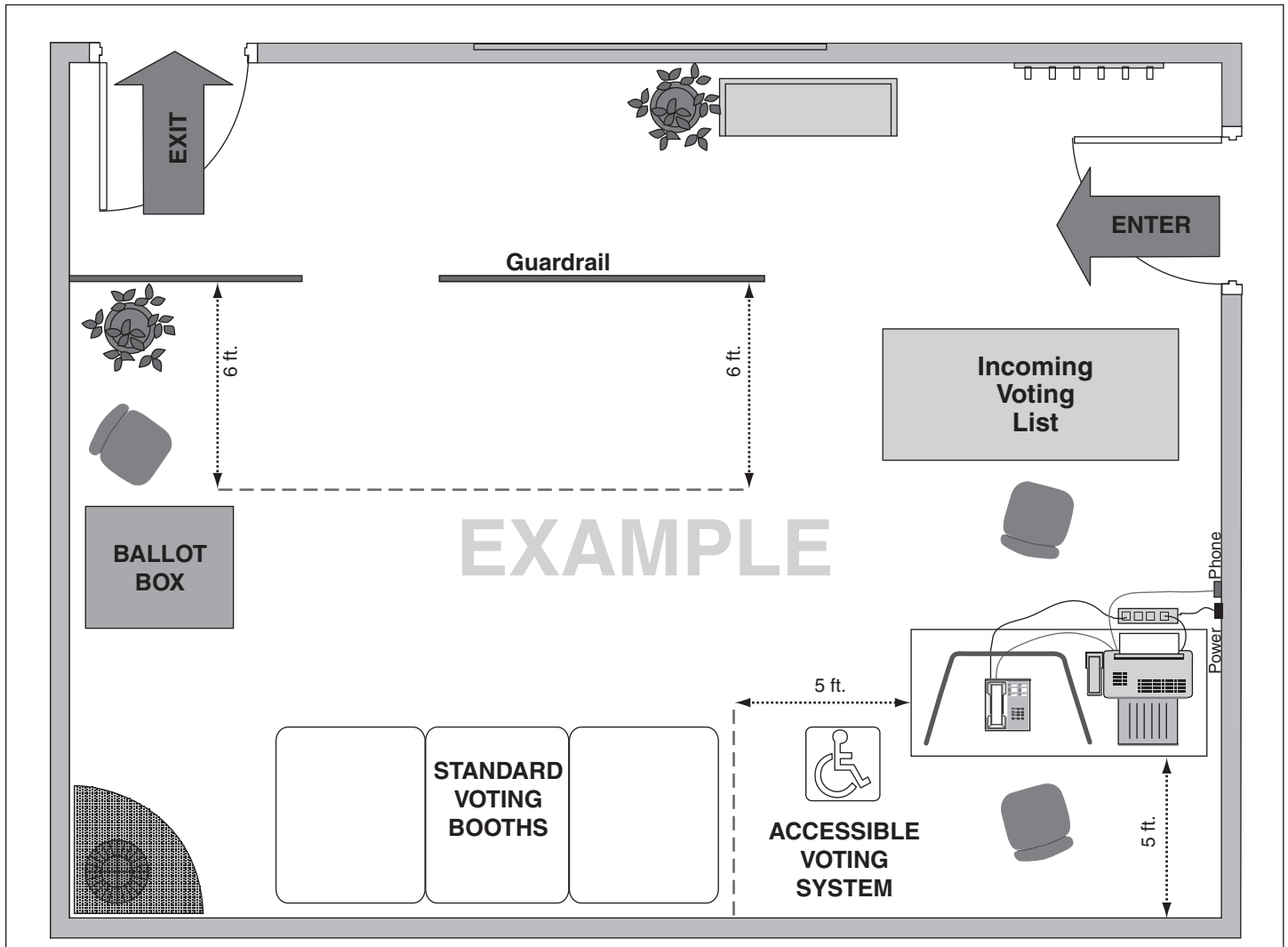
For example, according to its *Election Procedures Manual*, Arizona requires counties to inspect polling places before each election or to have provisions that counties be contacted if a polling place is altered prior to an election. In contrast, Wisconsin recently revised its accessibility survey and requires all local jurisdictions to conduct their inspections on a primary Election Day so that state and local officials can evaluate the accessibility of polling places during an election.

**Figure 11: State Requirements Concerning the Accessibility of Polling Places, as of Election Days 2000 and 2008**



Source: GAO analysis of data from its 2000 and 2008 surveys of state election officials.

**Figure 12: Example of State Guidance for Setting Up the Voting Room in the Polling Place and for Placement of the Accessible Voting Machine**



Source: Maine, Department of the Secretary of State, Division of Elections.

Most states reported using HAVA funds or a combination of HAVA and state funds to support a variety of activities designed to facilitate voting for people with disabilities. In our report on the 2000 election, we found limited funding was one of the main barriers that most state officials faced in improving voting accessibility, especially in providing accessible voting



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systems and, in some cases, making temporary or permanent modifications to polling places to make them accessible.<sup>35</sup> However, with the availability of HAVA funding since that time, most state officials reported on our survey that they used HAVA funds or a combination of HAVA and state funds to help improve accessibility in these areas. The majority of states (45) reported spending or obligating HAVA funds and, in some cases, also using state funds to enhance physical access to polling places. For example, election officials in Nebraska reported spending HAVA funds to evaluate the accessibility of polling places throughout the state and to ensure they were compliant with ADA standards. Furthermore, 39 states reported obligating or spending HAVA funds or a combination of HAVA and state funds to improve voting systems and technology.<sup>36</sup> For example, Minnesota used HAVA funds to buy ballot-marking machines so that voters with disabilities could mark regular paper ballots privately and independently and to develop instructional videos on how to use the machines.

Even though states have taken actions to make the voting process more accessible, many states reported that it was very or moderately challenging to implement certain aspects of HAVA's voting access requirements. According to our state survey, 31 states reported that ensuring polling place accessibility was very or moderately challenging. (See table 4.) For example, one area in California reported that it was challenging to find enough accessible polling places in some rural communities because limited accessible buildings are available. Additionally, 24 states reported that it was very or moderately challenging to purchase DREs or other accessible voting systems. For example,

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<sup>35</sup>[GAO-02-107](#).

<sup>36</sup>As we found in our report on the 2004 election, in some states, local jurisdictions are responsible for buying voting systems. Some states provide a list of voting systems from which local jurisdictions are required to choose or they must approve the systems that local jurisdictions purchase. GAO, *Elections: The Nation's Evolving Election System as Reflected in the November 2004 General Election*. [GAO-06-450](#), Washington, D.C.: June 6, 2006.

several states said that it was difficult to buy accessible systems because of EAC's delay in certifying voting systems.<sup>37</sup>

**Table 4: State Challenges in Implementing Various Aspects of HAVA**

Aspect of implementing HAVA <sup>a</sup>	Number of states			
	Very or moderately challenging	Slightly challenging	Not challenging	State has not done this
Ensuring polling place accessibility	31	16	3	1
Purchasing DREs or other accessible voting systems	24	8	15	4 <sup>b</sup>
Providing guidance to counties, cities, or local entities for HAVA—required voting access activities for people with disabilities	20	18	12	1
Securing HAVA funding for the state	19	13	17	0
Disseminating HAVA funding to counties, cities, or local entities	16	12	11	10

Source: GAO analysis of data from its 2008 survey of state election officials.

Note: Data include the 50 states and the District of Columbia, but not all states answered every survey question.

<sup>a</sup>These are not necessarily requirements of HAVA, but are actions states may have taken to implement accessibility provisions of HAVA.

<sup>b</sup>As we reported in our report on the 2004 election, in some states, local jurisdictions are responsible for buying voting systems.

### All States Offered Alternative Methods Or Accommodations for Voting on or before Election Day

In addition to efforts to ensure polling place accessibility, most states offered alternative voting methods, such as absentee voting, that could help facilitate voting options for people with disabilities. All states offered absentee voting as an option, although 26 states reported on our survey that they required voters to meet at least one of several reasons—typically referred to as an “excuse”—to be eligible to vote via absentee ballot, such as having a disability, being elderly, or being absent from the jurisdiction

<sup>37</sup>In 2006, we reported that approximately one-third of the states reported plans to purchase new systems for use in the 2008 election, thus requiring federal system certification. Because EAC had not certified any of these systems as of May 2008—at the time we conducted our audit work—these states reported that they intended to either forego planned system replacements and upgrades for the 2008 general election or seek other ways to satisfy state statutes or directives that require federal certification See [GAO-06-450](#).

(see table 5).<sup>38</sup> However, the number of states that allow absentee voting without requiring that voters provide a reason has increased slightly since the 2000 election, from 18 states to 24 states in 2008. Of the 43 states that reported requiring local jurisdictions to offer in-person absentee voting, 40 states required that locations used for in-person absentee voting abide by the same accessibility provisions and accommodations as Election Day polling places. In addition to absentee voting, all 23 states that reported that they required or allowed local jurisdictions to offer early voting also required early voting locations to meet the same HAVA and state accessibility requirements as Election Day polling places.

**Table 5: Examples of Reasons That Some States Permitted for Absentee Voting**

<b>Eligible reason for absentee voting</b>	<b>Number of states, as of 2008 election</b>
Unable to get to the polls due to illness or disability	22
Being absent from jurisdiction on Election Day	22
Being hospitalized	20
Residing in a long-term care facility	12
Being elderly	10

Source: GAO analysis of data from its 2008 survey of state election officials.

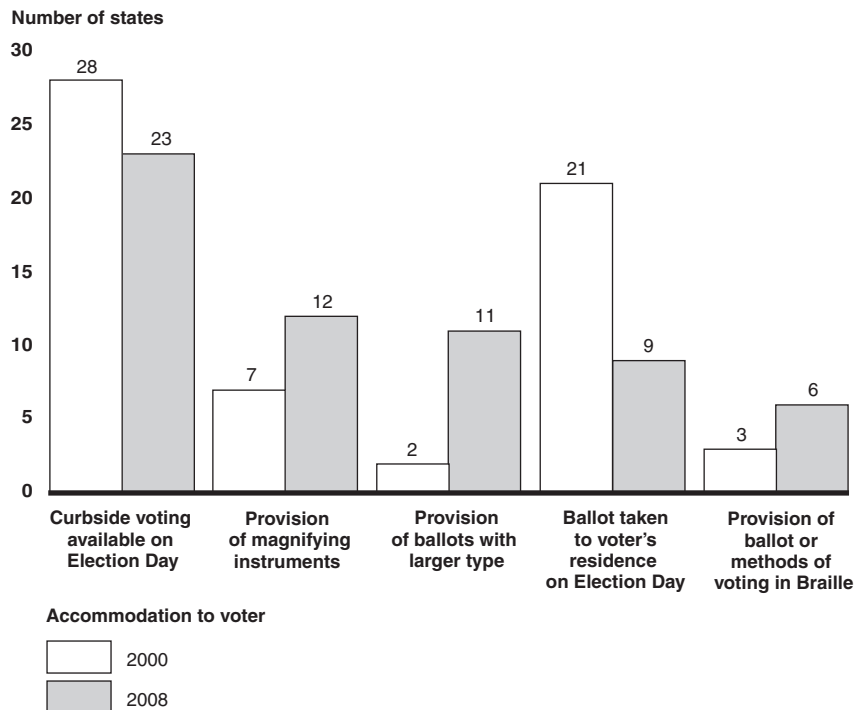
Note: Data include the 50 states and the District of Columbia, but not all states answered every survey question.

Some states required polling places to provide other accommodations for voters with disabilities, such as curbside voting and audio or visual aids, although fewer states required some of these accommodations in 2008 than in 2000. According to our state survey, the number of states that required curbside voting decreased from 28 states in 2000 to 23 states in 2008 (see fig. 13). Likewise, the number of states that required staff in local jurisdictions to take a ballot to the residence of a voter with a disability who needed assistance on or before Election Day decreased from 21 states in 2000 to only 9 states in 2008. These practices may have declined because more states have taken actions to make polling places accessible since the 2000 election, and more states reported allowing people to vote

<sup>38</sup>Absentee voting is usually conducted by mail, but can also be done as “in-person absentee” voting, where the voter visits the election office and completes the absentee voting process in person. Permanent absentee voting is typically available to individuals with disabilities or the elderly. Permanent absentee status, where offered, generally allows the voter to apply for mail-in absentee ballots once (rather than for each separate election) over a specified time period.

absentee without having to meet specific criteria. See appendix V for a comparison of state requirements, accommodations, and voting alternatives from our 2000, 2004, and 2008 surveys.

**Figure 13: Accommodations That States Required Local Jurisdictions to Offer to Voters with Disabilities, as of Election Days 2000 and 2008**



Source: GAO analysis of data from its 2000 and 2008 surveys of state election officials.

Note: Data include the 50 states and the District of Columbia, but not all states answered every survey question.

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## Justice Assessed States' Implementation of HAVA Requirements for the 2006 Deadline, But Its Current Oversight Has Some Gaps

Justice provided guidance on polling place accessibility and conducted an initial assessment of states' compliance with HAVA's January 2006 deadline for accessible voting systems. Since then, Justice's oversight of HAVA's access requirements is part of two other enforcement efforts, but gaps remain. Justice currently conducts polling place observations for federal elections that identify whether an accessible voting system is in place, but it does not systematically assess the physical accessibility of polling places or the level of privacy and independence provided to voters with disabilities. Justice also conducts a small number of annual community assessments of ADA compliance of public buildings, which includes buildings designated as polling places. However, these assessments do not provide a national perspective on polling place accessibility or assess any special features of voting areas and accessible voting systems that are set up only on Election Day.

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## During Early HAVA Implementation, Justice Provided Some Technical Assistance and Assessed States' Compliance with Voting System Requirements

From shortly after the passage of HAVA until 2006, Justice officials said they conducted educational outreach on HAVA voting system requirements. Justice provided guidance on the new HAVA voting system requirements, while the EAC, which was authorized by HAVA to develop guidance and serve as a clearinghouse for election information, was being formed. During this time, Justice officials said they made a considerable effort to educate state and local election officials and national organizations representing election officials and people with disabilities on HAVA voting system requirements. For this effort, Justice officials met with state and local election officials across the country and gave presentations on HAVA requirements at National Association of Secretaries of State and National Association of State Election Directors meetings. In addition, Justice provided information about HAVA voting system requirements on its Web site and posted answers to frequently asked questions. Justice also provided informal responses to questions from state election officials on specific aspects of HAVA voting system requirements. In one response, Justice stated that a HAVA-compliant voting system requires both the voting system and polling place to be accessible to people with disabilities.<sup>39</sup> Furthermore, the EAC, in consultation with Justice, developed an advisory opinion stating that a HAVA-compliant voting system should be accessible to people with

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<sup>39</sup>Letter from Justice of March 4, 2005, to the Mississippi Secretary of State's office regarding the accessibility of voting systems and polling places, see <http://www.usdoj.gov/crt/voting/hava/msdisability.php>.

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disabilities (as defined by the ADA), which includes not just the technical features of the voting system, but configuring the system to allow people with disabilities to vote privately and independently.

As part of these early efforts, Justice provided guidance to poll workers on how to assess and create a physically accessible polling place. In 2004, Justice published the *Americans with Disabilities Act: ADA Checklist for Polling Places*, which provided information to voting officials on key accessibility features needed by most voters with disabilities to go from the parking area to the voting area. The checklist also describes how to take measurements of sloped surfaces, door openings, ramps, and other features to help identify potential impediments and suggest possible alternatives and temporary modifications. Justice officials said they have distributed 16,000 copies of the *Americans with Disabilities Act: ADA Checklist for Polling Places*, primarily to advocacy groups and state and local election officials, and received over 80,000 hits on its Web site since the checklist was released in February 2004. According to our survey, 34 states found the checklist to be moderately to very helpful and several state election officials with whom we spoke said they used it to develop their own state assessments of polling place accessibility. While the checklist provides limited guidance on accessibility features within the voting area, it does not provide information about the configuration of the voting system—such as positioning the voting system in such a way as to allow a person using a wheelchair to vote privately and independently.

In 2005, the EAC adopted *Voluntary Voting System Guidelines*, which include accessibility standards that specify the configuration of the voting station to accommodate people using a wheelchair.<sup>40</sup> The main purpose of these guidelines is to develop technical specifications and standards for voting systems for national testing and certification. HAVA does not require adoption of the guidelines at the state level, although states may choose to adopt the guidelines and make them mandatory in their

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<sup>40</sup>Three iterations of federal voluntary voting system standards have been issued by the federal government. The first set of standards was created in 1990 by the Federal Election Commission (FEC). In 2002, the FEC updated the standards by adopting a second iteration. HAVA transferred the responsibility of developing voting system standards from the FEC to the EAC. In 2005, the EAC issued the third iteration, called the *Voluntary Voting System Guidelines* (VVSG). These guidelines were developed by the EAC's federal advisory committee, the Technical Guidelines Development Committee (TGDC), and the National Institute of Standards and Technology (NIST). The EAC is currently in the process of revising the guidelines. Draft guidelines were prepared by the TGDC with technical support from NIST and are available for public comment on EAC's Web site.

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jurisdictions. While these guidelines are used to specify voting system testing standards, EAC officials told us that user-friendly guidance targeted to poll workers on HAVA voting system requirements, polling place accessibility, and voting assistance to people with disabilities is needed.

In addition to early guidance, Justice also conducted an initial assessment of states' progress toward meeting the January 2006 deadline for compliance with HAVA voting system requirements. In 2003, Justice sent letters to state election officials summarizing HAVA voting system requirements. Justice followed up with letters in 2005 and 2006, which outlined HAVA voting system requirements and asked states to respond to a series of questions to help gauge whether every polling place in the state had at least one accessible voting machine and whether poll workers were trained in the machine's operation. Although states were not required to submit reports to Justice under HAVA, Justice officials said all states responded to the department's letters. Justice officials reviewed state responses and followed up with state officials, sometimes on a weekly basis, if they were not satisfied with the progress being made. Justice also monitored local media outlets and state election and procurement Web sites and consulted with national disability groups, election organizations, and local advocacy groups to independently verify information provided by states. If Justice determined that sufficient progress toward HAVA voting system compliance was not being made, it initiated investigations and, in two cases, pursued litigation when all other options were exhausted. Justice filed complaints against New York and Maine in 2006, in part because these states had not made sufficient progress in purchasing and implementing HAVA accessible voting systems. Since then, according to Justice, both Maine and New York acquired and implemented HAVA accessible voting systems for the November 2008 federal election. Justice officials told us that their assessment of HAVA voting system requirements was part of an initial effort to ensure that all states had accessible voting systems by the required January 1, 2006, deadline.

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### Justice's Current Monitoring of Polling Place Accessibility Has Some Gaps

Once the 2006 deadline passed and all states reported having accessible voting systems, Justice continued only limited oversight of HAVA voting system requirements and polling place accessibility, as part of two ongoing enforcement efforts. These limited efforts leave gaps in ensuring voting accessibility for people with disabilities. For example, Justice supervises polling place observations for federal elections on Election Day to primarily assess compliance with the Voting Rights Act of 1965; however, some limited observations on other federal voting statutes, such as HAVA,

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are also included. Specifically, polling place observers look for accessible voting systems and assess whether poll workers are trained in their operation. In calendar year 2008, 1,060 federal observers and 344 Justice staff members observed 114 elections in over 75 jurisdictions covering 24 states.<sup>41</sup> For such efforts, Justice officials select polling places where they believe there may be a problem, on the basis of negative news coverage, complaints received, or information provided by election officials. Information from polling place observations can provide evidence for an ongoing investigation or lawsuit. Justice sometimes initiates investigations on the basis of complaints and other information received. In some cases, the information may also be used to initiate a matter if an investigation has not already been opened. Justice officials told us that, as part of their Election Day 2008 observations, they came across some polling places where accessible voting machines were not turned on or poll workers were unable to operate the accessible machine. However, based on our Election Day assessments, the potential impediments and challenges for voters with disabilities to access and cast a ballot on accessible voting systems may be more common than what Justice officials said they found through their observations. Importantly, Justice did not systematically assess the physical accessibility of the polling places or the level of privacy and independence provided to people with disabilities by the accessible voting system, which limits the department's ability to identify potential accessibility issues facing voters with disabilities.

In addition, Justice officials said they annually initiate a small number of community assessments of ADA compliance in public buildings, including buildings designated as polling places, but these assessments include a small portion of polling places nationwide and are generally not conducted on Election Day. According to Justice, these assessments—called Civic Access assessments—can be resource-intensive, which, in part, may limit the number that the department can complete in a given year. Justice initiated three Civic Access assessments in calendar year 2008. Justice selects communities for Civic Access assessments on the basis of a number of characteristics within a community, including size of the

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<sup>41</sup>The Voting Rights Act of 1965 authorizes federal observers to monitor procedures in polling places and sites where ballots are counted in political subdivisions that have been certified by court or the U.S. Attorney General. Federal observers, recruited by the Office of Personnel Management and under the supervision of Justice attorneys, visit polling places in certified political subdivisions on Election Day, recording numerous observations on voting procedures and collecting information on voting statistics. According to Justice, its attorneys also conduct observations in uncertified political subdivisions under certain circumstances.



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disability community, geographic location, complaints received from citizens and advocacy groups, and proximity to a university or tourist attraction—which, according to Justice officials, might attract people with disabilities from outside of the community. In planning for the assessment, Justice requests information from the communities about their polling places, such as their locations, modifications made on election days, and steps taken to make polling places accessible. The on-site reviews assess as many polling places as possible within the scope of the overall review. Justice officials said they prioritize polling places for assessments on the basis of geographic location, proximity to other buildings targeted for assessment in the review, and extent of public use of the facility for any purpose. To conduct on-site reviews—which typically take 1 to 3 weeks to complete—Justice deploys teams of attorneys, architects, and investigators to take measurements of a variety of public buildings. Afterwards, Justice compiles a list of physical barriers and impediments for people with disabilities found during the on-site review. Then Justice generally negotiates and enters into a settlement agreement with the election jurisdiction, which includes recommendations for improvements, a time frame for implementing needed changes, and requirements for reporting and documentation. Between 2000 and 2008, Justice entered into 161 Civic Access settlement agreements, of which, 69 contained one or more recommendations aimed at polling place provisions. However, given the small number of Civic Assess assessments conducted annually, the information on polling place accessibility does not provide a national perspective on polling place accessibility. In addition, since these assessments are not conducted during elections, they do not assess any special features of voting areas and accessible voting systems that are set up only on Election Day.

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## Conclusions

State and local election officials across the country took a considerable step toward improving voting access for people with disabilities by having accessible voting systems at virtually every polling place we visited on Election Day 2008. These voting systems have been significant in enabling some Americans with disabilities to vote privately and independently at their neighborhood polling place for the first time. This also shows that Justice's efforts to assess states' implementation of HAVA voting system requirements achieved the desired outcome of ensuring that polling places had at least one accessible voting system. Despite these significant efforts, voters with disabilities may have had difficulty casting a ballot on these systems because the majority of polling places still had one or more potential impediments that could prevent a voter with a disability from even getting to the accessible voting system. Furthermore, in close to half

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of polling places, the accessible voting system itself could pose challenges for voters with disabilities to vote privately or independently. If these conditions continue, there may be some voters with disabilities who will experience frustration and dissatisfaction with the voting process on future election days, while others could be discouraged from voting entirely.

Ensuring that voters with disabilities can successfully vote privately and independently requires government to think broadly about access: how voters will arrive at the polling place, enter and move through the building, and cast a ballot using an accessible voting system. For example, just taking an accessible voting system out of its case and setting it up on any voting station is not enough if a voter using a wheelchair cannot reach it. Although Justice's *Americans with Disabilities Act: ADA Checklist for Polling Places* has been widely distributed and is considered helpful by states, it only includes limited information on creating an accessible voting area and does not have guidance on configuring voting systems for people with disabilities. In addition, Justice's current oversight of HAVA voting system requirements and polling place accessibility does not address all aspects of voting access. Without monitoring that focuses on the broad spectrum of voting accessibility for people with disabilities, it will be difficult for Justice to ensure it is meeting its oversight duties under HAVA and other federal voting statutes and to know whether voters with disabilities are being well-served. We acknowledge that extensive monitoring of polling place accessibility could be a costly and challenging undertaking. However, Justice already demonstrated its ability to leverage resources when it worked with states, disability advocacy organizations, and others to conduct its initial assessment of states' implementation of HAVA voting system requirements. As the proportion of older Americans increases, the number of people with disabilities will also likely continue to grow, and it will become even more important to ensure that voting systems are accessible to all eligible voters.

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## Recommendation for Executive Action

To identify and reduce the number of potential impediments and other challenges at polling places that might hinder or detract from the voting experience for people with disabilities, we recommend that the Department of Justice look for opportunities to expand its monitoring and oversight of the accessibility of polling places for people with disabilities in a cost-effective manner. This effort might include the following activities:

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- working with states to use existing state oversight mechanisms and using other resources, such as organizations representing election officials and disability advocacy organizations, to help assess and monitor states' progress in ensuring polling place accessibility, similar to the effort used to determine state compliance with HAVA voting system requirements by the 2006 deadline;
  - expanding the scope of Election Day observations to include an assessment of the physical access to the voting area and the level of privacy and independence being offered to voters with disabilities by accessible voting systems; and
  - expanding the *Americans with Disabilities Act: ADA Checklist of Polling Places* to include additional information on the accessibility of the voting area and guidance on the configuration of the accessible voting system to provide voters with disabilities with the same level of privacy and independence as is afforded to other voters.

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## Agency Comments and Our Evaluation

We provided a draft of this report to Justice, EAC, and HHS for review and comment. Justice generally agreed with our recommendation to expand its monitoring and oversight of accessibility of polling places for people with disabilities in a cost-effective manner, although it had some concerns about specific activities we suggested as part of this recommendation. Specifically, Justice generally agreed with our suggestion to work with states to use existing state oversight mechanisms and other resources to help assess and monitor states' progress in ensuring polling place accessibility, similar to the effort it undertook shortly after HAVA was enacted. Justice said that it can look for opportunities to enhance educational efforts to states and gather some additional information to assess state accessibility programs, and work with election officials and disability rights organizations to stress the importance of polling place accessibility and ask for their assistance in improving compliance with federal requirements related to accessibility, but said that it is unlikely to have the resources for a comprehensive undertaking similar to its earlier effort. Justice also generally agreed with our recommendation to expand the scope of the *Americans with Disabilities Act: ADA Checklist for Polling Places* to provide additional information on ensuring the accessibility of the voting area and include guidance on the configuration of the accessible voting system.

Justice expressed concerns about our suggestion to expand the scope of Election Day observations to include an assessment of the physical access

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to the voting area and the level of privacy and independence being offered to voters with disabilities by accessible voting systems. In particular, it had concerns about shifting the focus of the federal observer program from its primary purpose of ensuring compliance with the Voting Rights Act of 1965, and not having the resources to train and deploy observers to conduct extensive assessments of polling places on Election Day. At the same time, Justice said that it will continue to have Election Day observers and monitors note whether polling places have an accessible voting system and will consider incorporating some additional questions such as observing whether the accessible voting system appears to be situated in a way that voters can use the system privately and independently. In response, we believe that the actions we suggest to expand Justice's monitoring and oversight activities are consistent with the agency's stated function. As laws are enacted and revised to support voting accessibility, Justice can be positioned to fully meet its duties by modifying its assessment approaches. That stated, we believe that incorporating additional questions such as these would satisfy our recommendation and could be done without adding significant work and interfering with the primary purpose of the Election Day observer program. Justice also provided technical comments, which we incorporated as appropriate.

The EAC expressed appreciation for our research and said that the report will be a valuable resource for the EAC and election officials as they continue to develop, implement, and evaluate effective election administration practices regarding voting accessibility. It also identified some of the resources that the EAC has made available to election officials and the public regarding voting accessibility, and stated that it will continue to work in collaboration with election officials, experts, and advocacy groups to identify additional resources needed to address this area. HHS said that our findings were consistent with what states have reported and the report highlights concerns that HHS has found for some of its grantees. Written comments from Justice, EAC, and HHS appear in appendixes VI, VII, and VIII.

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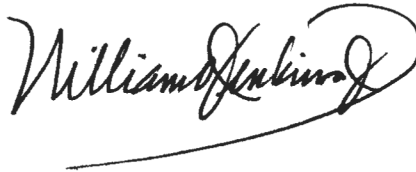
As agreed with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after its issue date. At that time, we will send copies of this report to Justice, EAC, HHS, the U.S. Access Board, and other interested parties. In addition, the report will be made available at no charge on GAO's Web site at <http://www.gao.gov>.

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If you or your staffs have any questions about this report, please contact Barbara D. Bovbjerg at (202) 512-7215 or [bovbjergb@gao.gov](mailto:bovbjergb@gao.gov), or William O. Jenkins at (202) 512-8777 or [jenkinswo@gao.gov](mailto:jenkinswo@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix IX.



Barbara D. Bovbjerg  
Director, Education, Workforce,  
and Income Security Issues



William O. Jenkins, Jr.  
Director, Homeland Security  
and Justice Issues

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*List of Requesters*

The Honorable Tom Harkin  
Chairman  
Committee on Health, Education, Labor,  
and Pensions  
United States Senate

The Honorable Herbert Kohl  
Chairman  
Special Committee on Aging  
United States Senate

The Honorable Charles E. Schumer  
Chairman  
The Honorable Robert Bennett  
Ranking Member  
Committee on Rules and Administration  
United States Senate

The Honorable Dianne Feinstein  
United States Senate

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# Appendix I: Scope and Methodology

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Our objectives were to examine (1) the proportion of polling places that have features that might facilitate or impede access to voting for people with disabilities and how these results compare to our findings from the 2000 federal election; (2) the actions states are taking to facilitate voting for people with disabilities; and (3) the steps the Department of Justice (Justice) has taken to enforce the Help America Vote Act of 2002 (HAVA) voting access provisions. To determine the proportion of polling places that have features that might facilitate or impede access to voting for people with disabilities and how these results compared to our 2000 findings, GAO staff visited polling places on Election Day, November 4, 2008, to make observations, take measurements, and conduct short interviews of polling place officials. To obtain information on our first and third objectives, we administered a Web-based survey of election officials in all 50 states, the District of Columbia, and 4 U.S. territories (American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands).<sup>1</sup> For all of our objectives, we interviewed officials at Justice, the Election Assistance Commission (EAC), the Department of Health and Human Services (HHS) and from national organizations that represented election officials and disability advocacy organizations. We also reviewed federal laws, guidance, and other documentation. We conducted our work from April 2008 through September 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Election Day Polling Place Visits

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### Selection of Polling Places

We used a two-stage sampling method to select the polling places that we visited on Election Day, November 4, 2008. In stage 1, we selected a sample of counties. Each county we selected was treated as a “cluster” of

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<sup>1</sup>We selected the District of Columbia, American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands for this review because they are required to comply with the provisions of HAVA.

polling places. In stage 2, we selected a sample of polling places from within each county.

Since there is no central list of all of the polling places in the United States, the first stage of our sampling method started with all counties, because most elections are administered at the county level.<sup>2</sup> For cost and efficiency reasons, we confined our list of counties to those in the contiguous United States, including the District of Columbia—thus, excluding Alaska and Hawaii. We also excluded Oregon because eligible residents in this state have voted almost exclusively by mail since 1998. The total number of counties from which we sampled was 3,074. The list of county population sizes was constructed from 2005 American Community Survey data. We used jurisdiction total population size to define the probability of selection in the first stage of sampling because these census data were readily available for all counties and county-equivalents. Although it would have been useful to define the sample using national data on all registered voters or all eligible voters, we did not use the numbers of registered voters because Census data on registered voters were not available at the county level nationwide. In addition, we did not use the numbers of eligible voters (individuals 18 years old and over) because Census data allowing us to exclude noncitizens and felons—groups that are not eligible to vote—from the 18 years and over population also were not available at the county level nationwide.

Because polling places were the unit of our analysis, we used a sampling method known as probability proportionate to size with replacement. In this method, the probability of selecting any county, or cluster, varies with the size of the county, giving larger counties a greater probability of selection and smaller counties a lower probability. The measure of size is the population of the county divided by the total population of all the states in our sample. Each time a county was selected, we returned it to the sample universe, which gave it an additional chance of being selected. Therefore, it was possible that we could select any one county multiple times in the sample. This method allowed us to select a sample that was representative of polling places across the country on Election Day. Using this sampling method, we selected 84 unique counties in 31 states, or the

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<sup>2</sup>We selected counties and cities that are county-equivalents for Census purposes. In 8 counties in our sample, officials at the subcounty level, such as towns and cities, administer elections.



equivalent of 100 counties, with 12 counties being selected more than once.<sup>3</sup>

In the second stage, we selected a random sample of polling places in each county selected in stage one. To do this, we searched the Internet to determine whether each county posted a listing of its polling places. If the information was posted, we downloaded the list.<sup>4</sup> If not, we contacted county or state officials to obtain a list of polling places. For each county, we selected a random sample of 8 polling places for each time the county was selected in our sample. For example, if a county was selected once, we selected 8 polling places, and if a county was selected twice, we selected 16 polling places. Election officials in 79 of 84 unique counties (the equivalent of 94 of 100 counties) in our sample granted us permission to visit on Election Day,<sup>5</sup> for a total of 746 polling places.<sup>6</sup>

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## Description of Site Visits and the Data Collection Instrument

On Election Day, November 4, 2008, we sent out teams of two GAO staff to each county in our sample.<sup>7</sup> Each team was equipped with data collection instruments (DCI) on which to record their observations and the necessary measurement tools: the ADA Accessibility Stick II™, a fish scale, and a tape measure.<sup>8</sup> We monitored the activities of the teams throughout Election Day and provided assistance by telephone from our Washington, D.C., office.

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<sup>3</sup>See appendix III for a list of the counties we visited.

<sup>4</sup>In cases where we downloaded a list of polling places from the Internet, we confirmed with county election officials that this was the most current list. In counties where township or city officials administered elections, we contacted all townships or cities within the county and asked for their lists of polling places as well as their permission to visit polling places in their jurisdiction.

<sup>5</sup>One county where we did not gain access was selected twice in our sample.

<sup>6</sup>Two counties had less than 8 polling places: One county only had 3 polling places because it is in a primarily vote-by-mail state, and, in another county, 1 of the 8 polling places was a mail-in-only location.

<sup>7</sup>Representatives of state or county election officials accompanied GAO teams in 6 counties, but they did not participate in the teams' observations or interviews with polling place officials.

<sup>8</sup>The ADA Accessibility Stick II™ is a tool designed to measure potential structural impediments in buildings and on walkways. This tool was designed and manufactured by Access, Inc., Lawrence, Kansas. The fish scale was used to measure the force required to open a door and was included in our study as a pilot measure.

To ensure uniform data collection across the country, we trained all teams in how to

- properly fill out each question on the DCI,
- use the necessary measurement tools, and
- interview the chief poll worker in each polling place about the accessible voting systems as well as accommodations for voters with disabilities.

See figure 14 for examples of measurements and items for observation that were used to train GAO teams for Election Day visits. We also instructed teams on the appropriate times for visiting polling places and not to approach voters or interfere with the voting process in any way during their visits.

**Figure 14: Examples of Some Measurements and Items for Observation That Were Used to Train GAO Teams for Election Day Visits**



Source: GAO.

Each GAO team that visited a county on Election Day received a list of up to 8 polling places to visit.<sup>9</sup> The first polling place on their list was randomly determined. We then used geocoding software and the address of the polling places to determine the latitude and longitude coordinates for all of the polling places they were scheduled to visit. The latitude and

<sup>9</sup>The types of buildings used for polling places varied widely but typically included houses of worship, schools, libraries, courthouses, police or fire stations, and community centers.

longitude coordinates were used to determine the ordering after the first polling place, which minimized the net travel distance. This geocoding of the addresses allowed the GAO teams to minimize the travel distance between their polling places on Election Day. To maintain the integrity of the data collection process, GAO teams were instructed not to disclose the location of the selected polling places before their visits.

In some cases, states or counties placed restrictions on our visits to polling places. For example, laws in some states prohibit nonelection officials from entering the voting room or voting area. Election officials in several counties granted us access on the condition that we not interview polling place officials on Election Day, and, in several polling places, officials were too busy assisting voters to be interviewed.<sup>10</sup> In these cases, we e-mailed and called chief polling place officials after Election Day to complete the interview. Polling place officials contacted after Election Day were asked the same questions as the officials interviewed on Election Day. Due to the constraints of time and geography, some teams were not able to visit all 8 polling places, but overall, GAO teams were able to visit 98 percent of the randomly selected polling places, or 730 of 746 polling places in 79 counties across 31 states.

GAO teams used a DCI that was similar to the one used in our 2000 study of polling places to record observations and measurements taken inside and outside of the polling place and to capture responses from our interviews with chief polling place officials. However, we updated the DCI on the basis of changes that have occurred in federal laws and guidance since 2000. The primary sources we used to determine the most current requirements and standards for evaluating polling place accessibility were the voting system requirements specified in HAVA<sup>11</sup> and polling place accessibility guidance in the *Americans with Disabilities Act: ADA Checklist for Polling Places*, issued by the Department of Justice in 2004.<sup>12</sup>

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<sup>10</sup>State or county election officials restricted GAO teams from interviewing polling place officials in 10 counties on Election Day, although we were allowed to interview officials in all but 1 county after Election Day.

<sup>11</sup>HAVA requires that each polling place have at least one voting system for use in federal elections that is accessible for voters with disabilities and provides the same opportunity for people with disabilities to vote privately and independently as is afforded by voting systems available to other voters.

<sup>12</sup>See Department of Justice, Civil Rights Division, Disability Rights Section: *Americans with Disabilities Act: ADA Checklist for Polling Places* (Washington, D.C.: February 2004). This checklist is a self-help survey that voting officials can use to determine whether a polling place has basic accessible features needed by most voters with disabilities.

In addition, disability advocates and representatives of the U.S. Access Board reviewed a draft version of our DCI, and we incorporated their comments as appropriate. We also received input from officials at Justice and the EAC and from national organizations that represented election officials. Finally, to ensure that GAO teams could fill out the instrument in the field and complete it in a reasonable amount of time, we pretested the DCI during the presidential primary election in South Dakota in June 2008 and during the congressional primary election in Wisconsin in September 2008.

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## Analysis of Election Day Data

In analyzing the data collected on Election Day, we first examined features that might facilitate or impede access on the path to the voting area.<sup>13</sup> In doing so, we looked at features at four different locations at the polling place: the parking area, the path from the parking area to the building entrance, the building entrance, and the path from the building entrance to the voting area. These features included the following:

- Slope of ramps or cut curbs along the path are no steeper than 1:12.
- Surface is paved or has no abrupt changes over ½ inch.
- Doorway threshold does not exceed ½ inch in height.
- Single- or double-door openings are 32 inches or more wide.

Therefore, the percentage of polling places cited as having one or more potential impediments was based on whether a polling place was found to have at least one feature that might impede access to voting in any of the four locations we examined and does not include potential impediments associated with the voting area itself.

While features of the voting area were not included in our summary measure of whether a polling place had a potential impediment, we did look for features that might facilitate or impede private and independent voting inside the voting area. We identified the types of voting methods available to voters with and without disabilities and took measurements of the voting station or table used by people with disabilities to determine

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<sup>13</sup>We did not assess polling places' legal compliance with HAVA accessible voting system requirements.

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whether wheelchairs could fit inside the station or under the table and whether equipment was within reach for wheelchair users. We collected information on the accessible voting systems required under HAVA to determine the extent to which the system had features that might facilitate voting for people with disabilities and allow them to vote privately and independently. We also briefly interviewed chief poll workers at most of the polling places we visited to find out whether curbside voting was available and how the poll workers would handle voter requests for assistance from a friend, relative, or election official.

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## Sampling Errors

All sample surveys are subject to sampling error, which is the extent to which the survey results differ from what would have been obtained if the whole universe of polling places had been observed. Measures of sampling error are defined by two elements—the width of the confidence interval around the estimate (sometimes called precision of the estimate) and the confidence level at which the interval is computed. The confidence interval refers to the range of possible values for a given estimate, not just a single point. This interval is often expressed as a point estimate, plus or minus some value (the precision level). For example, a point estimate of 75 percent plus or minus 5 percentage points means that the true population value is estimated to lie between 70 percent and 80 percent, at some specified level of confidence.

The confidence level of the estimate is a measure of the certainty that the true value lies within the range of the confidence interval. We calculated the sampling error for each statistical estimate in this report at the 95-percent confidence level and present this information throughout the report.

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## Survey of States, District of Columbia, and Territories

To learn more about states' actions to facilitate voting access and perspectives on Justice's oversight of HAVA voting access provisions, we administered a Web-based survey of officials responsible for overseeing elections from the 50 states, the District of Columbia, and 4 U.S. territories (American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands). Survey topics included (1) state requirements and policies for early voting, absentee voting, and voter identification; (2) state voting accommodations for people with disabilities; (3) state funding and experiences implementing HAVA voting access requirements; (4) level of interaction with Justice officials and usefulness of Justice guidance; and (5) state and local actions to facilitate voting in long-term care facilities. The survey was conducted using a self-administered electronic questionnaire posted on

the Web. We collected the survey data between December 2008 and February 2009. We received completed surveys from all 50 states, 4 territories, and the District of Columbia, for a 100-percent response rate.

Because this was not a sample survey, there are no sampling errors. However, the practical difficulties of conducting any survey may introduce nonsampling errors, such as variations in how respondents interpret questions and their willingness to offer accurate responses. To minimize nonsampling errors, we pretested draft survey instruments with state election officials in Kansas, Virginia, and Wisconsin to determine whether (1) the survey questions were clear, (2) the terms used were precise, (3) respondents were able to provide the information we were seeking, and (4) the questions were unbiased. We made changes to the content and format of the questionnaire on the basis of pretest results. Because respondents entered their responses directly into our database of responses from the Web-based surveys, possibility of data entry errors was greatly reduced. We also performed computer analyses to identify inconsistencies in responses and other indications of error. In addition, a second independent analyst verified that the computer programs used to analyze the data were written correctly. We also searched state election Web sites to illustrate their respective approaches, and obtained and reviewed relevant documentation for selected states. The scope of this work did not include contacting election officials from each state and local jurisdictions to verify survey responses or other information provided by state officials. In addition, we did not analyze states' requirements to determine what they require, but instead relied on the states' responses to our survey.<sup>14</sup>

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## Federal Officials and Expert Interviews and Review of Documentation

To specifically determine what actions Justice has taken to enforce HAVA voting access provisions, we interviewed Justice officials and reviewed relevant federal laws, guidance, and other documentation. Specifically, we spoke with Justice officials in the Voting and Disability Rights Sections of the Civil Rights Division to document Justice's internal process for handling HAVA matters and cases and to review the department's actions to monitor and enforce HAVA voting access provisions (see app. IV for an overview of this process). We reviewed the *Americans with Disabilities*

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<sup>14</sup>For the purposes of our study, we defined "requirements" as requirements under state law, regulation, or executive order/directive. Our definition does not include federal requirements.

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*Act: ADA Checklist for Polling Places* and informal guidance, such as letters responding to state election officials' requests for additional guidance on HAVA voting access requirements. We also reviewed citizen complaints from Election Day 2008 that were provided to us by Justice and all three complaints containing a HAVA voting access claim that Justice has filed against states or election jurisdictions since HAVA was enacted in 2002.

In addition, to learn more about the federal role in providing assistance and funding to states under HAVA, we interviewed officials from the EAC, HHS, the National Association of Secretaries of State, and the National Association of State Election Directors.



# Appendix II: List of Counties Randomly Selected for Site Visits on Election Day, November 4, 2008

Number of county selected	County	State	Number of times county was selected in random sample
1	Allegany <sup>a</sup>	Maryland	1
2	Allegheny	Pennsylvania	3
3	Anderson	Texas	1
4	Anoka	Minnesota	2
5	Ashland	Ohio	1
6	Bannock	Idaho	1
7	Berks <sup>a</sup>	Pennsylvania	2
8	Brazoria	Texas	1
9	Bristol	Massachusetts	1
10	Broward	Florida	1
11	Centre	Pennsylvania	1
12	Clarion	Pennsylvania	1
13	Columbiana	Ohio	1
14	Cumberland	Maine	1
15	Cuyahoga	Ohio	1
16	Dallas	Texas	1
17	Del Norte	California	1
18	Denton	Texas	1
19	Denver	Colorado	1
20	District of Columbia	Washington, D.C.	1
21	Douglas	Colorado	1
22	East Baton Rouge Parish	Louisiana	1
23	Elkhart	Indiana	1
24	Estill	Kentucky	1
25	Fairfax	Virginia	1
26	Franklin	Ohio	1
27	Franklin <sup>a</sup>	Pennsylvania	1
28	Greenville	South Carolina	1
29	Gwinnett	Georgia	2
30	Harris	Texas	1
31	Hillsborough	Florida	1
32	Howard	Maryland	1
33	Huntington	Indiana	1
34	Indiana	Pennsylvania	1
35	Lafayette	Mississippi	1

**Appendix II: List of Counties Randomly  
Selected for Site Visits on Election Day,  
November 4, 2008**

<b>Number of county selected</b>	<b>County</b>	<b>State</b>	<b>Number of times county was selected in random sample</b>
36	Lake	Ohio	1
37	Lancaster	Nebraska	1
38	Lancaster	South Carolina	1
39	Lauderdale	Alabama	1
40	Lincoln	Kentucky	1
41	Lincoln	Maine	1
42	Los Angeles	California	2
43	Macon	Illinois	1
44	Madison	Ohio	1
45	Mahoning	Ohio	1
46	Maricopa	Arizona	2
47	Marion	Indiana	1
48	McPherson	Kansas	1
49	Medina	Ohio	1
50	Miami-Dade	Florida	2
51	Middlesex	Massachusetts	1
52	Mitchell	Georgia	1
53	Monmouth	New Jersey	2
54	Monterey	California	1
55	Montgomery	Maryland	1
56	New York City <sup>b</sup>	New York	5
57	Newton	Georgia	1
58	Ocean	New Jersey	1
59	Philadelphia <sup>a</sup>	Pennsylvania	1
60	Pima	Arizona	1
61	Pinellas	Florida	2
62	Rice	Minnesota	1
63	Rockford City	Illinois	1
64	Russell	Kansas	1
65	Sacramento	California	2
66	San Diego	California	2
67	San Luis Obispo	California	1
68	Santa Clara	California	1
69	Saratoga	New York	1
70	Sherburne	Minnesota	1
71	Stafford	Virginia	1

**Appendix II: List of Counties Randomly  
Selected for Site Visits on Election Day,  
November 4, 2008**

<b>Number of county selected</b>	<b>County</b>	<b>State</b>	<b>Number of times county was selected in random sample</b>
72	Stark	Ohio	1
73	Sullivan <sup>a</sup>	New York	1
74	Swisher	Texas	1
75	Travis	Texas	1
76	Tulsa	Oklahoma	1
77	Virginia Beach city	Virginia	1
78	Wake	North Carolina	1
79	Washington	Utah	1
80	Wayne	Michigan	1
81	Weber	Utah	1
82	Westmoreland	Pennsylvania	1
83	Will	Illinois	1
84	Yakima	Washington	1
<b>Total</b>			<b>100</b>

Source: GAO.

Note: We selected counties and cities that are county-equivalents for Census purposes.

<sup>a</sup>We were not granted permission to visit polling places in this county on Election Day.

<sup>b</sup>Because New York City manages elections at the city level, we treated it as 1 county when selecting our random sample.

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# Appendix III: Summary Of Justice Voting Section's Internal Process For Handling HAVA-Related Matters And Cases

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Within Justice, the Voting Section's internal process for initiating HAVA-related matters and handling cases consists of four phases: initiation, investigation, complaint justification, and litigation.

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## Initiation

While the Voting Section generally does not receive referrals from other federal agencies, many matters are initiated by allegations from a variety of sources, including citizens, advocacy and community organizations, Members of Congress, U.S. Attorney's Offices, and news articles or through election monitoring. The Voting Section also sometimes initiates matters to monitor private lawsuits and to observe elections. The matter is assigned to an attorney under the supervision of a deputy chief or special litigation counsel for review to determine if further action is warranted. If so, a memorandum is prepared for the section chief and final approval from the Assistant Attorney General or his or her designee is required before an investigation can begin.

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## Investigation

Once the decision is made to investigate a matter, the section chief will assign a trial attorney, who conducts an investigation. When the investigation is complete, the trial attorney makes a recommendation to the section chief on whether Justice should file a lawsuit, close the matter, or participate in some other manner. The section chief is responsible for making the final decision about closing an investigation authorized by the Assistant Attorney General or recommending a lawsuit or other participation to the Assistant Attorney General. If a referral or allegation of a HAVA violation is not pursued, all appropriate parties are notified, and the matter is closed.

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## Complaint Justification

If a decision is made to pursue a matter and recommend filing a formal complaint to initiate a lawsuit, then the trial attorney prepares a justification package. An attorney manager and the section chief are responsible for reviewing and approving the justification package. A Deputy Assistant Attorney General reviews the justification package, which is then forwarded to the Assistant Attorney General for final review and approval. The justification package is also sent to the U.S. Attorney's office for the district where the lawsuit is to be filed for review and concurrence. If the justification package is not approved, the trial attorney generally prepares a closing memorandum and notifies the charging party, respondent, and/or referring agency, as appropriate, that Justice is not filing a lawsuit. The matter is then closed.

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## **Litigation**

If the justification package is approved, the Civil Rights Division notifies the defendant by letter of Justice's intent to file a lawsuit. After the defendant has been notified, the trial attorney and the defendant often have presuit settlement discussions. If a presuit settlement is reached, a settlement document stating the points of agreement is prepared, reviewed, and approved by the Office of the Assistant Attorney General and signed by all parties. If the presuit settlement discussions do not result in a settlement, the complaint is filed in federal district court and the parties engage in litigation. Filing a complaint and the beginning of legal proceedings do not preclude the trial attorney and defendant from continuing negotiations and reaching a settlement. According to Voting Section officials, defendants often settle prior to, or during, a trial. If a trial is held, the plaintiff or defendant can often appeal the decision. If the decision is appealed, the Voting Section works closely with the Appellate Section of Civil Rights Division, which assumes responsibility for the appeal stage of the case.

# Appendix IV: List of Potential Features That Might Impede Access to Voting in a Polling Place

Location of features that might impede access to voting in a polling place	2000 Percentage <sup>a</sup>	2008		
		2008 Percentage	Lower bound (LB)	Upper bound (UB)
<b>Parking area</b>				
One or more ramps or cut curbs steeper than 1:12 <sup>b</sup>	<sup>c</sup>	24.0%	18.5%	29.5%
No designated parking for people with disabilities	32.2%	3.3	1.6	6.0
One or more unramped or uncut curbs <sup>b</sup>	8.1	2.6	1.5	4.3
No parking for any voters	1.2	0.6	0.1	2.2
One or more unramped or uncut curbs <36 inches wide <sup>b</sup>	0.1	0.5	0.1	1.4
Other potential impediments in parking lot	4.1	8.2	6.0	11.0
<b>Path from parking area to building entrance</b>				
Unpaved or poor surface in parking lot or route to building entrance	23.2	23.5	19.4	27.7
Ramp in path from parking area to building entrance is steeper than 1:12	21.5	16.4	12.6	20.8
Sidewalk/path is steeper than 1:12 <sup>d</sup>	19.6	12.0	9.0	15.5
Improper or no handrails on ramp	5.8	8.2	5.3	12.1
No sidewalk/path from parking area to building entrance	8.2	4.2	2.2	7.0
Ramps in path from parking area to building entrance do not have a level landing at the top and bottom of each section is < 60 inches long	<sup>c</sup>	4.0	2.5	5.9
Leaves, snow, litter in path from parking area to building entrance	1.5	2.0	1.0	3.6
Sidewalk/path from parking area to building entrance <36 inches wide	1.4	1.5	0.6	2.9
Ramps in path from parking area to building entrance is < 36 inches wide	0.5	1.4	0.4	3.3
Steps required in path from parking area to building entrance	7.1	1.3	0.5	2.7
Other potential impediments in path from parking area to building entrance	9.8	6.4	3.7	10.3
<b>Building entrance</b>				
Doorway threshold exceeds ½ inch in height	37.4	23.3	16.2	31.8
Single doorway opening is < 32 inches wide	9.6	6.5	4.4	9.2
Doors that would be difficult for a person using a wheelchair to open	25.7	6.3	3.7	9.9
Double door opening is <32 inches wide, including situations in which one of the doors cannot be opened	5.0	3.4	1.7	6.2
Other potential impediments at the building entrance	6.1	4.7	2.4	8.4
<b>Path from building entrance to voting area</b>				
Doorway threshold exceeds ½ inch in height	2.3	3.7	1.9	6.3
Single doorway opening is < 32 inches wide	4.8	3.6	1.6	6.9
Corridors that do not provide an unimpeded width of at least 36 inches, but can go down to 32 inches for two feet.	0.9	2.7	1.1	5.4
Ramp is steeper than 1:12	2.4	2.7	1.5	4.4
Improper or no handrails on ramp	0.7	1.8	0.9	3.2

**Appendix IV: List of Potential Features That  
Might Impede Access to Voting in a Polling  
Place**

Location of features that might impede access to voting in a polling place	2000 Percentage <sup>a</sup>	2008		
		2008 Percentage	Lower bound (LB)	Upper bound (UB)
Doors that would be difficult for a person using a wheelchair to open	3.2	0.5	0.1	1.6
Double door opening is <32 inches wide, including situations in which one of the doors cannot be opened	1.8	0.5	0.1	1.6
Steps are required to gain access to voting area	2.1	0.5	0.1	1.5
Elevator is not operational or is not properly equipped for people with disabilities	<sup>c</sup>	0.5	0.1	1.4
<ul style="list-style-type: none"> <li>• The elevator is not operational</li> </ul>				
<ul style="list-style-type: none"> <li>• The center of the top outside call button in the hall is higher than 42 inches from the ground or floor</li> </ul>				
<ul style="list-style-type: none"> <li>• The elevator opening is less than 36 inches wide</li> </ul>				
<ul style="list-style-type: none"> <li>• The center of the top floor button(s) in the elevator is higher than 48 inches from the floor of the elevator</li> </ul>				
<ul style="list-style-type: none"> <li>• The panel surrounding the elevator car buttons lacks raised lettering or Braille</li> </ul>				
<ul style="list-style-type: none"> <li>• Outside or inside elevator buttons requires a human touch to operate</li> </ul>				
<ul style="list-style-type: none"> <li>• The inside elevator car is less than 48 inches by 48 inches</li> </ul>				
<ul style="list-style-type: none"> <li>• The elevator is not equipped with audible tones or bells or verbal annunciators that signal each floor as it passes</li> </ul>				
One or more ramps that are < 36 inches wide or can go down to 32 inches wide for 2 feet	1.4	0.3	0.0	1.5
Wheelchair lift or buttons are not proper dimensions	<sup>c</sup>	0.3	0.0	1.1
<ul style="list-style-type: none"> <li>• The lift is not operational or the lift requires a key which is not present</li> </ul>				
<ul style="list-style-type: none"> <li>• The outside call button in the hall is higher than 42 inches from the ground or floor</li> </ul>				
<ul style="list-style-type: none"> <li>• The lift clear opening is less than 32 inches wide</li> </ul>				
<ul style="list-style-type: none"> <li>• There is less than a 30-inch by 48-inch clear floor space on the lift</li> </ul>				
<ul style="list-style-type: none"> <li>• The controls and operating mechanisms inside the lift are more than 48 inches from the floor of the lift</li> </ul>				
<ul style="list-style-type: none"> <li>• Outside or inside lift buttons requires a human touch to operate</li> </ul>				
<ul style="list-style-type: none"> <li>• The lift requires a third party to operate</li> </ul>				
Other potential impediments with corridors	1.0	3.1	1.3	6.3
Other potential impediments at doorways and entrances	1.3	2.9	1.6	4.8
Other potential impediments with ramps	0.7	0.2	0.0	1.1

Source: GAO analysis of polling place data collected on Nov. 7, 2000, and Nov. 4, 2008

<sup>a</sup>The margin of error for 2000 data is between 2 to 8 percentage points at the 95-percent confidence level.

<sup>b</sup>This feature was listed in the path from parking to building entrance in 2000 study.

<sup>c</sup>We did not measure these items in 2000. We collected data on this item in 2008, following our review based on the *Americans with Disabilities Act: ADA Checklist for Polling Places* and per interviews with experts.

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**Appendix IV: List of Potential Features That  
Might Impede Access to Voting in a Polling  
Place**

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<sup>4</sup>We based this measurement on Justice's *ADA Standards for Accessible Design*, 28 C.F.R. Part 36, Appendix A, which states that any part of an accessible route with a slope greater than 1:20 shall be considered a ramp and the maximum slope of a ramp is 1:12, except in certain cases where space limitations prohibit the use of 1:12 slope or less.



# Appendix V: State Requirements for Accessibility of Polling Places, Alternative Voting Methods, and Accommodations to Facilitate Voting

**Table 6: Summary of Changes in State Requirements Concerning Accessibility of Polling Places from the 2000 to the 2008 General Elections**

State requirement	Number of states		
	2000	2004	2008
<b>Polling place accessibility</b>			
Polling place accessibility standards	23	41	43
Inspections of polling place accessibility	15	28	34
Reporting by local jurisdictions to the state on polling place accessibility	10	32	29
<b>Voting booth areas and equipment</b>			
Accommodation of wheelchairs in voting areas	17	39	38
<b>Aids for visually impaired voters</b>			
Provision of ballot or methods of voting in Braille	3	1	6
Provision of ballots with large type	2	5	11
Provision of magnifying instruments	7	8	12

Sources: *Elections: The Nation's Evolving Election System as Reflected in the November 2004 General Election*. GAO-06-450, (Washington, D.C.: June 6, 2006) and GAO analysis of data from its 2008 survey of state election officials.

Note: Not all states answered every question for the surveys we conducted of state officials.

**Appendix V: State Requirements for  
Accessibility of Polling Places, Alternative  
Voting Methods, and Accommodations to  
Facilitate Voting**

**Table 7: State Provisions Concerning Accessibility of Polling Places and Accommodations for Individuals with Disabilities as of the November 2004 and 2008 Federal Elections**

Provision	Required		Allowed		Not allowed		Not addressed		Not applicable		Required or allowed	
	2004	2008	2004	2008	2004	2008	2004	2008	2004	2008 <sup>a</sup>	2004	2008
Polling place accessibility standards	41	43	6	6	0	0	2	0	1	0	47	49
Inspections of polling place accessibility	28	34	16	11	0	0	6	4	1	1	44	45
Reporting by local jurisdictions to the state on polling place accessibility	32	29	8	12	0	0	9	8	2	0	40	41
Accommodation of wheelchairs in voting areas	39	38	4	9	0	0	7	3	1	0	43	47
Curbside voting available on Election Day	17	23	13	6	18	12	2	8	1	8	30	29
Ballot can be taken to voter's residence on or before Election Day	5	9	20	15	18	14	8	12	0	0	25	24
Notification of voters of any inaccessible polling places	16	16	11	12	1	1	16	20	6	1	27	28
Provision of ballot or methods of voting in Braille	1	6	13	14	2	0	33	30	1	30	14	20
Provision of ballots with large type	5	11	17	13	3	0	26	26	0	0	22	24
Provision of magnifying instruments	8	12	34	29	0	0	7	9	1	0	42	41

Sources: *Elections: The Nation's Evolving Election System as Reflected in the November 2004 General Election*. GAO-06-450, (Washington, D.C.: June 6, 2006) and GAO analysis of data from its 2008 survey of state election officials.

Note: Not all states answered every question for the surveys we conducted of state officials.

<sup>a</sup>For the 2008 survey, we considered state officials' responses as "not applicable" if they checked the "don't know" option for this survey question.

**Appendix V: State Requirements for Accessibility of Polling Places, Alternative Voting Methods, and Accommodations to Facilitate Voting**

**Table 8: Changes in State Requirements Concerning Alternative Voting Methods from the 2000 to the 2008 General Elections**

Methods and accommodations	Number of states that required or permitted		
	2000	2004	2008
Absentee voting by mail	51	51	51
Permanent absentee voting	17	17	Not available
Curbside voting on Election Day	28	30	29
Ballot can be taken to voter's residence on or before Election Day	21	25	24
Early voting	39 <sup>a</sup>	25	23

Sources: *Elections: The Nation's Evolving Election System as Reflected in the November 2004 General Election*. GAO-06-450, (Washington, D.C.: June 6, 2006) and GAO analysis of data from its 2008 survey of state election officials.

Note: Not all states answered every question for the surveys we conducted of state officials.

<sup>a</sup>In our report on the 2000 general election, we did not identify states that offered early voting as we defined it in our report on the 2004 election. Rather, we reported on absentee and early voting together.

# Appendix VI: Comments from the Department of Justice



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

September 8, 2009

Barbara D. Bovbjerg  
Director, Education, Workforce, and Income Security Issues  
U.S. Government Accountability Office  
441 G Street, N.W.  
Washington, D.C. 20548

Dear Ms. Bovbjerg:

Thank you for the opportunity to review the final draft of the Government Accountability Office (GAO) report entitled "*VOTERS WITH DISABILITIES: Additional Monitoring of Polling Places Could Further Improve Accessibility, GAO-09-941.*" This draft report was reviewed by the components of the Department of Justice that participated in this review, specifically, the Voting Section and the Disability Rights Section within the Civil Rights Division. This letter constitutes the Department's formal comments, and we request that the GAO include this letter in the final report.

The Department greatly appreciates the efforts of your staff in examining issues related to the accessibility of polling places throughout the country and in producing this important report. We also appreciate the opportunity to work with your staff on these important issues. The right to vote is fundamental to our democracy and securing access to this right for all eligible voters is one of the highest priorities of this Department, and we take very seriously our obligation to enforce the protections for voters with disabilities found in federal law.

Before responding directly to the recommendations contained in the draft report, we believe it important to provide some context and discuss briefly the requirements of federal law with regard to accessibility for voters with disabilities and how the Department enforces those requirements, as well as the election observer program established by federal law. Within the Civil Rights Division, certain responsibilities are divided between the Disability Rights Section and the Voting Section. The Disability Rights Section enforces the Americans with Disabilities Act (ADA), which mandates that persons with disabilities have access to public programs, services, and activities, such as voting, and DRS therefore investigates allegations regarding the disability-based denial of access to polling places. The Voting Section enforces several federal laws that have discrete requirements related to voting access by persons with disabilities, including Section 301 of the Help America Vote Act, which requires every polling place in the country to have an accessible voting system in federal elections, through which voters with disabilities can vote privately and independently.

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The Voting Section also coordinates a program that sends federal observers and monitors around the country to observe elections. The federal observer program was established by Sections 3 and 8 of the Voting Rights Act (VRA). The VRA provides for the appointment of federal observers by a federal court or by the Attorney General, in certain defined circumstances, to enforce the statute's prohibitions against voting discrimination on the basis of race, color or minority language status, as well as the Act's requirements that voters who are blind, have other disabilities, or are illiterate can receive the voting assistance they need from a person of their choice. Federal observers are deployed by the Office of Personnel Management (OPM), and are authorized to enter polling places on election day to observe the casting and counting of ballots. These observers provide reports on their activities to the Department of Justice and, as appropriate, to federal courts. At times, the Department has utilized its own personnel to monitor elections where there may be possible violations of the VRA in a particular jurisdiction that is not certified for federal observers, and such monitoring, limited by Department resources, is conducted with the voluntary cooperation of each jurisdiction. There are no provisions under federal law for a systematic program on election day to monitor for polling place accessibility or voting system accessibility. However, the Department, for several years, has asked for both observers and monitors to note briefly, during their election day activities, whether a polling place appears to have a working voting system accessible to persons with disabilities. In addition, in several instances, the Disability Rights Section has deployed its own limited personnel to undertake election day observations of the physical accessibility of polling places in a given jurisdiction.

GAO's draft report recommends that the Department "look for opportunities to expand its monitoring and oversight of the accessibility of polling places for people with disabilities in a cost-effective manner." The Department agrees generally with this recommendation and will examine ways in which such monitoring and oversight can be accomplished. With regard to the specific recommendations for such opportunities that are included in the draft report, the Department has the following comments:

Recommendation that the Department work with states to use existing state oversight mechanisms and to use other resources such as organizations representing elections officials and disability rights organizations to help assess and monitor states' progress in ensuring polling place accessibility.

The Department agrees generally with this GAO recommendation, with some reservations. As the draft report indicates, the Department undertook an extensive effort beginning with the enactment of HAVA in 2002 to educate states regarding the requirements of HAVA, including the voting system accessibility requirements, and to assess the timely compliance of states with these requirements. It is highly doubtful whether the Department can devote the resources to a similarly extensive undertaking in the near future. However, the Department can look for opportunities to enhance its efforts aimed at educating states on their voting accessibility obligations under federal law and gathering some additional information to assess state accessibility programs. The Department can also, in its contacts with election

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officials and disability rights organizations, stress the importance of polling place accessibility and ask for assistance in improving compliance with federal requirements in this regard.

Recommendation that the Department expand the ADA Checklist for Polling Places to include guidance on the accessibility of the voting area and the configuration of the accessible voting system to provide voters with disabilities the same level of privacy and independence as afforded to other voters.

The Department agrees generally with this GAO recommendation and will undertake appropriate revisions to the Department's ADA Checklist for Polling Places to supplement the guidance it provides on the accessibility of the voting area and to include guidance on the configuration of the accessible voting system.

Recommendation that the Department expand the scope of election day observations to include an assessment of the physical access to the voting area and the level of privacy and independence being offered to voters with disabilities by accessible voting systems.

The Department has significant concerns with this recommendation. The Department will continue to ask our election day observers and monitors to note whether polling places have a functioning accessible voting system. The Department also will consider whether it can incorporate some additional questions related to accessibility into its existing election day observations. Such questions might include observing whether the accessible voting system appears to be situated in such a way that voters can use the system privately and independently and whether there generally appears to be an accessible path to the voting system. However, the Department has significant concerns that it is not practicable to fully carry out the GAO's recommendation in this regard.

First, as indicated above, the federal observer program has its derivation in the VRA, and is specifically designed to ensure compliance with the Act's prohibitions of discrimination in voting. Polling places are chosen for observation generally based on statutory criteria and the Department does not have the authority to move the focus of this activity away from its legal basis and its intended function.

Second, election day observation is very intense from both an effort and resource point of view. Election day observation is of necessity a selective process, as there are a limited number of personnel from OPM and the Department to deploy across the country. In fact, recent experience indicates that personnel resources are being taxed to the maximum degree possible to provide election day coverage deemed necessary for VRA monitoring alone, especially for a federal general election.

Third, expanding polling place observation to include an accurate, detailed assessment of the physical accessibility of the voting area, the associated parking, and the path thereto, as well as the level of privacy and independence offered to voters with disabilities by the voting system,

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requires a level of expertise not possessed by the vast majority of polling place observers and monitors, the use of specialized equipment to conduct such assessment, and actions by observers and monitors in the voting area that go beyond the established role of an observer. To conduct the assessment suggested in the draft report, observers and monitors would have to conduct actual physical measurements of polling place premises, inside and out, as well as voting systems, on election day during the hours when voting is underway. Such assessments would require extensive training of observers in techniques for accurately measuring and documenting barriers to access. Since an accurate accessibility survey of a typical polling place requires more than an hour, such surveys would also take a significant amount of time away from other observer functions. Of great significance, observers secure the cooperation of local elections officials by simply observing - and only that. More active assessments of polling place compliance with federal accessibility requirements would, in essence, convert the observer into an investigator and fundamentally change the election monitoring program.

That said, as indicated in your draft report, the Department has been engaged for some time in the systematic accessibility review of polling places in selected jurisdictions in its Project Civic Access program. The Department will be continuing the PCA program in selected jurisdictions throughout the nation, and polling place accessibility will continue to be a high priority in the PCA program. In fact, in its most recent PCA agreements with jurisdictions responsible for the designation of polling places, the Department has required such jurisdictions to take the steps required to ensure that all of their polling places are accessible. The Department has also recently concluded an extensive agreement with the City of Philadelphia under the ADA to greatly improve the accessibility of the City's 1,200 polling places to voters with mobility disabilities. This settlement is the Department's first-ever agreement solely focused on polling places, and was a highly significant undertaking from a resource standpoint. In addition, the Department will continue to act on potential violations of federal law with regard to the accessibility of the voting process to persons with disabilities as it learns of them, either from our normal observing of elections or from complaints received from various sources on election day and at other times.

Again, we appreciate the extensive effort that your staff has put into this report and the opportunity to work with them on these important issues.

Sincerely,



Loretta King  
Acting Assistant Attorney General

cc: Richard Theis  
Director, Audit Liaison Group

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# Appendix VII: Comments from the Election Assistance Commission

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**U.S. ELECTION ASSISTANCE COMMISSION**  
1225 New York Ave. NW - Suite 1100  
Washington, DC 20005

August 27, 2009

Ms. Barbara D. Bovbjerg  
Director, Education, Workforce, and Income Security Issues  
U.S. Government Accountability Office  
Washington, DC 20548

and

Mr. William O. Jenkins, Jr.  
Director, Homeland Security and Justice Issues  
U.S. Government Accountability Office  
Washington, DC 20548

**Re: Comments regarding proposed GAO-09-685 Report**

Dear Ms. Bovbjerg and Mr. Jenkins,

The U.S. Election Assistance Commission (EAC) is grateful for the opportunity to comment on the GAO-09-685 report *Voters with Disabilities: More Polling Places had no Potential Impediments than in 2000 but Challenges Remain*, submitted to the EAC on August 10, 2009. The EAC appreciates GAO's research regarding (1) the proportion of polling places that have features in the path to the voting area that might facilitate or impede access to voting for people with disabilities and how these results compare to GAO's findings from the 2000 election and (2) the proportion of polling places that have features in the voting area that might facilitate or impede private and independent voting for people with disabilities.

As noted in your report, the Help America Vote Act of 2002 (HAVA) requires that each polling place use at least on direct recording electronic voting system, or other voting system equipped for individuals with disabilities, to ensure accessibility for the latter in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters. Furthermore, HAVA also requires that the EAC conduct research and activities regarding a wide range of election administration issues, including voting accessibility.

To help address some of these requirements, the EAC has made the following resources available to election officials and the public:



Appendix VII: Comments from the Election Assistance Commission

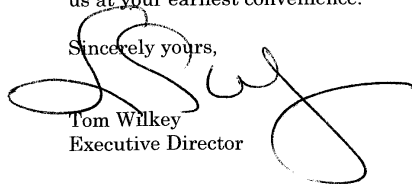
- *Election Management Guidelines* (EMG) – Chapter 9, Polling Place and Vote Center Management, of the EMG provides election officials recommendations for locating, setting up, and managing accessible polling places. A separate chapter will be developed and published in 2010 to specifically address voting accessibility issues.
- *Quick Start Management Guide: Elderly and Disabled Voters in Long-Term Care Facilities* – this brochure provides election officials recommendations to consider when developing and implementing policies that facilitate registration and voting processes for elderly and disabled voters in long-term care facilities, including information on using these facilities as polling places.
- *Effective Designs for the Administration of Federal Elections* – This report provides best practice samples for the design of ballots, polling place signage, and voter information materials. The best practice samples were based on the 2005 Voluntary Voting System Guidelines (VVSG), Americans with Disabilities Act (ADA) guidelines, research findings, and information design principles.
- *Successful Practices for Poll Worker Recruitment, Training, and Retention* – This guidebook presents a variety of field-tested techniques, which can be adapted by election jurisdictions of varying sizes and demographics, to aid in the recruitment, training, and management of poll workers. The guidebook includes an entire chapter on recruiting poll workers with disabilities, and several sections also discuss poll worker training strategies to better assist elderly and disabled voters.
- *Voluntary Voting System Guidelines* (VVSG) – The VVSG provides specifications and standards against which voting systems can be tested to determine if they provide basic functionality, accessibility, and security capabilities.

These activities serve as the EAC's initial steps in providing resources to election officials and the public regarding voting accessibility, including access to polling places. It should be noted that all of these products have been developed in collaboration with election officials, subject-matter experts, and representatives from advocacy groups. The EAC will continue to seek their feedback in identifying additional resources and materials it may provide in this area.

GAO's final report will be an invaluable resource to the EAC and election officials as they continue to develop, implement, and evaluate effective election administration practices regarding voting accessibility. It is clear from the report that while some successes have been achieved (e.g. the proportion of polling places without potential impediments increased from 16 percent to 27 percent in 2008) there is still room for improvement in this area. The EAC sincerely appreciates the opportunity to provide information for this report. If you need further information or have any questions regarding the EAC's activities on voting accessibility, please do not hesitate to contact us at your earliest convenience.

Sincerely yours,

Tom Wilkey  
Executive Director



# Appendix VIII: Comments from the Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE SECRETARY

AUG 31 2009

Assistant Secretary for Legislation  
Washington, DC 20201

Barbara D. Bovbjerg, Director  
Education, Workforce, and  
Income Security Issues  
U.S. Government Accountability Office  
441 G Street N.W.  
Washington, DC 20548

Dear Mr. Bovbjerg:

Enclosed are comments on the U.S. Government Accountability Office's (GAO) report entitled: "Voters with Disabilities: Additional Monitoring of Polling Places Could Further Improve Accessibility (GAO-09-941).

The Department appreciates the opportunity to review this report before its publication.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrea Palm", written over a horizontal line.

Andrea Palm  
Acting Assistant Secretary for Legislation

Enclosure

**COMMENTS OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) ON THE  
GOVERNMENT ACCOUNTABILITY OFFICE (GAO) DRAFT REPORT TITLED, "VOTERS  
WITH DISABILITIES: ADDITIONAL MONITORING OF POLLING PLACES COULD  
FURTHER IMPROVE ACCESSIBILITY"  
(GAO-09-941)**

**GAO Recommendations**

To identify and reduce the number of potential impediments and other challenges at polling places that might hinder or detract from the voting experience for people with disabilities, we recommend that Justice look for opportunities to expand its monitoring and oversight of the accessibility of polling places for people with disabilities in a cost-effective manner. This might include:

- Working with states to use existing state oversight mechanisms and using other resources such as organizations representing elections officials and disability advocacy organizations to help assess and monitor states' progress in ensuring polling place accessibility, similar to the effort used to determine state compliance with HAVA voting system requirements by the 2006 deadline;
- Expanding the scope of Election Day observations to include an assessment of the physical access to the voting area and the level of privacy and independence being offered to voters with disabilities by accessible voting systems; and
- Expanding the ADA Checklist of Polling Places to include guidance on the accessibility of the voting area and the configuration of the accessible voting system to provide voters with disabilities the same level of privacy and independence as afforded to other voters.

**HHS Comments**

ACF's Administration on Developmental Disabilities (ADD) indicated that while it cannot confirm the findings, the findings are consistent with what the State Protection and Advocacy Agencies and the Secretaries of State generally state in their annual reports. Some States are better than others, though ACF grantees reported the following:

- Most States have established the appropriate accessibility requirements and funded improvements to help facilitate accessible voting;
- Most States offer alternative voting methods for their local jurisdictions, e.g., curbside voting, absentee voting, vote by phone, etc.;
- Most States offer some type of accessible voting machine, which is generally an electronic machine; and
- Most States continue to need ongoing training and technical assistance to clarify the language in the Help America Vote Act (HAVA), e.g., money available until expended, etc., as well as the appropriate use of HAVA funds.

Overall, the GAO report highlights a number of concerns that ADD has also encountered for some of ACF's grantees.

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# Appendix IX: GAO Contacts and Staff Acknowledgments

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## GAO Contacts

Barbara D. Bovbjerg, (202) 512-7215, [bovbjergb@gao.gov](mailto:bovbjergb@gao.gov)  
William O. Jenkins, Jr., (202) 512-8777, [jenkinswo@gao.gov](mailto:jenkinswo@gao.gov)

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## Staff Acknowledgments

Brett Fallavollita, Assistant Director, and Laura Heald, Analyst-in-Charge managed this assignment. Carolyn Blocker, Katherine Bowman, Ryan Siegel, and Amber Yancey-Carroll made significant contributions to this report in all aspects of the work. Jason Palmer, Susan Pachikara, Gretta Goodwin, Matthew Goldstein, and numerous staff from headquarters and field offices provided assistance with Election Day data collection. Carl Barden, Cathy Hurley, Stu Kaufman, George Quinn, and Walter Vance provided analytical assistance; Alex Galuten provided legal support; Paula Moore provided technical support; Jessica Orr provided assistance on report preparation; Mimi Nguyen developed the report's graphics; and Anna Bonelli, Caitlin Croake, Kim Siegal, and Paul Wright verified our findings.

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# Related GAO Products

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*Voters with Disabilities: More Polling Places Had No Potential Impediments Than In 2000, But Challenges Remain.* [GAO-09-685](#). Washington, D.C.: June 10, 2009.

*Elections: States, Territories, and the District Are Taking a Range of Important Steps to Manage Their Varied Voting System Environments.* [GAO-08-874](#). Washington, D.C.: September 25, 2008.

*Elections: 2007 Survey of State Voting System Programs.* [GAO-08-1147SP](#). Washington, D.C.: September 25, 2008.

*Elections: Federal Program for Certifying Voting Systems Needs to Be Further Defined, Fully Implemented, and Expanded.* [GAO-08-814](#). Washington, D.C.: September 16, 2008.

*Election Assistance Commission—Availability of Funds for Purchase of Replacement Voting Equipment.* [B-316107](#). Washington, D.C.: March 19, 2008.

*Elderly Voters: Some Improvements in Voting Accessibility from 2000 to 2004 Elections, but Gaps in Policy and Implementation Remain.* [GAO-08-442T](#). Washington, D.C.: January 31, 2008.

*Elections: All Levels of Government Are Needed to Address Electronic Voting System Challenges.* [GAO-07-741T](#). Washington, D.C.: April 18, 2007.

*Elections: The Nation's Evolving Election System as Reflected in the November 2004 General Election.* [GAO-06-450](#). Washington, D.C.: June 6, 2006.

*Elections: Federal Efforts to Improve Security and Reliability of Electronic Voting Systems Are Under Way, but Key Activities Need to Be Completed.* [GAO-05-956](#). Washington, D.C.: September 21, 2005.

*Elections: Electronic Voting Offers Opportunities and Presents Challenges.* [GAO-04-975T](#). Washington, D.C.: July 20, 2004.

*Elections: A Framework for Evaluating Reform Proposals.* [GAO-02-90](#). Washington, D.C.: October 15, 2001.

*Voters with Disabilities: Access to Polling Places and Alternative Voting Methods.* [GAO-02-107](#). Washington, D.C.: October 15, 2001.

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