

**Testimony submitted by Christopher M. Thomas, Director of Elections,  
Michigan's Office of Secretary of State before the U.S. Election Assistance  
Commission in Washington D.C. on December 8, 2008.**

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It is a pleasure to appear before the Election Assistance Commission (EAC). I thank Chair Rodriguez for the invitation and offer my greetings to all of the Commissioners. I also offer greetings from Secretary of State Terri Lynn Land.

I was asked to testify on a couple of issues:

1. A request to add questions concerning voting system malfunctions or errors in the 2008 election to the Election Administration and Voting Survey.
2. The manner in which Michigan handles voting system malfunctions.

At the outset I must say that the 2008 election was run extremely well. A long, arduous primary season followed by a record breaking turnout in November thoroughly tested our election system. By all accounts our election system performed well without valid documentation of any widespread problems or malfunctions. Of course, there are improvements that can be made and systems that can be better designed. Many of us are here in Washington this week to work with PEW and others to explore innovations in election administration. Election officials across this nation feel extremely positive about the conduct of the 2008 election. We face the future coming off of a success. I cannot imagine opposition to a properly constructed survey on voting system performance in 2008.

With regard to adding questions to the Election Administration and Voting Survey, I would like to revisit with you the National Association of State Election Directors' (NASED) position on the survey. This survey, first being named the Election Day Data Survey, has caused some consternation over the years to members of NASED. While we have been interested in providing the requested data, in the earlier surveys we were concerned by the late approval of the document. As States developed their statewide voter registration databases, it became evident that much of the data could be collected via programs imbedded into the new systems. However, it was necessary to have the questions nailed down solidly before the expense and effort to program the voter registration databases could be committed.

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EAC has worked with NASED and others to approve the data questions well in advance of the election. NASED continues to advocate for the data questions to be set in stone two years before the election. We should all be working on the 2010 set of data questions right now so that systems can be programmed to accommodate any new requests that may be made by EAC.

I am also keenly aware of the constrictions that the Paperwork Reduction Act imposes upon an agency in developing surveys. Being no expert on the Paperwork Reduction Act, I am at a loss to understand how questions could be added at this late date to the survey currently in place for 2008.

Further, it is my understanding that the voting system questions on the previous survey elicited a dismal response – roughly a 10% response rate. It is reasonable to conclude that the earlier surveys contained an apples to oranges set of questions, i.e. quantitative and qualitative.

In short, I would not recommend amending the Election Administration and Voting Survey at this late date. There are other ways to gather the requested information.

EAC Voting System Certification Program gathers incident reports from the manufactures of voting systems. As I understand the requirements, a manufacture's certification is dependent upon timely submission of reports of malfunctions and system problems. This is a good starting point. However, it is doubtful that this will satisfy those interested in obtaining immediate feedback from the 2008 election cycle.

The Board of Advisors has recommended that EAC create a Web site compilation of incident reports filed by State and local election officials. It appears the EAC has initiated something similar to the Board of Advisor's December 2007 resolution.

If EAC wishes to gather a thorough, nationwide survey of voting system performance issues, I recommend that a separate survey instrument be designed to achieve this goal. Extreme care must be exercised in the construction of the questions that will be asked of the States and local jurisdictions. A poorly designed survey may produce results that improperly undercut the faith voters have in our election system.

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I have been reviewing voting system issues for more than 27 years and rarely have found a clear cut situation where the voting system technology is the sole problem. There is a human element involved nearly every time. I have seen software coding issues where all the testing was completed, but the error was not found until after election day. Investigation demonstrated that the pre-election reports were indeed performed, but not reviewed.

On the EAC Web site is a letter from the Oakland County Clerk in Michigan concerning an issue that was discovered by the pre-election Logic and Accuracy Testing of their optical scan voting equipment. By the time you received the letter the issue was resolved. This is a clear cut case of the system working just as it is supposed to. The manufacturer working with the election officials found that settings on the Digital to Analog Converter (DAC) settings required adjustment. Further, in some instances test decks were not properly prepared by election officials. Again, the human element is central to the proper functioning of any voting system. Contrary to the conclusion stated in the letter, any dust and debris build-up on the read-heads did not cause the problem.

If the EAC decides to pursue a separate survey or to somehow add questions to the current survey, I urge you to involve election officials in the design of the questions. NASED stands ready to assist EAC in any such effort.

In Michigan we maintain a close working relationship with our local election officials. We maintain a separate e-mail system that keeps us in constant contact with all Michigan officials.

We also commit significant resources to training local election officials on all aspects of election administration. Our training includes the thorough testing of election systems as explained to the EAC in testimony by Ms. Sue McRill of our Bureau of Elections last September.

In addition to our regular interaction with election officials, I would note that Michigan purchased the statewide voting system for our local jurisdictions. We negotiated the contracts with the three optical scan voting system manufacturers and then granted ownership to the local jurisdictions after they selected their preferred manufacturer. This marked the first State involvement in the voting system purchase process. We take our role very seriously and have committed resources to advocate on behalf of local election officials with the manufacturers.

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The bureau's involvement typically comes from local election officials seeking guidance on how to proceed with the resolution of an equipment issue they are facing. Even though the contract relationship is between the election official and the manufacturer we routinely troubleshoot problems and interact with both the local election official and the manufacturer. I would not characterize this as a high volume part of our workload.

Finally, I would urge the EAC to continue pushing forward with the Voting System Certification Program. We truly need systems to start moving through your program so that we are providing the voters with the most current products. We have typically received software upgrades in the years between elections that enhance the performance of our systems. As you are no doubt aware, these upgrades are not free. Part of the warranty coverage we purchased on optical scan tabulators for the past two federal election cycles was to cover firmware upgrades. There have been no certified firmware upgrades. We will be purchasing extended warranty coverage to maintain our ability to receive these upgrades when they are certified by your program.

I very much appreciate the conference the EAC is sponsoring in January and very much look forward to the information we will receive on the progress being made toward the certification of new and upgraded voting systems.

Thank you providing me the opportunity to present this information to you.