



Statement of the Verified Voting Foundation
Regarding the Election Assistance Commission (EAC) – Clearinghouse Function
December 8, 2008

Verified Voting Foundation is a national, non-partisan, non-profit organization dedicated to promoting accessible, transparent, reliable and publicly verifiable voting systems and procedures. We appreciate this opportunity to comment on the Commission's ongoing efforts to maintain a clearinghouse of information on state and local governments' experience in operating voting systems.

We are pleased that the Commission has taken steps to carry out its clearinghouse function. The Voting System Reports Clearinghouse page on the Commission's Web site now contains important documents relating to voting system certification, performance, and security submitted by six states.

We respectfully offer these suggestions for the continued improvement of the Clearinghouse:

- It is our view that Section 202(1) of HAVA, by charging the Commission with “maintenance of a clearinghouse of information on the experiences of State and local governments in implementing the guidelines and in operating voting systems in general,” gives the Commission the duty to collect information on all voting systems used in federal elections. Therefore, we believe that the Commission should explicitly request all the states and equivalent election jurisdictions in the United States to submit to the Clearinghouse the statutes, regulations, and other documents which constitute their voting system requirements; and, making redactions where necessary for the preservation of legitimate trade secrets, the testing and certification documents, (including but not limited to operators' manuals, acceptance testing results, and pre- and post-certification correspondence with voting system vendors), pertaining to the voting systems used in the jurisdiction, as well to any voting systems whose certification was revoked or whose application for certification was denied since at least the passage of the Help America Vote Act.
- The Commission should request that all states and equivalent jurisdictions which have conducted post-certification reviews of voting system usability, reliability, and security submit their public documents pertaining to such reviews to the Clearinghouse. The Commission should also request that jurisdictions submit confidential documents pertaining to such review, with the understanding that such documents remain confidential.
- We strongly recommend that the Commission establish an electronic reporting functionality for local and State election jurisdictions to report voting system performance issues to the Clearinghouse. In 2004, Verified Voting was a key partner in developing a system for capturing reports about election-related incidents or issues, the Election Incident Reporting System (EIRS)ⁱ, and included in the data collected was information about problems voters reported having with voting systems. EIRS was developed during a time before states like California, Ohio, Kentucky, Alaska and others had conducted significant reviews of their voting systems,

and there was a relative vacuum of public information about the types of problems which could arise.

Data from EIRS was used by many interested entities, including the GAO. New iterations of that system have been used in 2006 and 2008ⁱⁱ. These systems capture reports from voters and observers in actual polling places and occasionally from poll workers, but are not linked to any official sites (i.e. state or county election offices, for example), and other than reviewing their own jurisdictions' reports, election officials do not have a clear path for responding to the reports. Since that time, some states and local jurisdictions have done more to collect and make public information about election issuesⁱⁱⁱ.

EIRS and similar systems maintained by civic organizations are critically important to the transparency of the election process; a non-governmental forum for information about democracy's machinery helps keep governments accountable to the voters. We believe, though, that a similar functionality for election officials, together with a question about voting system performance in the Election Day Survey, would allow election officials to report such issues in greater depth, as election officials undoubtedly have more information about real and perceived performance issues. Therefore, the inclusion of a question or questions regarding voting system performance issues should be part of every Election Day Survey or questionnaire, and the data gathered made part of the Clearinghouse database in an electronic format that is searchable by voting system, voting system vendor, and jurisdiction. The Commission should establish a Web-based reporting functionality that allows local and State governments to report voting system performance information directly.

- The state of Connecticut has, commendably, submitted to the Clearinghouse documents relating to post-election manual audits of vote tallies conducted in the state. We suggest that the Commission request that the 23 other state-level jurisdictions which now conduct post-election audits submit the reports and analyses of their audits to the Clearinghouse.
- In passing the Help America Vote Act, Congress envisioned the residual vote rate (i.e., the number of votes cast for each candidate divided by the total number of ballots cast) of voting systems for the highest office on the ballot as a useful measure of voting system performance. Section 241(b)(17) of HAVA charges the Commission with conducting periodic studies of “the best methods for establishing voting system performance benchmarks, expressed as a percentage of residual vote in the Federal contest at the top of the ballot.”

Currently, the various reporting methods of the states and equivalent jurisdictions do not all facilitate the calculation of such residual vote rates. Many states provide useful information regarding county-level turnout and the number of valid votes cast for federal offices, but other states report “voter turnout” simply as a function of the total number of valid votes cast for the highest office on the ballot. Some states provide precinct-level information that allows the calculation of residual votes.

To our knowledge, no states provide residual vote rate information for different voting systems used in the same precinct or similar reporting unit. The Commission should request that states submit to the Clearinghouse the voter turnout statistics for each precinct or similar reporting unit in the state; the number of overvotes, undervotes, blank ballots, and valid votes cast for

federal races in those reporting units, the number of provisional ballots cast, accepted, and rejected in those reporting units, and the reasons for rejecting them; and the number of absentee ballots requested, submitted, and counted in those reporting units, and the reasons for rejecting them. If precincts or similar reporting units use different voting systems, the states should undertake to differentiate the residual vote rate of the various voting systems in the same reporting unit.

- In the past, it has been difficult for states and local jurisdictions to get detailed electronic data broken down by precinct for post-election audits, the EAC's Election Day Surveys, and other purposes, because Election Management Systems (EMS) from major vendors do not make it easy to get such data in a form that is easy to edit and reformat for other purposes. We urge the EAC and its data collection contractor to work with the five states that have received EAC grants to get EMS vendors to make detailed precinct-level data available from their individual EMS's in the standard "500 series" vote-tabulation XML schema formats developed by the OASIS Election and Voter Services Technical Committee that has been developing the Election Markup Language (EML) dialect of XML since 2001. Getting vendors to make detailed data available in an EML standard format will make it much easier for states and local jurisdictions throughout the country to provide higher quality, more detailed election data with lower cost to everyone.
- Though the use of voting system vendors for maintenance of voting equipment is an issue of importance and public interest, there is very little information in the public domain relating to voting equipment maintenance contracts. The Commission should request copies of all maintenance contracts for voting equipment in effect in each State and equivalent jurisdiction, and should make them public.
- The Commission should index and organize items in the Clearinghouse in a more searchable way with catalog of items - index by state, locality, voting system type, etc. and enable search restricted to clearinghouse.
- The storage of voting equipment and the measures jurisdictions employ throughout the election process to secure voting equipment from damage or tampering are of significant interest to concerned citizens and voting technology experts. Data regarding security measures, the cost of voting equipment delivery, as well as the timing of delivery (how far in advance voting equipment is stored at polling places or delivered to the custody of election workers) would be valuable to policymakers, citizens, and election officials as they consider future best practices for balancing security needs with the logistical challenges of conducting elections. The Commission should undertake to collect information related to the security and storage of voting equipment, and the delivery of voting equipment to polling places.

We make these suggestions for improvements to the Clearinghouse aware that the Commission must be mindful, when making requests for information to State and local governments, of the time and resources available to busy election officials. We believe, though, that if the Commission carries out our suggestions, many jurisdictions will set a strong example of providing useful and accurate information relating to the performance of voting systems in federal elections. We thank the Commission for considering these suggestions, and for its ongoing work.

ⁱ <http://voteprotect.org>

ⁱⁱ The most recent was developed by the Electronic Frontier Foundation (eff.org) and can be viewed at <http://ourvotelive.org>

ⁱⁱⁱ One such example is the Maricopa County model, which assigns issues to be investigated and resolved, so that a more complete report may be produced and made public.