

Voting in 2004:
A Report to the Nation on America's Election Process
Tuesday, December 7, 2004
Room SD-G50, Dirksen Senate Office Building

Panel 7: Absentee Ballots

MOD: Thank you very much, and make sure you put your questions on index cards too to anybody who doesn't get their question asked.

WADE HENDERSON

MOD: We'd like to hear from all of our panelists who made the effort to be here today. A couple of our panelists have to leave promptly at five. And so, we're going to try to get this program underway, get our presentations moving and then save time for questions and answers as well. So, please take your seats. Again, I'm Wade Henderson, the executive director of the leadership conference on civil rights. Our last panel today will be on the topic of absentee ballots. The 2004 elections saw a huge increase in the number of people who voted using absentee ballots, and many states this year even encouraged their use by allowing for no excuse early voting. After the problems of the 2000 election it was no wonder that so many voters turned to absentee and early voting in order to avoid the long lines, malfunctioning machines

and the chaos of polling places on election day. And seems quite likely that even more voters will do so in future elections. But is absentee voting really any better? Many voters complained that they asked for absentee ballots but never received them. Broward County for example had to rescind more than seventy thousand ballots at the last minutes for voters who had to rescind more than seventy thousand ballots at the last minute to voters who had never received them. And in many areas that utilized early voting, voters complained of lines that were just as bad or even worse than lines on election day itself. Now, here to talk about how absentee overseas and early voting worked in 2004 are four leading experts in the field. Leslie Reynolds to my immediate left is executive director of the National Association of Secretaries of States, to her left Courtney Strickland, voting rights project director of the American Civil Liberties Union of Florida, to her left Abby Ruben, professor of computer science at Johns Hopkins University, and finally Cecily Counts, director of Civil Rights for the ACLCIO, and they will present in that order. Ladies and gentlemen, please join me in welcoming our

distinguished panel and our first presenter, Leslie Reynolds.

LESLIE REYNOLDS

FS: Thank you so much Wade. I want to thank you so much for inviting me to participate in this panel today. I am so much not an expert. So, it's a little embarrassing. I worked for a lot of experts. And so, I tend to try to gather as much information from the states and then report back to them on what others are doing as well as report to the media on what's happening. I am the executive director of the National Association of Secretaries of States often referred to as NASS. As many of you know thirty nine of the fifty secretaries of state are the chief state election officials. And like many of your organizations we've been working on the issues of election reforms for decades. I was asked to speak about absentee ballots and I'm going to do that by also expanding the topic to include early voting. So, I'm glad that you referenced early voting. Let me start by saying that I have found that one of the biggest challenges in dealing with election reform issues is the different terminology that's used to describe the same thing. And so, from my perspective

the terms of absentee voting and early voting certainly fall into this category. For the purpose of discussion let me explain the terms that I'll be using. At NASS we refer to early voting when a state allows voters to cast their ballot before election day just because they feel like it. There's no excuse required. Most of the states allow for early voting either in person or by mail. There are eight states however that only allow for early voting in person. If you live in a state that does not offer early voting by mail you can still cast your transitional absentee ballot if you can't make it to your polling by election day. Voters in those states must qualify to vote absentee. For example the voter must be traveling or otherwise unable to make it to the polling place whether they're house bound or whatever. And even in those cases when they refer to excuse only absentee voting it's not like you are required to show some form of proof like an airline ticket that you're not going to be there but it is an excuse that is required. While some form of absentee voting is offered in all fifty states, no excuse early voting is not. Thirty states allowed voters to cast ballots early this year. That number is up from November of

2000. And the number of voters who took advantage of early voting is also up. According to preliminary numbers that NASS collected from twenty four of the thirty states that offered early voting, they were close to six million more voters early voters than in November of 2000. And we may see more states offered early voting in 2008 including Michigan, Pennsylvania and Ohio who are among the states that have announced publicly that they will consider offering early voting. Early voting is still in its infancy in some states and election officials recognize the system is not without its flaws. In some states early voting sites were not considered polling place and therefore were not subject to signage equipments or the state election laws. While my organization has not taken a formal position on early voting which is the only thing that I can speak on because I can only represent their positions, I can tell you that the secretaries in the early voting states are committed to improving the process. If you're looking at early voting as a convenience and you have to sand in line for hours then it really is not a convenience. And so, there are obviously things that will be looked at. There were certainly lessoned this year that we will

probably see addressed in the immediate future. For their purpose state election officials hope that early voting is a matter of convenience and that it helps to boost voter turn out. We're committed to improving the process by working with the groups that are here today. We know that you have all talked about a lot of very good ideas and you have a lot of input and in ways that we can work together Wade and I have worked on projects, Hilary Shelton from the NAACP. We are anxious to be able to work together to put some plans that we can put before the secretaries of state. As for rational absentee voting the states continue to work to try to see the delivery and return of all absentee ballots. We know that there are reports of people who requested absentee ballots but did not receive them in time to vote. And states continue to pursue alternative delivery methods for absentee ballots including fax and email. And they will continue to work with the postal service to improve delivery times for absentee. Abbey Ruben can tell you more about the internet voting project that was considered in that table by the DOD. But I will tell you that the chief state election officials worked with DOD and the U.S. postal service this year to help

ensure that military and overseas voters received their absentee ballots in time to cast them. In fact the results of a recent NASS survey showed that most states accepted absentee ballot returned by express mail and fax this year. Our survey results also revealed that litigation delayed the printing and mailing of absentee ballots in some states this year. And we learned that most states required the absentee ballots in some states this year and we learned that most states required the absentee ballots to be received in the election office by election day with some exceptions from military and overseas voters where they must be postmarked by election day. Obviously I'm happy to provide any of the detailed information I've discussed with you here upon request. There are three staff people at NASS. The surveys that we do are pretty informal and pretty limited, but the states are always pretty good about responding to them. Our association continues to encourage all citizens to participate in elections. In fact one of our major initiatives was designed to increase voter participation nationwide. We will continue to work with the civil rights and disability groups to educate

Congress and the public on the importance of key election reforms. Thank you.

MOD: Courtney Strickland from the ACLU of Florida.

COURTNEY STRICKLAND

FS: Well, I don't know about you, but I certainly have learned a lot today. I think this has been just a wonderful comprehensive overview of the observations of a variety of activists and organizations and I say thank you as (unint.) sponsoring organizations. My name is Courtney Strickland. I'm the voting rights project director for the American Civil Liberties Union of Florida. The ACLU of Florida just to give you a big of background began its election work at the form of a project shortly after 2000 in order to address voting irregularities particularly ones that had a disproportionate impact on minority communities that were brought to light in the November 2000 election. Since that time we have addressed such a wide range of voting issues. It runs the gambit from everything from the 2000 and 2004 felon purge list that the state and the counties came up with in Florida to inadequate language assistance whether it's Spanish in central Florida or Haitian Creole in South Florida in Miami Dade County to trying to get rid of

the equipment that one be in the correct precinct in Florida in order for a provisional ballot to count even in federal elections and even if the person is an eligible. We also had to file suit to try to overturn an administration rule banning manual recounts in all touch screen counties. That's something that we were successful in doing but not the emergency rule that was put in place (unint.) and so we'll be back to not being exactly sure of the direction that that will be heading in the future in Florida. The range of issues have been so large that as Bobby (unint.) an activist with the Miami Dade Election Reform Coalition put it how many times can Florida say oops. And unfortunately with regards to absentee ballots what we saw in November 2004 is that Florida once again had to say oops. I think the extent of problems with traditional absentee balloting and I'll differentiate that from early voting were so great that they took a lot of folks by surprise voting activists included. For the November 2nd election, and this is as of November 22nd, 2004 when I last looked this up on the database, 13.4 percent of all reported incidents in Florida were absentee ballot related, 13.4 percent. That's a very significant percentage of the incidents

if you consider the wide range of problems that can and have occurred. In Miami Dade County it was 11.8 percent of all incidents in that county, Broward 17.5 percent and Palm Beach 15.6 percent. If you look at all the incident reports from Florida in the entire 2004 election season, not just the November 2nd election, the percentages are even more significant rising to 18.7 of all reported incidents being related to absentee ballots. In Miami Dade County, for the whole election season it was 15.7 percent, Broward 25.2 percent of all reported complaints in the primary November 2nd elections were concerning absentee ballot problems, Palm Beach 27 percent. If those figures don't represent a systemic problem that we have going on at least in South Florida, then I don't know what does. What's undetermined at this point is the extent to the coverage of that problem throughout the state of Florida. And unfortunately I can't present you today with a lot of solution to what's going on but I can give you an idea of some of the potential causes and some of the types of problems and where we'll be looking in the future. We're going to have to do our homework. Just to give you a little bit of an idea of the types of problems that occurred, the ACLU of

Florida actually took in a lot of complaints in our own office even apart from the election protection program. And of the complaints received in our office 40.1 percent were absentee ballot related. That was fifty nine complaints of a hundred and forty seven. Forty three of those were concerning delays in the mailing of absentee ballots or absentee ballots never being received. Others concerned confusing postage, having discrepancies in the amount of postage that was noted as being required to mail it back in, problems in the formatting of the envelope that resulted in the return of the ballot to the voter and issues such as signature. In Florida this year, Florida did away with the witness requirement that you have another person witness your absentee ballot. And now absentee ballots are being validated purely on the basis of signature. That is for example in Miami Dade County temporary workers were being given a few hours of training by handwriting experts in order to determine the signature on your absentee ballot matched to the signature on your voter registration card, and that was how it was determined whether it counted. Now, whether or not getting rid of the witness requirement is a good idea the ACLU doesn't have a position on

because we need to know more about whether that's actually providing greater access or causing more problems. Other issues, party affiliation being printing on the outside of absentee ballots even when it's not a primary election. So, it's not clear what the reason for that is and it certainly impacts voter confidence, also rejecting ballots on hyper technical terms. We filed suit on behalf of an overseas voters for example who submitted his federal write in ballot by both mail in and by fax. It got lost in the mail or something happened. They didn't receive it and at first the county was refusing to count the faxed version. They eventually went back on that once we filed suit over that particular issue. As for the origins of the problem, I can only speculate until we have more data and we are planning to do an investigation statewide on this. It may have been as Doug from election line reported a system overload, simply that they were expecting the number of requests. But again as Melanie Campbell said earlier today I think we all knew that we were going to have huge turnout. There's also no statutory obligation in Florida as to when a request for an absentee ballot must be filled, and that may be part of what we have

to address. Some of the counties cited vendor problems that they had subcontracted out the creation of the absentee ballots and that the vendors were in fact causing a delay in getting those back to the voters. Overseas and traditional absentee ballots within the United States are also treated differently in Florida. For traditional absentee ballots they must be received in the elections' office by 7 p.m. on election or they're not counted. There was a rule promulgated by the secretary of state of Florida that extended that deadline by ten day for overseas and military voters. So, you just had to have it postmarked by November 2nd but then to have another ten days to reach the office. We filed suit on election day realizing the sheer numbers of people who were not going to receive their absentee ballot in time to get it back in order to try to have traditional absentee ballots within the U.S. counted the same as overseas voters to extend that deadline. Unfortunately we weren't successful in that suit. Over thirteen thousand ballots were sent out to voters late in Broward County. So, that gives you an idea of exactly what was at stake. We'll be continuing to look for ways to address that. In conclusion this is an issue

that we're going to address. Why? Partly because I think in Florida at least we're seeing a move toward a new scenario in voting. For example the Florida supervisors of elections have recommended moving towards a super precincts type format where essentially there is no election date. There's only early voting with a number of precincts but not neighborhood precincts and a person can go to any precinct the same as an early voting in Florida and cast the vote and there is a two week period or what have you for doing that and no traditional voting day. For voters who may have access problems to those polling places when they're not directly in their neighborhood absentee balloting in the traditional sense may become the only way to go. Protecting the right to vote has been a moving target, and this is a perfect example of how it continues to be a moving target. And as individuals and organizations we're going to have to be constantly be vigilant for what is the new emerging problem that we're going to have to address and be careful that our own (unint.) issues doesn't prevent us from addressing new ones that are coming. Thank you.

MOD: Courtney, thank you so much. And now we'll hear from Abby Ruben of Johns Hopkins University.

AVI RUBIN

MS: Hi, good afternoon everyone. I'm a computer scientist. My area of specialization is computer security. And several years ago, it was actually in 1997, that I discovered a really good problem to work on. You see computer security would not be a very interesting field if everybody was honest, if we didn't have any bad people. And the problem of voting is one that is fraught with all kinds of threats of fraud, of manipulation, etc. It was a perfect research problem for me to go at from the (unint.) curiosity. And over time as I was studying this it became a lot more for me and I got involved in some of the policy issues. About two years ago leading up to the November 2003 election, I was invited to participate in a security review of the federal voting assistance programs system and they're under the DOD called SERVE, which stands for Secure Electronic Voting and Registration Experiment. The first thing that I realize as I attended the meetings and started receiving some of the information was I was not an experiment. That was a misnomer. It was actually

going to be used in the election. And at the time there were fifty counties that were signed up for this in seven different states that were going to participate. The goal of SERVE was to provide military and overseas civilians the opportunity to vote in the election by absentee ballots over the internet. And the reason that this is important is that military people serving in dangerous and hostile places I think we need to make every possible effort more than the normal effort to let the people risking their lives to protect our country to vote. It's a fundamental right we all have. They deserve it more than anybody. The problem that I saw was that it almost seemed that we were trying too hard. We have this great technology of the internet that we use to buy airline tickets that we use for just about everything. If my wife shops on P pod and we get our groceries over the internet, and so you get asked every day well if you can get your groceries over the internet why can't you vote over the internet. The problem is that there isn't somebody out there with billions of dollars of incentives to get me the wrong kind of milk when we order our groceries. Voting is a completely different thing. We have bad guys. That's

why it's interesting to security person, and we have billions of dollars, public policy at stake. And so, what we need to do is assume the absolute most serious threat model that we could imagine and then look at this internet voting experiment or internet voting idea and say if we have these kind of adversaries, which is not a hypothetical, we have them, if we have other countries that could finance people to try to subvert our election, either just make it not work or change votes or whatever they might do, are we going to be able to be secure enough to protect the election against that? The problem that we found analyzing the system and there was an external team of reviewers that was brought in that I was a part of was not something fundamental to the solution that they came up with. It didn't have to do with the design where we said well these guys didn't do a very good job. We were incredibly impressed with the team that they put together. They had contracted with (unint.) and paid them twenty to million dollars to build this system. And I came out of there feeling that I was dealing with one of the sharpest and best technical teams that I'd worked with. The problem was fundamental to the internet, to windows, to internet explorer, all of

which were part of the system. The idea was that somebody would go up to a machine in Afghanistan or whatever in a cyber café and if it was running windows and had internet explorer on it, they would be able to vote. And so, we did a security analysis and concluded that this system could not be secure in the face of the threats that it would face, and thankfully the system was cancelled. So, that system was not used. And I was asked to report today about what was used. Unfortunately without the ability to use the surf system a couple of state opted for something that I think is strictly worse than that. The election assistance commission came out with the recommendations for overseas military. And if you read those, I actually have a copy of it in my hand and it's available on their website, they encourage the faxing and emails of ballots to voters. It did not specify that they be faxed or emailed in return. And I actually asked one of the commissioners about that and discovered that that was not an oversight. It's one thing to distribute ballots that way. It's another thing how they are returned. In Missouri, military voters stationed in fifty three countries that were termed combat zones, hostile fire or eminent

danger areas were able to vote by absentee by an email and fax combo. The idea would be that they would get the ballot however they had to get it, maybe downloading it over the web or via physical mail. They would fill it out and then under the presumption that there are more scanners than fax machines around the world, they would scan the ballot in, email it to a third party contractor who would then have the ballot who would supposedly then print out that email and fax it to the local election official of this voter. I see serious problems with that. First of all I don't think that email and the web should play a critical role, at least not the public internet in any kind of voting. The next thing is that this government contractor who's named Omega that was contacted has the ability to control all of these votes. If you're going to fax something that's not very high resolution, you can mess with it and then fax something else in, or if you just don't like it you can throw it away. Anyway, email and fax I think is actually worse than the surf system that I analyzed which was cancelled because of security problems. In order to be able to report today, I called up the secretaries of states office, Missouri and North

Dakota who implemented this program to try to get some numbers from them about how the system was used. North Dakota told me that they were not going to be differentiating between fax absentee ballots and regular absentee ballots and they're never going to have those numbers and that they don't even have the absentee ballot numbers right now. Missouri told me that they're not going to differentiate between faxed absentee ballots and email fax combo absentee ballots but that with two thirds of their hundred and fourteen counties reporting they had received twenty four faxed votes. So, that's not that many. Anyway, I would caution against using insecure technologies, such as email and the web to fulfill the very noble desire to enable absentee military voting. Introducing a system that reduces the integrity of the election and increases the likelihood of successful undetectable fraud will have the reverse effect.

MOD: And our final speaker on this panel is Cecily Counts, director of Civil Right AFLCIO.

CECILY COUNTS

FS: I'm going to speak quickly to maximize time for questions. The American Federation of Labor (unint.) Industrial Organizations represents the working people

of America. So, I'd just like to briefly ask you to remember why early and absentee voting is so important. In this changing world of work, more and more people work rotating shifts, have irregular schedules, have lack of control over their work hours and unpredictable travel demands so that they are more dependent than ever on access to early and absentee voting. More and more people have longer commutes from home to work and overlapping or never-ending work and family responsibilities. They don't only have to factor in time for voting but for taking care of the elderly relative, dropping the children off at childcare centers, etc., etc. And then of course we all know we have increasing numbers of disabled workers. Any of us tomorrow might find ourselves among the number of people who are dependent upon others for many of our basic goods and services and time becomes even more important. And so, I'd just like to say that as we consider questions of equal protection and increasing civic participation we should be moving to a voting system that makes voting no more difficult than paying a bill, accessing an ATM perhaps or buying a lottery ticket. People do find time to do things that are important to them, but

voting is so important that we should make it as easy as possible not as difficult as possible, access to early and absentee voting should not be dependent upon where you live or where you work or your ability to predict your circumstances on a given day far and advance. Thank you and I welcome your questions.

MOD: Cecily, thank you very much. This is a terrific panel. We do have time for questions. This is our last panel for the day. And so, I want to make certain that we all have a chance to ask questions if they haven't been presented. We're going to alternate. We'll start with the lady in the green sweater.

Q: I'm back again. I'm also one of those individuals that tried to get an absentee ballot and I kept trying and I kept trying. And eventually I did get one, but by the time I actually got it, it was right before election day and by that time I no longer trusted the fact that it would even reach in time for it to count. When I said I was baptized I guess I was. So, because I no longer trusted that part of that system which I was also told by quite a few people that I had discussed it with that they wouldn't trust it and they never would have even called for an absentee ballot.

That's how many Americans don't like the idea of an absentee ballot because they don't trust it. At that point I just decided okay. I'm a contractor. I'm a programmer and I was out of town from where my residence is. So, I decided okay I want my vote to count because it's that important to me because of election 2000. So, I got in my little car with my family and I went down there. And while I was there I decided while I'm here I'm going to spend some time and be part of the whole democracy scene and try to understand more about what was going on. And I also called in a complaint. I have also joined the ACUL. I also signed a petition as well. I decided to become a very active participant and be more serious about being a citizen. I also, I've read about you, Mr. Ruben. You are over the internet like you wouldn't believe. There are so many people reading about your articles and your research that you've done and we are so happy. And I'm going to come up there at the end of this and I'm going to shake your hand. I'm happy to meet you. One thing we never want to do... yes, I'm one of those internet people and that is part of the future. Believe me, if you want some information, go out there, you can find it. I found him. You never

want to trust your vote to a black box, believe me. I'm a programmer. I control that database. I control that code. I will tell you how you voted if you want me to. It is that scary. You don't want to do it. You don't want to go down that path. An ATM, oh please, excuse me, ah uh, not for this girl. I want a piece of paper and I want to make a copy of it when I'm done (unint.) hand it to you so I'll have my proof when they decide that I didn't vote. That's how important it is to me.

MOD: I want to encourage you to ask for your question so we can have some other in.

Q: My questions is, Mr. Ruben, how would you like to see our election day be taken place? And please don't tell me by computer.

A: First I want to address something that you said. It's a perfectly understand desire to want to walk away from the voting booth with something that gives you the sense that you can show how you voted, but unfortunately it violates some principles of voting. So, I don't believe that for your own protecting you should eve be able to show someone else how you voted and I believe in the sanctity of a voting booth where you go in and you vote privately and you walk away but

you have some confidence that your vote was recorded correctly.

Q: Right, that's my problem is I no longer have that confidence.

A: Right. The other thing is that whether it's for the political reality or not I think we're going to be voting on computers, and that's not what you want to hear. In California for example there are forty to fifty items that people vote on in a ballot. You've got over ten million people voting. It's not feasible to count all that by hand.

Q: We used to.

A: Let me keep going. I do think that computer systems when augmented with a physical out of band audit system such as a paper trail can be made much more trustworthy and reliable. We don't actually to trust them. What we have to do is trust them and put in mechanisms in place so that if there's any attempt to cheat by the software that will be caught. Some people here may want it. Some people here many not. I don't think we're going to have pencil and paper voting in this country. And if we ignore realities like that, we're not going to be taken seriously by policy makers.

Q: I'm not ignoring reality, but I am a programmer, and the only person I'm going to trust my vote to on a computer is me.

MOD: Okay. Next question here to the left.

Q: I'm back again also. This question is for Leslie Reynolds, executive director, National Association of Secretaries of State. I'm from Ohio. Our secretary of state of Kenneth Blackwell. He's in charge of all of the voting in Ohio. He exercises very tight control, and he was for this election co chair of Bush's get out the vote in Ohio campaign. Now, by question to you is, is this the case of the fox guarding the henhouse, or is this the case of the owner in the ball club being the umpire, or is it something else that we might find acceptable in a democracy?

A: I appreciate the question and it certainly has, the issue has been raised about looking at nonpartisan election officials running the elections. It is not an issue that we have. Like I said I represent an organization. Ken Blackwell is my boss, one of my fifty bosses. And so, the only positions that we have are positions that are come to by consensus in our organization. And so, our organization has not taken

a position on this issue, and it is something that will be addressed because I do think that people take it seriously. I think the bigger issue is one of confidence in the system and confidence in the process which clearly whether it's the reality of the perception. The perception wins out. So, I think it's an issue that we will certainly address it at our upcoming conference.

MOD: Michelle, I remember you from your previous question. I would only say that it is a difficult, almost impossible question for a person in Leslie Reynolds' position to answer. She is the executive director of the Association of Secretaries of State. Having said that, having said that, I think in the course of our discussion today a number of speakers have made the point that it really is important to separate the nonpartisan responsibility of managing an election system from the partisan positions that one may hold in support of one candidate or another. And under that principle a person in Mr. Blackwell's position should not both be the head of a partisan campaign while at the same time managing the system that determine whether your vote is going to be counted and

the procedures used to make that decision and I think that has been pretty well (inaud.).

Q: Thank you very much, and I do apologize to Ms. Reynolds for targeting her, but she was my only possible target to get this point across. Thank you.

MOD: No, your point was well taken. Next question.

Q: Hello, I'm Lynn Landis, freelance journalist. I've written about this issue for the last couple of years. I've also filed two federal lawsuits in Philadelphia this past July, one against the use of any and all voting machines and the other against the use of absentee ballots for very similar reasons and that is that they both eliminate public oversight. They make the role of the poll watcher moot. They give the federal observer nothing to observe, and the same can be said with early voting. What disappoints me about these conferences is that there's nobody on the panel to defend the paper ballot. And the paper ballot is what most countries use. America is in the extreme minority with its one hundred plus year usage of voting machines and absentee ballots. These votes started after the Civil War. These are Jim Crowe laws that seem to go unrecognized by this panel. I would like to also say that in terms of what California is

doing, doing an end run around their legislature, having all these ballot questions on their ballots that's called direct democracy. But that really isn't the form of government we have. We have three branches of government. So, the question is do we sabotage the voting process to have this facade of direct democracy, or do we vote with the legitimacy, integrity, public oversight and direct access to a tangible ballot?

MOD: Those are two very important questions. I'm going to separate them out. One relates to of course the use of paper, a simple paper ballot. The other relates to the issue of ballot initiatives and whether in fact direct election of ballot initiatives somehow circumvents our own (unint.).

Q: But actually the first question is why are these conferences always freezing out the paper ballot argument. We're never on the panel.

MOD: You're raising it.

Q: No, this isn't fair.

MOD: No, no. Let me say the following. Let me ask one of our panelists to address the issue, and then if you're not happy with the answer let's pose...

Q: Well, maybe the National Association of State Election Directors who get their funding from vendors could help answer it.

A: They aren't here.

Q: Where do you get your funding? Where do you get your funding?

A: The National Association of Secretaries of States gets their funding from the states. The states pay dues and we do have a corporate affiliate program. But they aren't all... and I would like to address at least part of your question, and I do think it's a function of to a certain degree and I'm only relaying this second hand from hearing this response from the secretaries when questions like this do get questioned, and they do come up. And there are still plenty of places in the United States that use paper ballot I might add.

Q: No.

A: Yes...

Q: The paper ballot hand count it's .6 percent.

A: Well, the other issue I would say is what the secretaries do claim on many occasions is that hand counting of paper ballots inevitably comes up with different counts each time that you do them.

Q: No, that's not true. You know that's not true. At least there's an opportunity to detect fraud. You have no opportunity with these machine.

MOD: Okay. Let me suggest the following. You've presented your question. Let's let Leslie answer it and then let's Cecily Counts answer it and we'll see where we go from here.

A: The issue that I would say is that there is very much at least from the media's perspective and from the public's perspective this immediate need to know election results. And while we don't necessarily agree with the premise... while we don't necessarily agree with the premise of that that accuracy is obviously more important than immediacy.

Q: It's an American ballot.

MOD: Guys, let me suggest the following. Look, we've been courteous to one another all day. Civil society does demand the responsibility to pose a question and to answer it. So, allow her to answer the question. She's begun to do that and then let's hear from the other panelists. We've been courteous to each other all day. I'm going to ask you to remain so for the remainder.

A: I would just like to speak to the use of paper ballots. Even if we accept that paper ballots are the way to go, that does not eliminate the problem of access for people who are unable to get to a polling place on a designated day or who are unable to move themselves in such a way so that they can independently operate to get to a place. And I'd like to just clarify. When I talked about ATM machines and lottery machines I was not talking about the technology. I am not a techno person. A paper ballot and a magic marker and a symbol would be okay with me as an individual. I mean we saw it work in South Africa but we also saw tremendously long lines. We saw people having to be carried to vote. And so, I don't think that a paper ballot would eliminate the problem of access. We have moved to a twenty four hour society, and we have moved to a society where people have very little control over their work and they work at all hours of the day and night, and they cannot necessarily get to a place in a given period of time on a particular day. And I would also just like to say that communities across the country have a very difficult time recruiting poll workers as it is. So, to recruit enough people who would be willing to not

only observe and monitor but to count would be a tremendous job.

MOD: Gentleman here in the blue sweatshirt.

Q: My name is Victor (unint.). I'm with the LaRoche (ph.) political action committee. And in January of 2001 a sequel to a public discussion between then democratic presidential candidate, LaRoche, the Congressional Black Caucus on the floor of the Congress put up a very valiant fight to block the certification of the then newly elected President George Bush until the irregularities in the counting of the Florida ballots was resolved. Unfortunately they never had any support from a single senator from the democratic party to make that motion heard on the floor of the Congress. It's Mr. LaRoche's opinion that we have evidence now that demonstrates very clearly that the suppression and the voter intimidation that (unint.) in the course of this presidential election amounts to a gross violation of the voter's right act of 1965. He has also publicly called for a strong mobilization to induce members of Congress to do what the Congressional Black Caucus tried to do in 2001 which is to block the certification of President Bush until these

irregularities all across the country are resolved before there's a certification of the (inaud.). Now, there's nobody else who's publicly calling for this at such a level. My question to the panel is will anybody support this call that President Bush should not be certified until all these irregularities are resolved. That's my question.

MOD: That's a good question. I'll take the prerogative of the chair for a minute, then open it up if other panelists want to add to it. I think on the panel that preceded our last panel, the panel on voter intimidation and suppression, Brenda Wright, the panelist who came in to discuss litigation in Ohio that her organization has filed to challenge the election results of that state talked about a notion of pushing back the dates of certification of the election so that indeed the ongoing litigation challenging of the election results in Ohio could in fact be completed before a certification of the vote took place. Brenda indicated that that litigation is ongoing. And I should mention that again tomorrow John Connor is the ranking member of the House Judiciary Committee is holding a forum in 2237 Rayburn House office building at 10 a.m. tomorrow entitled

Persevering Democracy, What Went Wrong in Ohio. And I suspect that one of the issues that will be touched upon in that forum and an elaborate discussion of these issues will ensure will be the very question that you've raised. So, I think it is an important topic for conversation. I'm not certain that member of this panel whose expertise lies in something different perhaps will not be willing to speak to it. But I think the forum that I mentioned tomorrow that Congressman Connors is raising will be a subject for conversation. Do you have a quick follow up?

Q: Yeah, just wanted to know if anybody on the panel will support the call. That's my question.

MOD: Does anyone want to address that? I think I've responded pretty much on behalf of the panel. And by implication I think the statement is that more information is needed before anyone is prepared to make an organizational statement. Next question.

Q: Hi, my name is Harriet Crosby, and I was very interested, Mr. Ruben, in hearing you talk about how the military ballots from overseas are counted. I'd really appreciate your telling us more about Omega. Where are they based? Are they a private nonprofit corporation? How big is their staff? Do you they

count the votes by hand? And what's to stop them from simply tossing out some ballots that they don't like? Is there transparency there and are they held accountable for the counting of the military ballots?

A: Okay, there's a lot of questions. I'll address some of them that I know the answers to. The corporation is a private contractor. There is nothing to stop them from discarding the ones that they don't like. That was one of the problems that I had with that whole idea. The only thing that I really know about them is what I read in press reports and about sizable contributions by the head of that organization to one of the parties. So, I think there's...

Q: Which party?

A: You can look it up. One of my goals, which is very difficult with a room like this, is to always stay completely nonpartisan and neutral as a computer scientist.

Q: But this is a fact.

A: It's a fact that you could look up, but I'd rather not say anything by implication. I don't think that they should be hiring any contractor that has that kind of a record with one of the party regardless of which party it is. And so, I don't remember a lot of the

other questions that you asked, but the bottom line is that the people there have partisanship and want to throw out some of those they can do that. And as far as I know there's no way that that will be discovered in many cases. In some cases it might be because the people voting by absentee are also encouraged to follow up that fax with the physical ballot, and if that is then received and the other absentee is not, then that could be something that could be followed up on.

Q: And do you know where they're based, how large and how many staff?

A: No.

Q: It would be very interesting to learn more about them because we're trusting democracy.

A: Sure, you can find it online.

MOD: Next question, sir.

Q: Yes. I had a few questions and comments concerning absentee ballots and early voting. One of the members of the panel mentioned that the party affiliation in some cases appears on the outside of your absentee ballot. When I got my absentee ballot in the mail, after my name on the return address envelope there was a small G for green party. My wife's absentee ballot

had a D after her name for democratic. This is an indication that absentee ballots received by boards of elections can be sorted. And I don't think that's a reasonable idea for a general election. The state elections administrator basically said that they used the same address labels for the general election as for the primary election. Obviously in the primary election, the ballots do have to be sorted because you have a democratic primary and a republican primary, but there's no reason for the board of elections to be able to sort ballots for the general elections. So, in pursuing absentee ballot I would suggest that the party affiliation of the voter should not be identifiable on the outside of the ballot. The question I had was concerning early voting. We don't have early voting in Maryland. If I want to vote early, I have to use a traditional paper absentee ballot and either mail it in or go to the county board of elections and fill it out. With respect to early voting in other states, I had a question as to whether or not early voting was conducted with paper ballots of some type, or if early voting is conducted with electronic voting machines. If the early voting is conducted with electronic voting machines and those

machines are active in a polling place or in a board of elections office for a week or two weeks worth of early voting period, I have a question as to how those voting machines are secured with respect to possibilities of tampering or movement or what have you.

A: Actually your concerns are very valid, and I can only speak for Florida, but certainly with regard to the party affiliation on the outside of the envelope that is an issue that we're going to be looking to address even in cases where it needs to be sorted. Presumably it could be something that's on the secrecy envelope for example and not necessarily on the outside envelope because part of the concern is that not only election staff have access to those, but it's going through the mail system. At various points there are a variety of parties who have access to that ballot. And so, in the same way that ballots could be tossed through system, you could presumably toss ballots through another system as well when that indication is on there. So, we will be looking to address that. With regard to early voting, again I can only speak for Florida. But in Florida it is now conducted by the same system that the counties use. Now, our

counties have different systems. So, if it's a touch screen county, the early voting is by touch screen machine. And one of our main concerns has been how are these machines affected by having them up and running for ten days straight or eleven days as it were because it's not necessarily clear to me that they have been tested to undergo that sort of a process. And that's something that we need to look at further. In Florida another concern is that with the counties using ES&S machines at least in Miami Dade they actually have to be booted up the night before because the boot up item is so long. And then they're put under the care of police officers, law enforcement during the night. And zero tapes can only be run for the time that show that no votes have been cast can only be run for the time at which they're first activities. So, there are a lot of concerns about that, and that's a perfect example of how we're going to have to be ever vigilant as these different methods of voting evolve that we're balancing the need for access for all folks through our community with the need to also protect the integrity of the election.

Q: So, let me follow up. You're running zero tape at six o'clock in the evening for the next day's voting, and

you physically have to guard that machine overnight while it's booting up.

A: In Miami Dade County that's correct. Now, with different systems in Florida, the outcome could be very different, and I would add here. I know we've talked a lot about legislation. We've talked a lot about what Congress could do etc., etc. In my experience working from 2000 to 2004, the biggest changes that I've seen take place in Florida have been through citizen activists. So, for all of you who are out there, the sort of ad hoc coalitions that have come about in various locations in Florida simply by attending every meeting of every county commission every time they ever talk about voting you can get things done that folks have not been able to get done for years through litigation, legislation, you name it. And honestly had I not seen that for myself I'm not sure that I would have believed that. So, I'm here to tell you take your energy, go home. Voting for the most part is a local endeavor and therefore the upside of that is that as locals you can do a lot in your own community.

Q: Hi. Taking up what you just said, going home to our own states. That's what I plan on doing and working

with some of the state legislators and try to get them to incorporate some of the things that you all have talked about here. I've noticed a them which has been running through here of course to remove partisanship as much as possible from the people who are involved in the electoral process. I thought I had a brainstorm. I'm always generations behind everybody else. When I was flying up here I was thinking hey I know what's wrong. The people who are administering the election systems are not professionals. It just kind of came to me, but I think that this question of removing partisan people needs to be taken. And has this really been addressed in this forum very much that the training and qualifications of the people involved in the electoral systems should be entirely professional in the sense of being trained for that work? A difference between being quality people as I believe most everyone here is a quality person in terms of education, conscientiousness, patriotism, but qualified in terms of knowing the business of internal controls, applying things that CPAs use. Public accounting firms, when they're brought into corporations, they design systems or examine the systems such that every dollar or close to it of any

material amount is accountable for. Wal-Mart and Krueger's know how much comes in every day and there's no reason why electoral systems cannot be just as efficiently run so that recounts would be something of the past. I wonder if that has really been addressed here tonight, and in that terms of the resumes of the people who take these jobs.

A: Well, many of the people who take these jobs are elected by the constituencies. So, if you are I think in some cases especially at the state level you have your way to respond if you're unhappy with the way the situation is going and also to a certain degree at the local level too. Many of the local officials that run elections are also elected officials. But I will say that there is a program that's run through Auburn University that is a certified election administrator program and that many of the local officials do go through that program for certification. There's the organization called the Election Center coordinates signing the people up to do it. It coordinates the programming and helps to get the speakers in, but there a certification program that is out there.

Q: What university was that?

A: Auburn University.

Q: Thank you. I'm going to follow up on it.

MOD: Thank you for your question.

Q: My name is Margaret Flowers. I'm just basically a concerned citizen from Maryland, a mother and physician. I have two quick suggestions and then a question. One is I want to suggest that maybe we consider having voting day election, presidential elections be a national holiday so that we don't have the issue of having to leave line to go to work. My other suggestion is that as a poll watcher in Maryland I saw there were situations where people had requested absentee ballots and were not able to get the ballots back in on time. So they showed up at their polling place and the ballots were not accepted and they were not allowed to vote because they had already requested an absentee ballot. So, I think that needs to be addressed as well. And then finally from sitting here all day I'm hearing, as you all know there's lots of controversy regarding election reform and a lot of partisan issues. So, what I want to know as a citizen is how do we actually achieve effective election reform that is nonpartisan. I'm hearing that Congress, it will be difficult to get things through Congress because of the partisanship. So, what is our

avenue to get an actual election reform? And I'll sit down.

MOD: Those are great questions and before I attempt to weigh in on any of them, let me ask my panelists if they would like to speak to it.

A: I think Courtney spoke to it earlier. You really need to get involved at the local level, at the county level, and not you as an individual, but collectively with other members of your community. I think that a lot of the change can be done there and at a slightly different level at the state level through your...

MS: I worked as an election judge in Maryland ironically using the Debolt (unint.) in our precincts which was the machines that my group had analyzed. It was an interesting experience because I watched people walk up to the machines, touch the screen and leave. At the end of the day we printed out the results and I held the five cards that we had generated out of the five machines, in my hand they created a stack about that big. I thought I've got all the votes from the precinct right here in my hand, just slide them down the sleeve. It just occurred to me that seemed awfully fragile and how do you I know that the votes that are counted represented what those people did

when they came in. So, it kind of made it all real for me. I probably could talk for three hours about this. I'd love to, but I can't.

MOD: The last question.

Q: Hi. My name is Susan Marrin (ph.). I'm a political scientist and a very angry citizen. This question is for Mr. Ruben. I have been following for the past four years, the fraud and mismanagement of the computerized voting, the different factors, the scanning of the counting of the paper ballots and the electronic voting. What I wanted to know is if you could tell us what advanced western European countries or which ones have this exact system as their voting. And if you could also tell me how the majority of the advanced western nations conduct their voting. Is it by paper? I'd just be curious to hear that answer.

A: We're a little outside my realm of professional expertise. I have just by virtue of working on this read a lot about other countries. I don't think there is another country that does things quite the way we do. In Canada they vote on paper and pencil. A lot of other countries do too and are looking at electronic voting and some countries like Ireland actually was going to run an electronic election and

back out at the last minute. India ran an election with hundreds of millions of people voting on an electro mechanical device with no verification and they had really no scandal and the public seemed to buy it. So, I think it a lot has to do with culture and expectations.

Q: Well, then can I follow up then? If let's say the majority or a lot of western European countries still do the paper balloting, why can't we?

A: I addressed that earlier. If anybody else wants to (inaud.).

A: I just say we could, but you could still take the box of paper ballots and dump them in the river. I mean that doesn't solve the problem of transparency necessarily, and I'd also just like to speak to the idea of an election holiday. Although that may or may not be a good idea, let's just remember that even on holidays a lot of people have to work because people are sick in the hospital. They have necessary jobs. Everybody is not off on a holiday.

MOD: Well, I think really we have to bring it to a close. Abby has to run. We've lost two of our other panelists. And before we lose our last, please ladies and gentlemen, join me in thanking our two remaining

and those who came before. We really very much appreciate their efforts. And I'm going to ask Shelly Pengree (ph.) to please join me here at the front of the conference and if (unint.) Wang is here from the century foundation I'd ask her to come up. We really are at the end of our program today and I wanted to invite my two co convening organizations to join me here at the podium to express our thanks, deep appreciation for the participation of all of you. But let me ask Shelly to start, (unint.) and then I'll wrap up. Shelly?

MOD: Well, everybody here gets the prize for staying till the end. I think there are so many enthusiastic people who would have stayed actually till nine o'clock if we could to keep conversing about this. But I just want to again thank all of our hard working staffs and everyone else who made sure we could do this in a very short period of time, the panelists who were willing to come from all over the country, the century foundation who helped support this, but also all of you and all the people who have already gone home who I know will continue to do the hard work that has to be done. This is just a conversation about what we've learned. It really just opens up the door

for all that we have left to do. So, I'm very grateful for everyone being a part of this and look forward to working with all of you and my good colleagues here in the future.

FS: I also want to thank everyone who came. It was a little bit in some ways reminiscent of me on election day and a couple of days before that. I was in Broward County and was observing a lot of the stories that you're hearing today of people waiting in line for five or six hours because it was so important to them that they be able to vote. And everyone, we've been remarking in the back all day long about wow everybody staying, everyone's staying, the room is packed the whole time. And it kind of reminded me of that that there are... its' so encouraging that there are people around us who care so much still about our democratic process. And I also want to thank the leaderships conference and common cause again. It's been wonderful working with your staffs and we all enjoyed each other and had a good time working hard. So, I hope we can continue to do that.

MOD: Well, thank you guys. This has been a long day, a rich discussion. I too want to thank everybody especially the audience and obviously my co convening

organizations. But I guess I would just close with this thought. Voting really is the language of democracy, and the fact is that American democracy is really only as strong as the system that we use to elect our officials and to really make those choices, and real homeland security means having an election system that we can depend on where people can vote and those votes can be taken seriously and we know they'll be counted. And this is really a first step towards trying to perfect a system that we know as good as it is, is flawed and can be better. And the American people deserve it and our American democracy deserves it. So, thank you for your participation in this event. Thanks for bringing these stories to the American people, and let's go from here and build a movement for constructive change, nonpartisan change, but that's we have to do. So, thank all of you.

END OF TAPE