

**REPORT OF THE
BI-PARTISAN ELECTION PROCESS IMPROVEMENT
COMMISSION
TO THE BOARD OF SUPERVISORS**



March 19, 2013

In response to citizen complaints about long lines and other concerns during the 2012 Election Day, and to improve the election process in Fairfax County, the Board of Supervisors created the Bipartisan Election Process Improvement Commission at its November 20, 2012 meeting. The 26-member Commission comprised the Co-Chairmen, Katherine K. Hanley and Stuart Mendelsohn, and 24 members, one to represent each of the nine Supervisor election districts, two representatives appointed at-large by the Chairman of the Board of Supervisors, three representatives of the disability community, and one representative each from the Fairfax County Democratic and Republican Committees, Fairfax County Public Schools, the Fairfax Bar Association, the Fairfax County Federation of Citizens' Associations, the League of Women Voters of the Fairfax Area, the African-American community, the Hispanic community, the Asian/Pacific Islander American community, and the Chamber of Commerce. A list of the Commission members is attached. The Commission met ten times beginning on January 3, 2013 to identify both short-term and long-term solutions to recommend to the Board of Supervisors. All Commission meetings were open and advertised to the public as required by the Virginia Freedom of Information Act. Members of the public attended and observed each Commission meeting. Public input was also solicited through the County's NewsWire and an email address provided on the Commission Webpage on the County's website (www.fairfaxcounty.gov/electioncommission). The Commission's workplan was posted on the Webpage, along with a list of the members and a number of informational documents. Agendas were posted before the meetings and the minutes of each meeting were posted thereafter.

In Virginia we have an election every November. The presidential election of November 2012 saw an 80.5% voter turnout in Fairfax County. Voter turnout fluctuates significantly from year to year, depending what is on the ballot. In 2011, when the ballot included all members of the House of Delegates, the state Senate, constitutional officers, and most members of County boards of supervisors, school boards and some city councils, the turnout was 32.3% in Fairfax County. The prior year, when only one office was on the ballot, for the U.S. Congress, the turnout in Fairfax County was 49.1%. In the 2009 gubernatorial election, 44.6% of Fairfax County voters showed up to vote. Turnout is highest in presidential election years. While planning and resource allocation should recognize the differences of each election, the voting process must accommodate all voters who wish to vote without undue delay and undue complication every year.

One of the pitfalls of the above calendar is the danger of comparing the turnout in a presidential election year to the year preceding it. The relevant comparison is, instead, the preceding presidential election year. For example voter turnout in 2008 was 78.7% compared to 2012's 80.5%. In 2008, 107,145 voters (20.4% of total voters) applied for absentee ballots in Fairfax County, 42,487 by mail and 64,658 in person. The percentage of voters voting absentee

increased over the past two presidential elections (2004 and 2008), so the assumption was made that absentee voting would continue to increase. In fact, in 2012 only 92,540 (17.2% of total voters) applied for absentee ballots in Fairfax County, 34,723 by mail and 57,817 in person. That was not only a smaller percentage of the vote than in 2008 but also a decline in the actual numbers. In 2008, 416,889 people voted in person on Election Day compared to 444,161 in 2012 (an increase of more than 27,000 voters). Therefore, more people and a higher percentage of the voters, more than planned for, arrived at their polling places on Election Day, contributing to longer lines. In addition, four local bond referenda and two constitutional amendments were on the ballot in 2012, which increased the time it took for each voter to vote.

People stood in line to check in, and many of them had to stand in lines outside in the cold November weather. Forty-six of the 237 polling places in Fairfax County are still using paper poll books to check in voters. Paper poll books require that lines be divided alphabetically, which results in some lines being much longer than others at the same polling place. Each paper poll book is usually staffed with two people – one to search for the voter’s name and mark it off and one to keep the count sheet. Electronic Poll Books (EPBs) facilitate check-in by eliminating the need to divide voters into different lines by alphabet and by making it easier to search through the lists. EPBs also mark off the voter and keep the count, reducing the number of workers required at check-in, allowing additional staff to be available for other tasks.

Therefore the Commission recommends:

- **Every precinct should use EPBs. The Office of Elections should begin now to invest in additional EPBs so that every precinct will have at least three EPBs by the 2016 presidential election. In addition, Chief Election Officers (Chiefs) should have an independent method of checking voter issues, without taking an EPB offline.** Phasing in the purchase could help spread the cost over more than one year, but having them in every precinct before the 2016 presidential election would provide the opportunity for all Election Officers to use them in a lower-turnout year.
- **The software licenses on the current EPBs will expire soon. The way the current EPBs search for names and addresses needs to be improved. The County should investigate whether better software and hardware is available that will allow a more integrated process, including the ability to monitor the flow of voters in the precincts throughout the day.**

Complications during the voter check-in process have the effect of slowing down the entire process as well as frustrating voters. Efficient EPBs with improved search capabilities and effectively trained operators can speed the process, particularly in precincts with large numbers of hyphenated or non-traditional surnames on the voter rolls. **EPB technology will continue to**

evolve and all possible technologies should be explored, considering long-term cost effectiveness.

The ability to find voters on the rolls not only speeds check-in but also reduces the number of provisional ballots issued as well as more accurately reflects which voters have voted absentee. The process of how to handle voters whose names are marked with a “?” needs to be clarified so that an EPB does not need to be taken out of service until the voter’s status is resolved.

A prospective voter whose name cannot be found on the list is referred to the Chief, who often must call the registrar’s office to check the statewide Virginia Election and Registration Information System (VERIS) to confirm the voter’s identity and registration. If a Chief cannot get through to the registrar, or is put on hold for 20-30 minutes, the process is again interrupted. Phone contact is also necessary in case of an equipment break-down. **Therefore the Commission recommends:**

- **Dedicated phone lines be allocated to the registrar and other forms of communications be available on Election Day, so that Election Officers can reach the Office of Elections in a timely manner. This number should be available only to Election Officers and adequate staffing should be provided to handle multiple calls at one time. Members of the public should not have access to this number. There should be a different phone number dedicated for technical support.**

Fairfax County uses two different kinds of voting machines. In 2003, the County began using Direct Recording Electronic (DRE) touch screen voting machines. The Commonwealth subsequently adopted a statewide ban on future purchases of DRE equipment in the Commonwealth, although localities that used DREs were allowed to continue using them until the end of their useful lives. (In 2009, the law was amended to allow limited purchases of DREs for the express purpose of providing accessible voting equipment.) Beginning in 2008, to supplement its dwindling stock of DREs, the County acquired refurbished optical scanning voting machines, which scan paper ballots.

According to Virginia law, a voter who has checked in cannot leave the room until he/she has finished voting. During the November 2012 election, lines formed while voters waited to use the DREs. Although it was quicker to use the paper ballots and the optical scanner, most voters were hesitant to use paper and chose to vote on the DREs. Voting on the DREs took longer because the voter had to page through the candidates, two constitutional amendments and four County bond issue referenda. Many voters were unfamiliar with the last items and took extra time to read them. Because two forms of voting machines were being used, it was necessary to have enough space to set up the DREs and also to have enough privacy booths and

stations for people to vote by paper. Some rooms were too small to comfortably accommodate all the necessary equipment and still provide privacy.

Fairfax County has 1,019 operable DREs for 237 precincts. In the November 2008 election no precinct had fewer than three DREs machines; in November 2012, 58 precincts were allocated only two DREs. Even though those were smaller precincts, if one machine failed, they were left with only one. While machines were distributed to precincts generally based on the number of registered voters in the precincts, for the 2012 election, the Office of Elections used a different formula to allocate machines and other resources than it used for the 2008 election. In 2012, staff estimated that voter turnout would be 90% of active registered voters (with 75% of active registered voters voting in person and 10% to 15% of them voting absentee). A formula was then used to allocate resources based on those calculations. In 2008, staff had estimated voter turnout at 100% of active registered voters, and then allocated resources using a different formula than was used in 2012. The DREs are old and sometimes unreliable, taking time to reboot frequently or to get a replacement machine. As explained above, in 2007, the Commonwealth banned future purchases of DREs. The vendor has since gone out of business. Therefore, it is not possible for the County to replace the DRE voting machines or get replacement parts to repair the ones in stock. All of these factors taken together, as well as an increase of the number of persons voting on Election Day, contributed to lines waiting for the voting machines, and therefore waiting to get into the polling room. **Therefore the Commission recommends:**

- **The County should move quickly to using only one integrated voting system throughout the County. The system should utilize electronically scanned ballots, and be an integrated system that is fully accessible to voters with disabilities.** There currently are enough optical scanners for each precinct to have one, but there will need to be additional machines acquired to replace the current ones as well as to have additional ones in future years. In addition, acquiring high-speed scanners should be investigated to speed up the Central Absentee Precinct (CAP) and recounts. The Office of Elections should begin now to have all the necessary equipment in place before the 2016 presidential election, preferably in time for the 2015 election, so that voters and Election Officers will gain experience using the new voting equipment before the next presidential election.
- **In order to educate voters about voting on paper ballots, a publicity campaign should begin with the 2013 primary election to explain that these ballots are counted right at the time they are electronically scanned and are totaled at the end of Election Day, just like the DREs are. Voters have told Election Officers that they did not want to vote with paper ballots because they believed that the paper ballots were not counted immediately or at all.**

- **To eliminate confusion, paper ballots should be referred to as electronically scanned ballots in order to better communicate this voting process.**
- **Each precinct should have an optical scan with sufficient backup scanners available and a long-term goal of two scanners per precinct as necessary.**
- **The Commission recommends that Fairfax County maintain sufficient privacy booths well in excess of the statutory minimum of one per 425 registered voters. There should be one privacy booth for every 250 registered voters in a precinct.**

A contributor to long lines was complex ballots. **Therefore the Commission recommends:**

- **The Board of Supervisors should not schedule multiple bond referenda in presidential election years in order to keep the ballot shorter and more manageable.**

The Commission reviewed how the physical aspects of polling places could provide obstacles to voters. **Therefore the Commission recommends:**

- **Polling places must provide sufficient parking for voters.** The Office of Elections requested that 20 parking places be set aside for voters at each Fairfax County Public School (FCPS) that served as a polling place. While 20 spaces were an increase from the number requested in previous years, it was insufficient. The Office of Elections and FCPS must work together to provide additional parking and have busses parked someplace else on Election Day. Parking is a particular problem at elementary schools. While students are not in school during the November Election Day, it is a teacher workday as well as a time for parent-teacher conferences.
- **The Office of Elections should pursue discussions with FCPS regarding the feasibility of not having parent-teacher conferences scheduled on Election Day in presidential election years.** As well, sufficient parking must be considered when establishing polling places in places other than FCPS schools. At all polling places, the distance between parking spaces that are handicapped accessible and the entrance used to reach the polling location should be considered to ensure the parking is accessible.
- **Rooms used as polling places need to be big enough to allow the Election Officers to efficiently operate the polling place and maintain sufficient privacy for voters.** This is of particular importance for disabled voters who may need space to converse privately with Election Officers. Actual size depends on the existing configuration of the room. Some of the rooms used in November 2012 were too small, and as a general rule, larger rooms facilitate line movement. In order to ensure that room size is considered when

evaluating new locations, the Polling Place Guidelines adopted by the Electoral Board should be modified to say that the room size should be sufficient to efficiently operate the polling place and maintain sufficient privacy for voters. Rooms also should have an adequate number of electrical outlets.

In the November 2012 Election, there were lines outside buildings, forcing people to wait in the cold to vote. **Therefore the Commission recommends:**

- When scouting for polling place locations, the Office of Elections should look for places where lines can form inside.
- In existing polling places in schools, the Office of Elections staff should ask FCPS to ensure that the particular room used is in such a place that long lines can form inside; and
- Election Officers should be trained in ways to configure lines and room layouts to maximize efficiency.

In 16 instances, two precincts are located in the same building. Some voters and Election Officers report that voters have difficulty finding the correct room or stand in line in the wrong room and then have to stand in line again at the correct place. **Therefore the Commission recommends:**

- **Co-located precincts should be avoided, but if it is necessary to locate more than one precinct in a building, certain mitigating measures should be taken:**
 - **Co-located precincts should be adequately staffed so that a person can be located outside voting rooms to direct voters to the correct room and/or correct line. Pages could be especially useful in co-located precincts, but if pages are not available, then an Election Officer should be assigned to work outside if possible;**
 - **Precinct maps must be posted outside each room so that voters can determine which room is their polling place;**
 - **Signage should be improved to assist voters in finding the correct room; and**
 - **The County should aggressively advertise how voters can find or confirm their precinct and polling place after they are already inside the building, such as a “mobile app” that allows voters access to their voter information from their mobile devices.**
 - **The recommendations above are not limited only to co-located precincts.**

The Commission reviewed the legal requirements regarding the maximum number of voters in each precinct. Those requirements are as follows:

1. When a County precinct is established, it cannot have fewer than 100 registered voters.
2. When a precinct is established, it cannot have more than 5,000 registered voters.
3. When the number of voters who voted in a precinct in a presidential election exceeds 4,000, the general registrar must notify the governing body, which must revise the boundaries within six months.

While all of Fairfax County's precincts meet the legal requirements, many factors including size are considered in recommending precinct changes. Therefore the Commission recommends:

- **In precincts where there are unusual circumstances in the configuration of the precinct or difficulty in finding an adequate single polling place location, or recurring late closings, e.g., Skyline precinct, it may be necessary for the Board of Supervisors to split the precinct even if it does not meet the maximum numbers required for splitting. Numbers should not be the only criteria.**
- **When new precincts are created, the name of the precinct should not be repetitive of other names (i.e., Lorton, Lorton Station, and Lorton Center), to avoid voter confusion.**
- **Curbside voting is an important part of making the electoral process accessible to persons with disabilities.** In precincts with a history of high numbers of curbside voters, there needs to be a sufficient allocation of resources to avoid having curbside voting slow down other activities in the precinct. Electronically scanned ballots can be used for most curbside voting and they divert fewer resources from the polling place. Nevertheless, voters with disabilities who can't use paper also must be accommodated. Moreover, signage about the availability of curbside voting and how to access curbside voting continues to be a problem.
- **Larger signs with writing large enough to be read from the car are needed.** Oftentimes the phone number is illegible.
- **The County should explore the use of technology to make it possible to make an appointment for curbside voting.**
- **The Commission recognizes the importance of complying with the Americans with Disabilities Act (ADA) and making voting easily accessible to all disabled voters. This includes training Election Officers to assist voters with disabilities as well as educating**

voters with disabilities about their rights to vote absentee. All polling places must be ADA compliant.

- **The Board of Supervisors should be aware that there is a new class of voting equipment that the County will eventually be required to purchase beyond what is currently in use (for example, devices compliant with the federal Help America Vote Act). When the County purchases new voting equipment, it should be an integrated system that is fully accessible to voters who may have a variety of disabilities.**
- **Informational and directional signage at polling places generally needs to be enhanced.**

As previously noted, fewer voters voted absentee in November 2012 than in November 2008. **The Commission reviewed the issues surrounding absentee voting and therefore the Commission recommends:**

- **Absentee voting should be encouraged for those eligible to do so, particularly in presidential election years. The Office of Elections and the Office of Public Affairs should undertake a campaign to educate voters on the process of voting absentee, both in person and by mail.**
- **Voters with disabilities should be encouraged to vote absentee in person, especially if they cannot stand in line for long periods of time.**
- **The space used in the Office of Elections for absentee in person voting is too small, in the hall, and provides no privacy. The Office of Elections needs a larger, dedicated room for absentee in person voting in the Government Center. More parking spaces should be reserved for voters.**
- **Satellite locations for absentee in-person voting should be treated as precincts, even though that is not required by law.**
- **Particularly in presidential election years, satellite voting hours should be increased in the later weeks. More Saturdays should be added earlier in the fall and its success should be evaluated.**
- **The use of optical scan voting equipment in satellite voting locations will require the County to provide all of the ballot combinations in use throughout the County for each election. The County should move to the use of technology that would allow the printing of ballots on demand in the satellites.**
- **Voters who come to satellite polls asking to “vote early” should not be turned away, but given an application which includes the rules for eligibility to vote absentee.**
- **When a voter applies by mail for an absentee ballot within 45 days of the election, the Office of Elections is required to respond by sending a ballot within three days after receiving a completed application. In order to address the surge of applications, the**

Office must employ and train enough workers to meet that requirement to ensure that voters get their ballots in time to vote.

The Commission reviewed the recruitment, training and deployment of Election Officers as well as seasonal employees in the office. Efficient, well-trained Chiefs, Assistant Chiefs and Election Officers are critical to the efficient operation of the polls. The Commission noted that fewer Election Officers were deployed to precincts in 2012 than in 2008, because fewer workers were needed to work the EPBs. The number of Election Officers needed will vary by year with presidential years requiring additional people to work lines and “direct traffic.” Recruitment of a sufficient number of Election Officers is a recurring problem, which is exacerbated in presidential election years. Moreover, even after Election Officers are recruited, retained, and trained, the number of “no shows” is high. No data is available to show when the last voter voted in each precinct during the November 2012 election. However, the Office of Elections was able to supply, as a proxy, data showing when the voting machines were turned off in each precinct, which then indicates the very latest that any voter could have voted in each precinct. There is a correlation between Election Officer “no shows” and late machine closing times. Of the 23 precincts in which the machines were shut down more than one hour after the poll closing time (7:00 p.m.), 16 of those precincts had fewer Election Officers working than were originally assigned. **Therefore the Commission recommends:**

- **The Office of Elections and the political parties should aggressively recruit Election Officers and obtain their commitments to serve sufficiently in advance of Election Day to allow for training as required by law.**
- **There was discussion about whether the compensation paid to Election Officers should be raised and whether training time should be compensated. It is recommended that the Electoral Board should investigate whether raising the compensation would have a significant effect on recruiting more Election Officers. Formally surveying Election Officers and former Election Officers would provide useful information.**
- **Effective training is critical to the successful operation of the polling place on Election Day.** Hands-on training as well as class room training would be beneficial for Election Officers. In addition, the Office of Elections should consider adding diversity training to the Election Officer training to increase officials’ sensitivity to diverse voters.
- **Chiefs should assemble their team together and set up the polling place the night before each election, giving the team the opportunity to know each other and to address issues of how the precinct operation will flow. Therefore, all polling places should be available exclusively for election purposes the night before the election after 6 p.m.**

- Although the Office of Elections uses June registration numbers to plan the allocation of resources to precincts, the Office of Elections should review updated voter registration numbers in the fall before finalizing the assignment of Election Officers and equipment to precincts.
- There needs to be a pool of Election Officers in reserve, but immediately available, to substitute in for Election Officers who are assigned to polling places but then do not show up to work on Election Day or are unable to complete their assignment.
- Election Officers with significant difficulties in performing their tasks effectively must receive additional training or not be retained.
- There is a need for more language diversity among Election Officers. The Office of Elections and the Office of Public Affairs should aggressively work with diverse community organizations and foreign language media to recruit Election Officers.
- In recruiting Election Officers, the County should explore providing a bonus for workers with special skills, e.g., language or technology.
- The County should retain more rovers. Some rovers were unable to get to several precincts because of emergency demands.
- The Page program, run in conjunction with FCPS, is extremely successful and is to be encouraged and expanded.

The voter registration process at the Department of Motor Vehicles (DMV) continues to be a problem. During the November 2012 election, a number of voters arrived at the polls believing that they had registered to vote at the DMV only to learn that their registration had not been completed. The process for notifying voters whose registrations are not complete should be clarified and every effort must be made to ensure that applicants whose registrations are incomplete are being notified. Additionally, any time a voter's interaction with DMV results in a change to the voter's registration status, the voter should be notified of the change. **The Office of Elections has suggested the following to improve registration at the DMV. Therefore the Commission recommends:**

- The DMV should electronically transfer customers' voter registration application data from DMV to State Board of Elections' VERIS for registrations and address changes to eliminate the need to retype the data into VERIS.
- Given that an ink signature is required by Code, change the DMV Customer Service Center process to require an applicant to electronically complete and verify all application information, including those questions specific to voter registration, before it is printed and signed, and do not allow the application to be printed until all required fields have been completed.

- **The DMV should make the records of who applied to register to vote available electronically to registrars to search to see if a voter tried to register and whether the registration process was done at a DMV Customer Service Center or when using the on-line or phone options.**

The Commission believes that there are many opportunities to incorporate technology into the voting process. Therefore the Commission recommends:

- **For example, the County has a “mobile app” that will allow voters to find their polling places via their cellphones and this should be better publicized.**
- **Ballot on Demand technology will facilitate use of optical scan machines in satellite absentee voting locations, because it will allow voters from any part of the County to vote in any absentee satellite, without the need for the Office of Elections to provide numerous paper copies of each one of the many ballot combinations in use for a November General Election.**
- **Scanning of voter registration applications and absentee ballot applications will minimize errors in voter registration records and processing of absentee ballot applications and minimize problems with finding voters when they show up to vote.**

Recognizing that voting machines will continue to change and improve, the Commission recommends:

- **That the County establish an enterprise fund for voting equipment replacement like the fund established to replace computers and other assets. This would smooth out the large financial investments needed all at once when voting machines must be replaced.**

Some of the Commission’s ability to obtain the information it needed to inform itself and develop recommendations to improve the electoral process was hindered by the fact that the Office of Elections, Electoral Board, and General Registrar are defendants in litigation that was filed before the Commission was formed and remained pending throughout the time the Commission met and prepared its report. Outside counsel retained by the State Division of Risk Management to defend the litigation advised the Office of Elections, Electoral Board, and General Registrar not to respond directly to the Commission’s requests for information because of the risk that their doing so could jeopardize their ability to defend themselves in the litigation. Therefore, the Commission’s requests for information had to be answered, if at all, at the next meeting through documents already existing, documents created to respond and then

approved by the outside attorneys, or by the staff from the County Attorney's Office who gathered information and reported back to the Commission.

The Commission's recommendations address only those improvements that are within the purview of the County to implement. The Commission recognizes that there are other issues whose requirements are established by the Commonwealth and changes in those and other areas could make a difference.

The Commission recognizes the hard work and dedication of the staff and volunteers at all levels of the election process, from the election workers to the Electoral Board in handling a difficult process in a professional manner, and hopes that the recommendations made by the Commission will make the process operate more smoothly and more easily for the workers and the voters.

The Commission wishes to thank Michael Long and Erin Ward of the County Attorney's Office for their invaluable support. Lisa Connors of the Office of Public Affairs provided exceptional service as well.

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Seat Name**Member Name**

Co-Chairman	The Honorable Katherine K. Hanley
Co-Chairman	The Honorable Stuart Mendelsohn
African-American Community	Mr. Owen Shortt
Asian/Pacific Islander American Community	Mr. Michael Kwon
At-Large Chairman's #1	Mr. Marcus B. Simon
At-Large Chairman's #2	Mr. Jeremy Epstein
Braddock District	Dr. Keith G. Damon
Democratic Party of Fairfax County	Mr. Cesar del Aguila
Disability Community #1	Mr. Chuck Caputo
Disability Community #2	Ms. Marion B. Stillson
Disability Community #3	Mr. Bob Brostrom
Dranesville District	Ms. Susan S. Platt
Fairfax Bar Association	Mr. Jay Myerson
Fairfax County Chamber of Commerce	Mr. Michael Lewis
Fairfax County Federation of Citizens' Associations	Ms. Tania Hossain-Almaraz
Fairfax County Public Schools Administrative	Ms. Lee Ann Pender
Hispanic Community	Ms. Bettie Baca
Hunter Mill District	Mr. Alex Blakemore
League of Women Voters of the Fairfax Area	Ms. Olga Hernandez
Lee District	Ms. Kelsey M. Phipps
Mason District	Mr. William P. Kreykenbohm
Mount Vernon District	Ms. Ginny L. Peters
Providence District	Mr. Jeffrey M. Wisoff
Republican Party of Fairfax County	Mr. Jay McConville
Springfield District	Mr. Brian Schoeneman
Sully District	Mr. James T. Parmelee