



COUNTY OF LOS ANGELES

## REGISTRAR-RECORDER/COUNTY CLERK

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**CONNIE B. McCORMACK**  
REGISTRAR-RECORDER/COUNTY CLERK

September 25, 2002

TO: Each Supervisor

FROM: Conny B. McCormack, Registrar-Recorder/County Clerk

### **REPORT OF ON-SITE OBSERVATION OF FLORIDA'S SEPTEMBER 10, 2002 PRIMARY ELECTION – LESSONS LEARNED**

In order to observe new touch screen voting system installations, I visited four Florida counties between Saturday, September 7 and Wednesday, September 11, 2002 along with two of our department's key managers<sup>1</sup>. Each of the counties we visited had previously used punch card ballots and converted to touch screen voting countywide for the first time for the September 10<sup>th</sup> election. Two of the four counties used the Sequoia touch screen system<sup>2</sup> and two installed the Election Systems and Software (ES&S) touch screen system.<sup>3</sup> No Florida counties used the Diebold Election System that our County is installing to conduct early voting at 21 sites in conjunction with the November 2002 General Election (and was successfully deployed for the November 2000 General Election pilot project with their predecessor company, Global Election Systems). Diebold's touch screen system had not completed the Florida state certification process in time for counties to consider that system nor had other touch screen systems. Therefore, Florida counties were limited to a choice of only two touch screen vendors.

Extensive news coverage chronicled the most significant problems associated with administering the September 10th election in the two largest counties, Broward and Miami-Dade. The most comprehensive, impartial report I have seen to date explaining what happened in Miami-Dade<sup>4</sup> was issued on September 20, 2002 by the Miami-Dade County Office of the Inspector General (OIG). That report encompasses 31 pages and groups the causes of the election failure into three categories: 1) planning and organization, 2) equipment related deficiencies, and 3) training. Among the many insightful findings of the report is a description of the difficulty of developing touch

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<sup>1</sup> Michael Petrucello, Assistant Registrar-Recorder/County Clerk/CIO for Technical Services and Debbie Martin, newly appointed Election Materials Processing and Polls Division Manager (responsible for poll worker recruitment and warehouse operations encompassing election supplies assembly/delivery) visited three of the four counties.

<sup>2</sup> Indian River Co. (76,000 registered voters in 53 voting precincts) and Palm Beach Co. with (705,000 registered voters in 643 precincts).

<sup>3</sup> Broward Co. (960,000 registered voters in 809 precincts) and Miami-Dade Co. (950,000 registered voters in 754 precincts).

<sup>4</sup> Where our team spent election eve, election day/night and the following day.

screen ballot software to accomplish complex ballot layout in more than two languages (Miami-Dade is required to provide three languages compared with seven in Los Angeles County). ES&S admitted that their company did not possess the required tri-lingual capability at the time of Miami-Dade's contract signing in February 2002 but had committed to completing it by May 2002<sup>5</sup>. That deadline was missed, resulting in final certification of the tri-lingual ballot design on August 21, less than three weeks before the election.

In previous correspondence to your Board, I have reported that our department is aware of the major challenge vendors face in providing translated ballots in numerous languages on touch screen devices. This limitation was the reason why only two of the four certified touch screen vendors in California, Diebold and ES&S, competed for the County's touch screen early voting contract signed by your Board in April 2002. Only one, Diebold, was able to demonstrate multiple language capability using our County's actual ballot with hundreds of separate ballot combinations.

As our team observed, and as was revealed in the OIG report, the final ES&S tri-lingual ballot software for Miami-Dade County altered the equipment boot up time from approximately one minute to six minutes per regular voting device and 23 minutes for the voting devices with audio capability (to allow blind voters to cast ballots independently). Additionally, boot up activation had to occur sequentially, not simultaneously, for each voting device. Many voting locations had more than 20 voting devices requiring 2+ hours to boot up machines if done properly. We observed a significant number of poll workers who were unable to follow the instructions and, consequently, booted up the equipment improperly (primarily by pulling out equipment activator devices prior to six minutes per machine).

This resulted in the inability at the end of voting to collect or "harvest" all the votes from all the machines. Consequently votes remained in numerous machines (on hard drives and flash memory cards). Due to the 48 lb. weight of the touch screen voting devices they were left at the polling sites unattended at the end of the voting day as is the norm with all touch screen voting systems. Those devices containing uncounted votes were not fully retrieved and returned to the voting equipment warehouse for several days, in effect breaking the chain of ballot custody. Thousands of additional votes were "harvested" from dozens of precincts in both Miami-Dade and Broward counties in the days after the election.

The following is a summary of findings and lessons learned:

New System Implementation Rushed – Insufficient time was available to make necessary changes to all voting preparations and procedures when switching from punch cards to touch screens. There was only 7-10 months available from contract signing until election

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<sup>5</sup> Broward Co. did not have this problem as the ballot was bi-lingual, not tri-lingual.

day in Miami and Broward counties, respectively, (the two largest in the state). This timeline proved woefully inadequate.

- Complete Paradigm Shift – For election staff AND poll workers everything changed. This resulted in numerous problems including insufficient time for thorough training, especially of poll workers. Small Florida counties were successful in implementing touch screen systems primarily because 1) they have the capability of conducting more thorough poll worker training closer to election day which aids retention of information; and 2) ballots are less complex and in English only which requires much simpler operating software. Poll worker training encompassed 12 hours in Pascoe and Sarasota counties (like Broward and Miami-Dade they used the ES&S iVotronic system). However, such extensive training is virtually impossible in large counties due to the thousands of poll workers that must be trained (approximately 23,000 poll workers are needed for our County). Some touch screen systems are more complicated for the poll worker to use than others. It is exponentially more difficult to implement new voting systems in large counties due to such logistical issues.
- Vendor Issues – In general, touch screen vendors sell voting equipment; however, they need to sell complete voting systems. Processes routinely not a part of vendor expertise/contractual obligation, but which are vitally important to guarantee success include: vendor provision of fully developed procedures and manuals for election staff and poll workers, comprehensive warehouse design/space configuration recommendations, fully tested remote transmission of election results via modems, recommendations for configuration and procedures for poll workers to drop off ballots<sup>6</sup> at collection sites, etc.
- Operating Costs Escalate – All the counties we visited reported the need for more, not less, election staff to operate touch screen systems than punch cards and stated the need is for higher level staff. All indicated their significant labor cost increases would be on-going and were not associated with first time deployment.
- Impact of Redistricting – Both Florida’s September Primary and California’s March Primary Elections immediately followed the dicennial redistricting process which results in massive changes to voters’ polling places (20% of our voters were assigned unfamiliar polling locations and up to 30% were impacted in South Florida as a result of required re-precincting following legislative boundary changes due to redistricting). As our Primary Election voter turnout was only 25% and is expected to be 50%+ for the upcoming General Election, the other 25%+ who have yet to vote

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<sup>6</sup> We observed poll worker confusion at the end of the voting day as to what constituted the “voted ballots”- was it the activator devices, flash cards, or what? With paper based voting systems this issue has never been a factor.

will confront new polling places for the first time this November. Even though voters are notified of their new polls, confusion is inevitable and disrupts the elections.

- What's so Hard About Opening a Polling Place? – Our team watched live television coverage of Florida Secretary of State Jim Smith's September 11<sup>th</sup> press conference in which he expressed disbelief that the two largest counties had difficulty opening polling places. As you know, our County had a similar although less pervasive experience during the March 2002 Primary Election<sup>7</sup> due to a combination of factors fully explained in an April 2002 report to your Board. Mr. Smith's frustration undoubtedly mirrors the public's belief that operating a polling place is a simple endeavor. But that perception does not reflect today's reality. Election laws at the state level have undergone rapid change over the past few years and the introduction of new voting equipment adds a further level of complexity. In effect the polling place is a changed environment although it looks the same to most people.<sup>8</sup>
- Flawed Election Laws – Even after the Florida state legislature enacted significant changes to election laws following the November 2000 election, many glaring inadequacies remain. Chief among them is the requirement for unofficial election results (including provisional ballots which were introduced in Florida for the first time statewide on September 10<sup>th</sup>) to be reported to the state by all the counties two days after the election. The deadline was 5 p.m. on Thursday, September 12<sup>th</sup>. This was also the deadline for any candidate, within ½% of the vote count of an opponent, to request a recount. Florida election officials, many of whom consulted with California colleagues familiar with provisional voting, had explained to the legislature that provisional ballots would take more time to determine eligibility prior to counting. However, their pleas for sufficient time were ignored. Speed and accuracy are both desired in election tabulation but are inherently in conflict. In effect the Florida legislature gave priority to speed over accuracy, a conclusion that is also reflected in the requirement for official certification of all election results within seven days of an election<sup>9</sup>. This short timeline (compared with 28 days for official

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<sup>7</sup> When 124 of our polling places (2.5%) opened late compared with a reported 10 to 15% in Broward and Miami-Dade counties.

<sup>8</sup> I use the following analogy to explain the invisible but major changes in today's polling place environment: *Picture two fish tanks side by side. One contains a colorful fish in fresh water and one holds a tropical fish swimming in salt water. To the unsuspecting eye they both look like fish tanks. A new person is assigned to clean one tank but is not given complete training or misunderstands the instructions and temporarily places the tropical fish in the fresh water tank and then stares in disbelief when s/he looks back and discovers the fish has died.*

<sup>9</sup> Janet Reno, 7 days after the election when results were officially certified, had narrowed the margin to within the ½% of the vote with Bill McBride and would have been entitled to an automatic, statewide recount for Governor if all the votes had been allowed to be tabulated prior to the deadline for a candidate to request a recount. In California, and most other states, a recount request is submitted by a candidate AFTER official results are certified when that candidate knows whether he/she won or lost and the actual margin of difference between the apparent winner and loser is known.

election results certification in California) forecloses the ability to conduct a thorough reconciliation of election statistics prior to certifying results. In Florida there is no legal requirement to count the number of voters who sign in at each precinct and reconcile that number with the ballots cast per precinct. With only a week to certify results and no legal requirement, this procedure was not done in the large counties we visited. This crucial audit step is legally required prior to official certification in California to assure confidence in the accuracy of the number of votes cast. It would now appear especially important to do this reconciliation, post election, in order to determine if indeed all of the votes were harvested from the flash cards and included in the official count, especially in those counties where major problems existed.

Additionally, provisional ballots are counted in Florida only if the eligible voter casts the ballot in his/her assigned precinct. The law does not permit the ballot to be counted when a voter goes to vote in a neighboring precinct that has the same ballot combination of candidates/issues as the home precinct<sup>10</sup>, as is the case in California law. Voters showing up at wrong polling places is more prevalent at elections immediately following redistricting as was the case here. We witnessed one voting location in Miami Beach where two precincts were set up in the same room in a community center. One precinct (021) opened on time and many voters had been casting ballots since 7 a.m. When we arrived at 11:30 a.m. the other precinct (014) was still not open and no voting occurred until a technician arrived to boot up the equipment about 11:45 a.m. (a number of voters had been waiting for hours to vote and we were told others had left). Both of these precincts were in the same room and contained the same ballot combination with the exact same candidates/issues, but Precinct 014 voters were not allowed to vote on the provisional voting booth for Precinct 021 due to the narrow nature of Florida's provisional ballot law.

- County Pollworker Program – As you know, our County implemented a voluntary County Employee Pollworker Program in November 1998 that has grown from 360 County employees to 2,130 participants in the March 2002 Primary Election. The eventual goal is placement of 5,000 County employees (one for each of our 5,000 voting precincts) prior to converting from punch cards to modern voting technology. Several of the counties we visited had recently begun to institute a similar County Employee Pollworker Program but their programs were not fully developed. Post-election news accounts, as well as the aforementioned OIG report, reveal that the three largest Florida counties (Broward, Miami-Dade and Palm Beach, all of which we visited) are now formally instituting such programs. In Miami-Dade for this November's General Election the program will be mandatory involving up to 15% of the total County workforce. Their programs will be expensive as they entail paying their county employees overtime (1 ½ times regular pay) for the hours worked

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<sup>10</sup> Miami-Dade County had 212 separate ballot combinations for this election. Our ballot for November 5, 2002 contains 818 separate ballot combinations.

beyond the regular 8-hour day compared with our County's program that is much less costly. Our program pays voluntary County employees the same stipend received by all poll workers (in addition to their regular 8-hour salary). Florida poll workers are paid between \$90-\$150 compared with \$55 - \$75 in Los Angeles County. To date we have recruited 2,600 County employees to work the polls on November 5<sup>th</sup> with a goal of 3,000 for this upcoming election.

## CONCLUSION

To summarize, the experience of the two largest Florida counties in implementing new touch screen voting technology (described as "emerging untested technology" in the Miami-Dade County OIG report) further validates your Board's decision on August 20, 2002 to phase-in touch screen voting at a more deliberative pace. This will allow time for the technology to mature and for our County to learn from the experiences of other large counties that are leading the way installing this new voting technology.

If you have further questions, please call me.

c:     CAO  
       County Counsel