

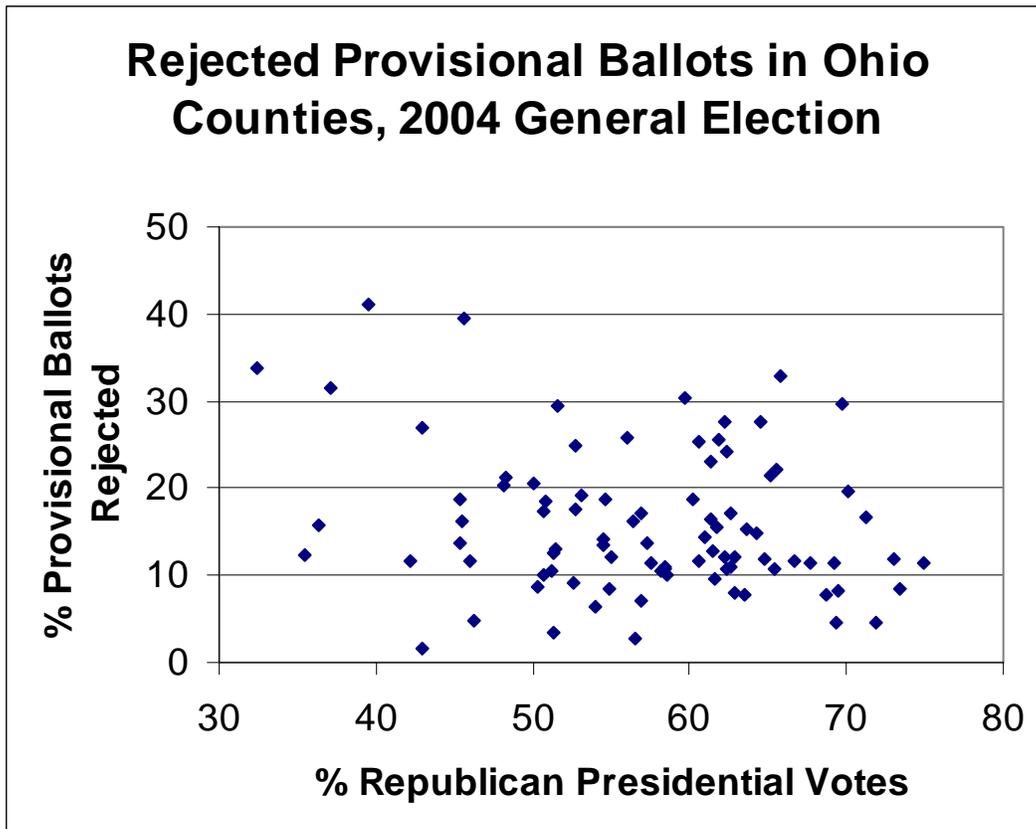
**WRITTEN STATEMENT BY NORMAN ROBBINS*, MD, PHD
TESTIMONY FOR HOUSE ADMINISTRATION COMMITTEE,
MONDAY, MARCH 21, 2005**

***Representing The Greater Cleveland Voter Coalition**

I. PROVISIONAL BALLOTS

A. Overview

- The good news: HAVA has enabled legitimate voters, who would formerly have been denied the right to vote, to cast provisional ballots which were counted (e.g. in Ohio, almost 120,000 voters; nationally, over 1 million)
- The problems: The provisional ballot of many voters were rejected (almost 30,000 in the Ohio 2004 General Election). Of these 30,000, our studies in Cuyahoga County¹ indicate that about 40% or about 12,000 provisional ballots statewide in Ohio, were fully legitimate but were unnecessarily rejected (for reasons to be discussed).
- In Ohio, the percentage of rejected provisional ballots was no different in predominantly Republican or Democratic counties² (graph below). Therefore, all members of Congress are likely to have voters in their district who were unnecessarily disenfranchised because of provisional ballot problems.



¹ (attached) “Analyses of Voter Disqualification, Cuyahoga County, Ohio, November 2004”, pp. 6-7; full report at: http://www.clevelandvotes.org/news/reports/Analyses_Full_Report.pdf

² Data computed from that supplied by the Ohio Secretary of State.

- As explained in the attached study³, certain sub-groups in the American population are more likely to be disenfranchised by current provisional ballot provisions than others, simply because they change residence more frequently. These groups include youth (ages 18-29), those earning less than \$25,000 household income per year, Hispanics, and Minorities. As you know, many of these groups span party lines.
- **These un-necessary rejections can be greatly reduced in the future by Congressional legislation, but different reforms are required for different types of problems**
- An excellent review of some of these problems on the national level has just been completed by Electionline.org⁴.

B. Reasons for unnecessary rejection of Provisional ballots

- **Problems with becoming properly registered:**

1. Getting registered properly: In Cuyahoga County alone, Board of Elections (“BOE”) omissions or errors in entering new registrations or updating address changes put more than 12,500 voters at risk of disenfranchisement. Another 3,300 voters made registration errors which put them at risk⁵. This amounts to about 15,000 voters in Cuyahoga County, or a projected 54,000 votes statewide. Many of these were unnecessarily and unfairly required to vote by provisional ballot, thereby introducing an unnecessary risk of rejection for several unrelated reasons (e.g. leaving out signature or birthdate).

2. Inadvertent or arbitrary purging or dropping of existing legitimate voters: Example: we found nearly 1,000 legitimate registered voters in Cuyahoga County that were dropped from the rolls in the 3 months before the election **for no apparent reason AND who had their Provisional ballots rejected!**⁶

3. Many legitimate or new registrants were unaware they were either not on the rolls or were entered incorrectly (see point 1), so they didn’t know they needed to make corrections or re-register: Many legitimate voters showed up at the polls because they were unaware that their registrations had been purged, incorrectly entered, or not entered at all by BOE. For the same reasons, their provisional ballots were often rejected.

Reforms

1. All BOE’s must have a website with a look-up site so that every voter can check to see if they are registered and that their name, address and birth date are correctly recorded. Voters who do not receive written notification from the BOE should be **warned in time to take corrective action** by intensive media publicity. The

³ “Analyses....” Pp. 8-9

⁴ <http://www.electionline.org/site/docs/pdf/ERB.10.Provisional.Voting.3.17.2005.a.pdf>

⁵ “Analyses....” pp. 3-5

⁶ “Analyses....” pp. 6-7. As pointed out in this study, we were never able to get feedback on these numbers from the Board of Elections despite our requests.

message should be that if they have not received written notification from their Board of Election, they may not be registered or may not be registered correctly, and they must call to find out and take corrective action.

2. To ensure that there is no “digital divide” that prevents voters without computer skills from getting this information, public librarians should receive paid training and time to offer voters registration assistance that includes looking up their registration status and precinct. Again, HAVA funds and EAC assistance should be available to assist in this effort.

3. All BOE’s must be required to have double-checking systems to avoid incorrect transcription of information from registration forms, and also to avoid inadvertent purging of legitimate voters. Statewide databases must have similar checks against inadvertent purging.

4. There should be consistent national standards and calendar (for general elections) for legitimate purging of voters (e.g. when they move out of state or are incarcerated for felony).

5. To prevent legitimate voters from improper rejection of their provisional ballot, there needs to be a nationally consistent standard for automatically notifying those voters whose provisional ballots have been rejected, including information on how they can appeal the rejection (process, and evidence required) so their vote can be reinstated, if appropriate.

6. No provisional ballot should be rejected by a BOE unless it is first checked against the original (voter-submitted) application, to ensure that the BOE has not made errors in transcribing the voter’s information.

Rejection of Provisional ballots because voter is in “wrong precinct”

- In Cuyahoga County, one-third of provisional ballot rejections (about 2,200 voters) were for this reason. If the same proportion held statewide, then about 10,000 legitimate Ohio voters were denied their vote for this reason.
- A high proportion of provisional ballots were unnecessarily rejected for “wrong precinct”, for several reasons: (A) Another study⁷ showed that more than half of these voters were in the correct polling place (which could include several precincts), having been sent to the wrong precinct table by the poll workers. (B) We know of other individuals who were given incorrect voting precinct information on the BOE website. (C) We also have many reports of people who simply could not take the time to go to a different (“correct”) precinct to vote because of jobs, child care, or long lines at the polls.

⁷ <http://ohiovigilance.org/Counties/Cuyahoga/Analysis/CuyWrongPrecinctSummary.pdf>

Reforms

1. Most important: HAVA must specify that “jurisdiction” of casting a vote at least for federal offices must be the widest possible geographic area, with the correct county as the smallest “jurisdiction” in which a registered elector can cast a provisional ballot without automatic denial. As in several states already, voters who choose to cast their provisional ballots outside their regular precinct, would not have their votes counted on those local candidates or issues that pertain only to the different precinct where they cast their vote.
2. No provisional voters who cast their vote in the correct polling place (regardless of precinct) or who were directed by a BOE website or pollworker to an incorrect polling place, should have their provisional votes rejected (with the proviso in item 1).
3. Voters whose provisional ballot was rejected for any cause, should be automatically notified and have a timely appeals mechanism (see item 4 above).
4. BOE’s should have well publicized web sites where voters can look up their correct precinct. HAVA funds and EAC assistance should be available to assist all counties in the state to ensure that their web sites for this purpose do not provide incorrect information.

II. POLL WORKER TRAINING

A. Overview and problems

Inadequate poll worker training is universally acknowledged as a key problem by election officials, members of both major political parties, and voter reform groups. Yet it keeps sinking below the radar screen. HAVA funds for Ohio, for instance, provided \$132 million dollars for voting machines, but only about \$5 million for both voter and poll worker education for the entire state, and this in turn was divided between 2004 and 2005. Budget-strapped BOE’s generally pay close to minimum hourly wages to poll workers, and prepare them with just a few hours of mostly lecture-oriented training to cover a complex set of voting rules and contingencies. In addition, poll workers typically work exhausting 14+-hour days from 6:00 a.m. to after 8:00 p.m. As a result, it is no surprise that there are numerous reports of voter confusion and disenfranchisement as a result of poor or misinformed guidance by poorly trained poll workers. Change of election rules at the last minute added to this confusion.

Examples:

- As noted above, half of the provisional ballots rejected in Cuyahoga County because of “wrong precinct” were actually cast in the correct polling place. Poorly trained poll workers are to blame;
- In several precincts, poll workers directed voters to the wrong punch card ballot and voting machine for their particular precinct, so that their votes were incorrectly punched in the “wrong” positions because of rotation of candidate order on the ballot books. In some cases, this resulted in large numbers of erroneous unintended votes for 3rd party candidates;

- In many cases, poll workers incorrectly demanded picture ID's or other special identification such as utility bills from fully registered long-term voters;
- Provisional ballots were some times not even offered to eligible voters;
- Rules for Absentee voters who showed up at the polling place were changing as late as 3 p.m. on election day;
- 540 provisional ballot voters in Cuyahoga County alone were disqualified because of innocent and avoidable omissions in filling out the provisional ballot forms – e.g. omitting signature—which a trained poll worker could easily have prevented.

Reforms

The following reforms could be required by HAVA as a condition of providing to states annual federal funds ear-marked for poll-worker training:

1. Extend time allotted to train and test poll workers over at least two sessions.
2. Use creative, interactive teaching methods.
3. Use statewide standard testing of all poll workers to determine if they can **demonstrate** a **working** knowledge of presented material. They also must show that they can trouble shoot voting machine or polling problems, and can assist voters in the more frequent problems they encounter. Those who do not pass the test should receive additional training, and tested once again. If they are still unable to pass, they should not be hired.
4. Poll workers must be trained to recognize the limits of their knowledge, so that they will know when to seek expert or BOE advice, and have rapid communication facilities to do so.
5. Divide election day into at least 2 poll worker shifts.
6. Raise pay of poll workers to a living wage (based on reasonable community standards).
7. Require that the preparatory session for poll workers on the evening before election provide sufficient time to thoroughly update and train poll workers on any changes in rules that may have occurred since their full training sessions.