



The Association of the Bar of the City of New York

Committee on Election Law

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Hon. Michael Cardozo
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Re: Election Modernization Task Force

Dear Mr. Cardozo:

Over the past fifteen years, it has been our privilege to suggest reforms in the Election Law and the manner in which it has been administered. Our experience has been that change occurs when both public officials and the public demand change. Commissions like the new Task Force play an important role in this process. They educate the public and media and sustain the demand for change. More importantly, they help transform generalized demands for change into concrete well considered proposals for reform. With that in mind, we suggest that the Mayor should seize the moment and provide the Commission with a broad mandate for reform. Topics that we believe should be explored include:

Requirements for an Electronic Voting System

At least one electronic voting machine ("EVM") per polling place must be readily accessible to the handicapped, including the visually handicapped. There are issues of cost and design. EVMs should have audit trails. Again, there are issues of cost and design, as well as "best evidence" issues in the event of litigation involving the outcome of an election.

The State's requirement for a full face ballot adds to the cost of EVMs. However, the outcome of races appearing at the bottom of the ballot might be affected if a full face ballot were not used. Moreover, New York City is required to print ballots in multiple languages (English, Spanish, Chinese and Korean). Is it preferable to have a full face ballot on which the voter can choose the language or a non full faced ballot on which each office appears on a separate screen in the full panoply of authorized languages, or some combination of both?

Hon. Michael Cardozo

April 13, 2005

- 2 -

How are EVMs to be procured: separate RFP's or RFB's from pre-qualified vendors? Should the State's Office of General Services act on behalf of the State

Board of Elections and enter into requirements contracts with one or more vendors that localities can access at pre-negotiated rates?

Poll Sites

Traditionally, poll workers are recruited and nominated by local Democratic and Republican party leaders. In New York City, as party organizations have grown weaker, a hybrid system has arisen in which the Board of Elections recruits approximately half of the poll workers. Poll workers recruited by the Parties may have years of experience. However, some may have stayed in the position too long, or be incapable of discharging their duties competently. Regardless of their ability, poll workers recruited by the Board often do not have any experience. Should we keep the hybrid system?

The Board of Elections' ability to evaluate the ability of potential recruits, to get recruits to attend training, the quality of that training, evaluation of the individual worker's performance during training and on election day, the need for post election training and retention of good workers all need to be examined. Having raised the compensation of poll workers to \$200 for a 16 hour day, are there other incentives that are available to insure attendance at, and attention to training, as well as a superior performance on Election Day? Should a further raise in poll worker compensation be considered for 2005? Should the Task Force recommend that the Legislature authorize split shifts for poll workers?

Poll workers on the stand-by list report to borough offices on election day and are then deployed as necessary to fill vacancies. Should the Board of Elections determine their deployment prior to election day?

Are there enough experienced poll site coordinators and supervisors? What resources are available to assist them? Why are they not able to correct the most common errors on Election Day: improper posting of signs and display of voter materials, incorrect location of door clerks, improper processing of affidavit ballots and failure to properly complete the canvass sheets?

How are poll site coordinators recruited, trained and evaluated? Are the good ones retained and the poor ones let go? What is the state of communication between the Board and the poll workers? Are expectations and assignments clearly communicated and understood? How are problems addressed at the polls?

Greater Use of the Internet

Given the state of the Internet, and the growing access of the population to computers, should more transactions with or involving the Board of Elections be done electronically? For example, is it desirable to offer poll worker training over

the Internet? Moreover, if income tax returns can be filed electronically, why can't voters register, enroll and transfer their enrollment electronically? Should the Board of Elections have a stand alone system or use the City's 311 system?

Management Study of the Board of Elections

The functions of the Board of Elections need to be studied. What are the Board's core functions? How are its personnel and financial resources allocated among those functions? Are appropriate management systems in place? Can appropriate management and management systems be put into place in an agency that operates outside of the civil service system?

Under what circumstances would the City be willing to fund the Board of Elections at a level appropriate to the Board's responsibilities? The Board of Elections is governed by 10 commissioners (a Democratic and Republican commissioner for each borough) who collectively serve as the agency's Chief Executive Officer. The Executive Director is merely the Board's Chief Operating Officer. Should the role of the commissioners be limited to adjudicating quasi-judicial matters and service as a Board of Directors? This would make the Executive Director the Chief Executive Officer of the Board with the ability to hire, fire and assign staff, enforce discipline and implement appropriate management and personnel policies.

Should Boards of Election outside of New York City become county, and/or in New York City, a City agency? If, subject to the protections of the classified civil service, a tax, planning or police department can be under the jurisdiction of a mayor or county executive, why shouldn't a board of elections? Doesn't the obligation to represent the public interest take precedent over the obligation to represent the interests of only two (albeit the largest) of the State's five political parties? Does the present structure of boards of election reflect that precedence?

Voter Registration

Is agency assisted voter registration living up to its promise? Are voter lists being currently and accurately maintained? Where appropriate, are the names of those who have died, moved from the jurisdiction or are no longer qualified timely purged from the list? Are registrations, enrollments and transfers being timely processed? What are reasonable forms of identification that Boards should accept when a person who has previously registered to vote by mail comes to vote for the first time?

Ballot Access

Every summer, all other work at the Board of Elections comes to a halt as designating and independent nominating petitions are filed, processed and challenged. Thereafter, the litigation process delays the preparation of military and absentee ballots, and sometimes of the ballot that appears on the face of the voting machine. If ballot access were made easier by either virtually or actually

Hon. Michael Cardozo
April 13, 2005

- 4 -

eliminating the requirement of submitted sufficient signatures to demonstrate a modicum of support, would sufficient savings of personnel and other resources result to pay for increased funding of other core functions?

These are merely some of the many issues that could profitably be studied by the Task Force. I have asked a member of the Election Law Committee, Jerry Goldfeder, to serve as our liaison to the Task Force. He will be reaching out to you in the coming weeks.

We wish you well in this effort and look forward to your recommendations for improvements.

Sincerely,

Laurence Laufer