

GAE Public Hearing
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Testimony of Melinda S. Valencia

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Chairman Caruso, Chairman Slossberg, members of the committee:

My name is Melinda Valencia. I live in Glastonbury. I am a retired attorney. I am a volunteer with CTVotersCount.org. CTVotersCount.org is a member of the Connecticut Citizen Election Audit Coalition along with the League of Women Voters Connecticut, CCAG (CT Citizen Action Group) and Connecticut Common Cause. The Coalition organized citizen observers to attend the first state-wide audits of the optical scan voting machines in Nov. and Dec. 2007, and participated in making comments to the Secy. of the State's office to improve the Audit Procedures in time for the presidential primary audits that began last week. Volunteer observers have also attended most of these audits.

I observed two of the 2007 audits (11/16 and 12/4), studied the Audit Procedures very carefully and, after devoting a significant amount of time to working on proposed revisions to the procedures, and I am very interested in evaluating the efficacy of the revised procedures being used in the current audits. I had hoped to be able to attend more than one audit using the new procedures before testifying but, as you know, several audits are scheduled for next week. I was able to observe one audit this week, and I will be observing another on Tuesday evening. I also contacted about 40 towns to determine their audit schedules, and I had the opportunity to speak with several registrars who had districts chosen, sometimes at length. I was the one who drew the districts randomly out of the drum in Secy. of the State's office, so I disclosed this selectively in these conversations, as you might imagine.

I testified at the public hearing in Norwich on February 11 that the Audit Procedures, as they existed for the November audits, were confusing and inconsistent. Particularly troubling was the fact that the two formulas to be used to determine whether further hand counting was required were both wrong. On February 11, I stated that I believed that, if the procedures were revised to have the correct standards and to be more easily understandable for the registrars and counters, the effort and the cost involved in the audits would be reduced, and the procedures would be much more likely to be followed, yielding counts that can be analyzed to determine the source of any discrepancies. I was looking forward to testing this hypothesis, and the way the audit I observed this week was conducted under the new procedures was very telling.

I was amazed that the registrars opened the proceedings with the instruction to the counters that, in the counting, "we are trying to match the machine totals". Then they actually proceeded to give the machine tapes to the counters.

There were six tables of counters all working at the same time, so I and my co-observer could not be sure what they were doing but, because they were given the machine totals at the beginning, we had no confidence that what the counters recorded for their hand

count was the correct hand count and not a number tweaked to match the machine tape. We felt there was a strong tendency, especially given the opening instruction, to match, to come up with the "correct" number, to not cause any problems for their fellow counters and the registrars, to get it done and go home. I also felt that the attitude of the registrars indicated that they see a failure to match as a negative reflection on themselves rather than on the machines. Therefore, the counters have a strong motivation to vindicate rather than indict themselves and the other election officials and not surface any problems. They didn't seem to have absorbed the concept that their count is used as a check of the tabulator, the memory cards and the programmers, which has nothing to do with them.

Granted this was only one audit, but from phone conversations with probably 20 registrars, I know that some still don't understand the need or purpose for the audits, some know they still need help in understanding and complying, some still think it is an unnecessary burden, and some consider the audits as a personal attack on themselves. Understanding of the audit purpose and procedures, preparation for an audit, and ability to take charge and analyze the reasons for discrepancies will continue to vary widely among the registrars in CT.

In this round of audits, the process was not distorted by inaccurate and confusing procedures, and the one race/one ballot/one vote primary was as easy as it gets. As a result of observing this simplest of audits, it became clear to me that the audits must be taken out of the hands of the registrars, who perceive that they have an interest in the result. Legislating best practices for hand counts and other audit procedures and requiring training of counters and officials might help, but I don't think it will get us where we need to be. I have concluded that continuing to do what we are doing will never suffice as a true "audit". We observers again were relied upon to explain what was required in filling out the audit report and to suggest and evaluate explanations of discrepancies. I saw no evidence that the machines did not work properly, but several of the explanations proposed by the election officials made no sense, several of the officials seemed out of their league in evaluating possible explanations, and some indicated a willingness to go along with any explanation just to get it over with and get the numbers to match. What we need are audits that are centralized and conducted under the guidance and management of an Independent Audit Board, and I cannot recommend this strongly enough.

I have included in my written testimony a few suggestions for again revising the Audit Procedures if you decide to do no more than merely tweak the procedures for the presidential election. I recommend that it be made clear that the counters should not see the machine totals. Only the registrars should have this info and it should not be put onto the Audit Report forms until the counting is complete and then by the registrar, not the counters. There is no reason for the machine totals to be revealed to the counters. If there is a discrepancy, the counters should be directed to confirm their count without knowing the machine total that they are "working toward matching". Otherwise, you cannot trust the count or the reconciliation. Also, and this is a little technical, I would change the criteria that trigger the need to reconcile back to the formulae that I had proposed to the

Secy. of the State's Office. Explaining all differences between the machine total and the hand count total as required by the current procedures is not something the counters should get involved in. The requirement in the revised procedures to explain all differences led, in the audit I observed, to the registrar having as counters people who worked the polls in the audited district on Election Day. This gives them an interest in the result that is inappropriate if they are conducting a true audit. The hand count should be required to be confirmed (by recounting if necessary) only if the machine count is more than the total hand count or less than the number of hand-counted undisputed ballots.

Here are a few other specific comments on Raised Bill No. 444, which I have included in my written testimony:

1. The bill does not provide for minimum notice to the public of manual audits.
2. The bill does not provide that selection by the municipal clerk of races to be audited should be open to the public.
3. The bill should provide that AT LEAST one additional office should be audited in presidential or gubernatorial years, but 3 races or 20% should apply to those elections if greater.
4. Section 17(c) first sentence is, I believe, incorrectly included and should be deleted.
5. Section 19 (c) first sentence should be changed from "Each MACHINE shall be so ARRANGED that the elector may vote for as many persons for nomination or election..." to "Each TABULATOR shall be so PROGRAMMED that the elector..."
6. I believe referendum questions should be included in the "races" subject to audit as these are tabulated by the machine as well.

Thank you for the opportunity to express my continuing concerns about the audit process.