L.A. STORY:

THE 2001 ELECTION

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A CENTURY FOUNDATION REPORT

THE CENTURY FOUNDATION

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PREFACE

In the aftermath of the disputed presidential election of 2000, The Century Foundation and the Miller Center of Public Affairs at the University of Virginia organized a distinguished commission, the National Commission on Federal Election Reform, to analyze how the nation's voting systems could be improved. Cochaired by former presidents Jimmy Carter and Gerald R. Ford, the Commission released its report at a Rose Garden ceremony in July 2001. Many of the report's recommendations have been adopted in legislation that both the Senate and House of Representatives passed decisively.

The Commission's report was made public during an "off year" for national elections, when the only major campaigns under way across the United States were the governor's races in Virginia and New Jersey and the mayoral elections in Los Angeles and New York City. The Century Foundation thought it would be instructive to follow up on the Commission's work by looking at the voting process in those four elections to analyze the extent to which they experienced the kinds of problems evident in Florida a year earlier. Our hope was that the four reports on the major elections of 2001 would shed further light on the extent to which the voting systems around the country need repair and on lessons that may have been learned about how to do it right.

The Century Foundation would like to thank the William and Flora Hewlett Foundation, the David and Lucile Packard Foundation, and the John S. and James L. Knight Foundation for making

our work on the important issue of election reform possible. Without their generous support, our efforts never could have had the impact that they did.

For more information on our projects regarding election reform, please visit our website at www.tcf.org or the website of the National Commission on Federal Election Reform at www.reform-elections.org.

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OVERVIEW OF THE 2001 ELECTIONS

The presidential election of 2000 laid bare egregious flaws in the U.S. electoral system, precipitating a constitutional and political crisis. In a country that has long served as a model for democracy to the rest of the world, the experience raised fundamental questions about the validity and fairness of its own voting process. The American public demanded that the government respond.

As a result, in the wake of the 2000 election, state legislatures considered more than 1,800 voting reform bills. Roughly 250 of these passed, but only Florida, Georgia, and Maryland enacted any sort of comprehensive approach to election reform.[1] Most of the reforms in other states were scattershot, focused on a particular voting rule here, a narrow process there. Many of those reforms will not take effect until the 2002 or 2004 elections.

At the federal level, too, initially there was a great flurry of activity. At least thirty-four bills were introduced in the House of Representatives and twenty-two in the Senate. A single measure was enacted: a change in voting procedures for military voters, included in the National Defense Authorization Act for Fiscal Year 2002.[2] One other bill passed the House, H.R. 3295, the Help America Vote Act, and one passed the Senate, S. 565, the Equal Protection Voting Rights Act of 2001.

In 2001, at the same time that election reform debates were percolating, many local elections and two statewide elections took place. For example, mayors were chosen in Los Angeles, New York City, Miami, Cleveland, Atlanta, Detroit, Seattle, and Houston, and governors were selected in New Jersey and Virginia.

To assess the extent to which the problems evident in Florida and elsewhere in 2000 persisted in the absence of fundamental reform throughout most of the country, The Century Foundation commissioned four reports examining the major elections that took place in 2001: the Virginia and New Jersey gubernatorial elections and the New York City and Los Angeles mayoral votes.

Overall, these reports show that election problems were much less pervasive in Virginia and Los Angeles than in New Jersey and New York City. Not coincidentally, Virginia and Los Angeles have long-standing voting laws and practices that parallel reforms that the U.S. Congress and many states have been considering in the wake of the 2000 election. Those jurisdictions also instituted additional reforms after 2000 that worked well in 2001. In contrast, the election systems in New York City and New Jersey have not been adequately improved.

While the stories of these four jurisdictions are very different from one another and demonstrate a wide variety of problems, the reports assess how they performed by looking, to varying degrees, at the following criteria:

- How many legitimate votes were lost or discarded?

- What problems at the polling sites might have contributed to disenfranchisement?

- Were adequate measures undertaken for language minority voters?

- What efforts were made to strengthen and increase voter education?

VOTES LOST BY THE VOTING SYSTEM

Perhaps the most widely publicized problem in the 2000 election was the number of votes that were not counted because of voting system errors (often called "spoiled" or "residual" ballots). As researchers at the California Institute of Technology and the Massachusetts Institute of Technology (Caltech/MIT) found, "two million ballots, or two percent of the 100 million ballots cast for president in 2000, were not counted because they were unmarked, spoiled, or ambiguous. Of this two percent it is estimated that 0.5 percent did not intend to vote for president, so 1.5 percent (or 1.5 million people) thought they voted for president but their votes were not counted."[3] As widely reported in numerous articles and reports, certain technologies seemed consistently to perform better than others, with punch card ballot machines singled out as the worst culprit when it came to lost votes. Studies also showed that more votes were lost in poor and minority jurisdictions, and some reports found that inferior voting systems were disproportionately located in poor and minority jurisdictions.[4]

In the elections analyzed in our reports, Los Angeles and Virginia fared considerably better than New Jersey and New York City with respect to spoiled ballots. Although Los Angeles widely used the notorious punch card ballots, the city initiated an intensive voter education program in the wake of the 2000 experience and succeeded in reducing the number of residual ballots in the 2001 mayoral election to about 1 percent, down from the national average of about 2 percent the previous year. Virginia, which already had an uncounted ballot rate below the national average in 2000, also cut its level in half in 2001, largely by instituting new technology that enabled voters to verify and correct their ballot choices if necessary, even if they used punch card systems.

New Jersey's residual ballot rate, which was around the national average in 2000, actually increased slightly in 2001, despite the elimination of the few punch card ballot machines remaining in the state. In fact, the residual ballot rate actually went up in one of the two counties that eliminated punch card ballot machines. New York City[5] had a significantly higher than average spoiled ballot rate in 2000, which improved marginally in 2001. But as in 2000, the rate of residual votes remained significantly worse in areas with high shares of minorities and low-income families. The only reform that might have contributed to this slight improvement was an effort to recruit and train poll workers to instruct voters better. Specifically, poll worker pay was increased, recruitment efforts extended beyond the political parties (the traditional source), and more resources were allocated to training.

Thus, the 2001 elections reinforce evidence that the type of voting machinery employed is not necessarily the most significant factor affecting the rate of spoiled ballots. Even the alleged main culprit of the 2000 debacle, punch card ballots, performed well when voter education efforts were undertaken in Los Angeles and when they included technology that allowed a voter to double check and correct his or her vote, as in Virginia. By contrast, only New Jersey replaced punch card machines with little apparent effect. New York City was able to improve the performance of its thrity-eight-year-old lever machines to some extent by investing in poll workers.

The success of these efforts, however, does not mean that old machines should be left in place eternally. Evidence suggests that optical scan and Direct Recording Electronic systems (DREs) perform better than other methods when technologies are assessed overall.[6] More advanced technologies generally do produce better results. Moreover, electronic forms of voting have the potential to

make it easier for the disabled and citizens who have difficulty reading English to vote. For example, such technology can include ballots in unlimited numbers of languages and facilitate private polling place voting by the blind. The main lesson, though, is that replacement of machinery is not enough; it should be part of a menu of reforms.

POLLING SITE PROBLEMS

Another major problem highlighted during the 2000 election was the large number of people who for one reason or another were unable to cast a vote when they arrived at polling stations. For some, it was because their names were not on the voter registration list. According to a study by the organization Demos, "In at least 25 states, inaccurate or purged lists prevented some eligible voters from casting ballots."[7] For voters in jurisdictions that do not allow for provisional ballots in lieu of voting on the machines, this meant they had no opportunity to vote regardless of whether the error was theirs or that of the election administrators. According to the Caltech/MIT report, "We lost between one-and-a-half and three million votes because of the registration process in 2000. According to the U.S. Census, Current Population Survey, 7.4 percent of the forty million registered voters who did not vote stated that they did not vote because of registration problems."[8]

Other voters were discouraged because their polling sites were moved, poll workers gave out faulty information, or lines were too long. Again, according to Caltech/MIT, "We lost between 500,000 and 1.2 million votes because of polling place operations. According to the U.S. Census, Current Population Survey, 2.8 percent of the forty million registered voters who did not vote in 2000 stated that

they did not vote because of problems with polling place operations such as lines, hours, or locations."[9]

All four jurisdictions in this report had polling site problems in 2001, but the extent of those problems varied considerably. In Virginia, hearings following the 2000 election revealed many voters, especially African Americans, confronted polling site problems. Some voters who thought they had registered to vote were turned away at the polls. More disturbing were complaints voiced at the hearings about heavy police presence in high minority polling sites, possibly aimed at deterring voting. However, the problems in this respect seemed relatively minimal in 2001. The only noted difficulty was that redistricting led a small number of voters to show up at the wrong sites because they were mailed erroneous information. Similarly, in Los Angeles the poll site problems were scattered, with relocation of poll sites a particular problem.[10]

In New York City, there were still many problems at voting sites, but due to new funding, fewer than in previous years. Among the major problems were poll worker shortages, consolidated—and thus fewer—polling sites, a shortage of voting machines, and machine breakdowns, all leading to inadvertent but wrongful disenfranchisement. The worst problem may have been poorly informed poll workers.

Although New Jersey's complex and decentralized system makes it difficult to assess poll site problems, there clearly were some. By far the most troubling were incidents of outright voter intimidation aimed at minority voters. In the very jurisdiction being monitored by the Department of Justice because of past problems, many Latino voters received a threatening postcard warning them about election laws and claiming that there would be armed monitors at the polls. In addition, county administrators reported problems with poll workers who withheld information about the availability of

provisional ballots. When provisional ballots were made available, poll workers failed to give voters instructions on how to cast those ballots. On the positive side, an increase in poll worker pay greatly increased the number of available poll workers.

The wide variety of problems experienced at poll sites makes it difficult to offer a simple solution. There is, however, an effective way to deal with voters who show up at the polls believing they are registered but are missing from the rolls. The solution is to establish statewide voter registration lists, particularly computerized ones. Through such systems, lists can be constantly updated, linked to other government records, and used to determine whether someone is eligible to vote in the state regardless of the poll site he or she appears at. However, Demos notes, "less than half of all states either have state-of-the-art voter registration lists or have plans to create them."[11] Virginia, whose system runs relatively smoothly, has a statewide voter registration system; New Jersey does not. Fortunately, all four of the election sites studied have some sort of provisional balloting system, which helps to at least cover some of the pitfalls.

Cases of outright voter intimidation need to be addressed through federal law enforcement. The United States Department of Justice (DOJ) does an admirable job of trying to monitor elections and pursue violations of the voting rights laws. Yet, intimidation occurred in a federally monitored jurisdiction in New Jersey in 2001. It may well be, therefore, that the federal government needs to bolster its commitment to monitoring elections and pursuing enforcement actions. Other possibilities in this regard include:[12]

- allowing private individuals, not just the DOJ, to bring private actions for voting rights violations;

- eliminating restrictions on attorneys' fees that make it more difficult for aggrieved voters to find capable lawyers and experts;

- providing grants to state attorneys general to support new efforts to enforce antidiscrimination laws in registration and voting; and

- providing grants to community-based organizations to investigate and if necessary litigate possible violations.

The problems of too few poll sites and sites that move at the last minute, which all jurisdictions confront to some degree, are also difficult to remedy. The National Commission on Federal Election Reform suggested making Election Day a national holiday, which would allow more public spaces, such as schools, to be made available for polling.[13] Other scholars and organizations have advocated such an approach, notably the U.S. Commission on Civil Rights and Professor Burt Neuborne of NYU School of Law and the Brennan Center for Justice, but it remains controversial.

LANGUAGE MINORITY VOTERS

One of the most serious though under-reported problems with the American election system is the lack of accessibility to the polls for language minority voters. It is difficult to quantify the number of minority language voters who are wrongfully and often illegally disenfranchised because required measures are not taken to assist them in voting.[14] However, there was plenty of anecdotal evidence of such disenfranchisement in the 2000 election. For example, the U.S. Commission on Civil Rights found that several thousand Spanish-

speaking voters were disenfranchised in Florida, as well as a large number of French-speaking Haitian voters. The commission reported, "Many poll workers were not properly trained to handle language assistance issues. Some voters found that even when volunteers were available to provide assistance, the volunteers or precinct workers were prevented from providing language assistance. In some instances, bilingual poll workers were directed to not provide language assistance to voters who were in need of that assistance."[15]

As the two most diverse cities in the country, Los Angeles and New York City both face enormous challenges with respect to language minority voters: each has more minority voters than the states of New Jersey and Virginia combined.

Congressman Xavier Becerra testified before a Senate committee that fourteen poll sites in Los Angeles did not display or make available bilingual materials provided to them.[16] At the same time, Los Angeles does a great deal to prepare for the complexities involved in administering an election that requires it to provide voting materials in seven different languages. The city works directly with the communities and ensures there are sufficient bilingual poll workers and translators at voting sites. The ongoing challenges Los Angeles faces are cultural ones—helping new immigrants understand the system politically and administratively. As a result, this and other similarly situated jurisdictions must focus their voter education efforts particularly on new immigrant voters. In addition, Los Angeles was hindered by its use of punch card ballots, which cannot provide ballot choices in a large number of languages as easily as other technologies.[17]

New York City has had problems in the past, particularly with respect to districts requiring Chinese translation. For example, the Asian American Legal Defense and Education Fund reported that in

the 2000 election Chinese language ballots were incorrectly translated at six New York voting sites—"Democrat" was translated as "Republican" and "Republican" was translated as "Democrat." Problems occurred again in 2001. Some poll workers prevented bilingual poll workers from assisting voters or failed to provide translated materials. The Asian American Legal Defense and Education Fund further reported that their monitors observed some 250 Asian voters being asked for identification in the primary election and 375 Asian voters being asked to show identification in the general election, even though identification is not required to vote in New York.

Not only are many poll workers unprepared to provide adequate services to language minority voters, particularly Asian Americans, but New York City also continues to experience a dearth of bilingual workers at the polls, despite increased efforts at recruitment. In 2001, the city was short 122 Chinese interpreters out of a total of 483 positions, 256 Spanish interpreters out of a total of 779 positions, and 19 Korean interpreters out of a total of 32 positions. New Jersey encountered a similar problem in 2001. In one county that must provide materials in Spanish, instructions in Spanish on the absentee ballots were reversed, so that voters were told to place their mark below (*abajo*) their preferred candidate rather than the correct way, above (*sobre*). Many of those ballots were counted when the votes were tallied, thus potentially distorting the result.

VOTER EDUCATION

After the 2000 election, there was broad consensus among administrators, voting rights advocates, elected officials, and elections scholars that the country needs more voter education. This includes not

only education about the candidates and the issues, but information on how to register, how to cast a ballot, provisional balloting, and how to use the voting system machinery. Voters need education, too, on their voting rights under the law (especially the disabled and minority language voters). As the National Commission on Federal Election Reform Report noted, "Some administrators believe, with cause, that they can get more improvements, dollar for dollar, from voter education and poll worker training than they can from investments in new equipment."[18] The Democratic Caucus Special Committee on Election Reform report also urged increased voter education efforts, especially targeted to new voters.[19] The Caltech/MIT report supports increased voter education, including the publication of sample ballots and establishment of instructional areas at polling places to reduce the number of lost votes.[20] Other organizations that called for additional voter education included the League of Women Voters, the Constitution Project, and the NAACP.

There is much evidence to suggest that giving voters proper instructions, through education and well-trained poll workers, is one of the most effective ways to protect the integrity of the vote. As an analyst for the Florida Division of Elections said, "'Human error is the biggest threat to the integrity of any voting system. Even with your crudest systems, if the human does everything they're supposed to, that system will work.'"[21]

This conclusion is demonstrated by the reports we commissioned. For example, Los Angeles still uses the punch card ballot system, just like Florida. Yet at the same time, Los Angeles invests a great deal in a comprehensive voter education process—it is one of the best in the country. Moreover, it stepped up its voter education activities even more for the 2001 election, undertaking a public

campaign called "Got Chad?" As a result, Los Angeles' record of lost votes was much better than Florida's and many other states that used punch card machines in 2000.

Miami also used punch card ballots again in its mayoral election in 2001. In the 2001 primary, however, in addition to regular poll workers, each polling site had a "tutor" to demonstrate how to use the punch card machine properly. The residual ballot rate was greatly improved over 2000. Then, in the runoff, every poll worker was also given a script to read to voters telling them they could not vote for more than one candidate and reminding them to check their ballots for hanging chads. Citywide, only 1.28 percent of ballots were discarded because of overvoting or undervoting. In the five precincts with the highest number of uncounted ballots in the primary election, where spoilage rates had been between 9 percent and 15 percent, in 2000, the rates plummeted to between 0.29 percent and 2.7 percent.[22]

New Jersey's official efforts to educate voters with respect to registering to vote and voting is totally scattershot, but in 2001, grassroots organizations moved to fill the void. The NAACP not only had a voter registration drive but also sent three separate mailings to the new voters prior to election day about both the issues and the need to vote. The organization reported that a majority of the districts targeted for this activity showed an improvement in voter turnout.

In light of what transpired during the 2001 elections, it will certainly be interesting to observe how the country fares in the elections of 2002 and 2004. Except perhaps among activists involved in the issue, there seems to have been quite a lull in public interest or worry about the topic of election reform, especially with the advent of the nation's war on terrorism. Perhaps that is the reason why the

jurisdictions that performed relatively well on Election Day 2001 were ones that already had progressive systems in place and had made some further improvements immediately after the 2000 election, such as Los Angeles and Virginia. Jurisdictions such as New York City and New Jersey, operating with somewhat retrograde systems to begin with and stymied by both politics and budget shortfalls—especially after September 11—continue to be at a distinct disadvantage. Numerous other states and cities throughout the country find themselves in a position similar to that of New York City and New Jersey: they had faulty systems prior to the election of 2000, and then after that election made it clear how severe the problems were, they lacked the political wherewithal and/or the funding to take any strong measures to fix the problems.

The prospect of further controversy regarding electoral reform in 2002 and 2004 is likely. Ongoing issues—the disturbingly low voter turnout in the country, the debate over registration rules and requirements, racial and ethnic discrimination, and disagreements about voter fraud—also will continue to be discussed, as they should be.

Perhaps the 2002 nationwide elections will rekindle interest in election reform. Perhaps, then, the states will again see it in their best interests to act to improve their systems.

We are left, however, with the question of whether the states and localities should be the ones ultimately to decide how to guarantee all citizens their fundamental right to vote and participate in our democracy. This report demonstrates the degree to which the ability to fully engage in the electoral system is a matter of geography. Should equal access to voting be dictated by the serendipity of where one happens to live in this country? After all, the right to vote is the foundation of our democratic system, the right upon which all other rights rely.

THE 2001 NEW YORK CITY ELECTIONS

In 2001, New York City held municipal elections that included primaries, primary runoff elections, and general elections for mayor and several other citywide offices, as well as most of the seats on the City Council. Complicating an already complex scenario, the attacks on the World Trade Center occurred right in the midst of the election. Although the city had taken a few effective steps to improve the election system, they did not go far enough. New York City's largely antiquated and still flawed system resulted in many of the same types of problems that occurred in Florida in the much criticized 2000 presidential election.

VOTING MACHINES AND LOST VOTES

In the 2001 primary runoff election for mayor, as always in New York City, a large number of votes were lost because of problems with the voting machines, and a disproportionate number of the losses were in low-income and minority districts. For example, the lost vote rate in the Bronx in the primary runoff was 2.8 percent. A variety of problems caused difficulties for voters.

- New York State uses old-fashioned lever machines, which are no longer manufactured. Unlike other parts of the state, the sensor latches of New York City machines, which prevent a voter from knowingly failing to cast a vote, are disabled. Largely as a result of this, other parts of the state have a lower lost vote rate than the city does.

- Although the city bought more machines in 2001 from other jurisdictions that are phasing out the use of the lever machines,

it still had a shortage of voting machines. In 2001, Manhattan was 113 machines short of the number needed to comply with state law, Queens was 111 machines short, and Brooklyn was 143 machines short.

- Although the city was able to recruit more voting machine technicians in 2001, there was still a shortage.

- As in every New York City election, there were a large number of voting machine breakdowns. For example, in Manhattan there were voting machine problems in 22.2 percent of the election districts.

POLL WORKER AND POLL SITE PROBLEMS

Efficient and informed poll workers are key to a smooth election day operation. Organizing poll worker and poll site activities is a major undertaking in a city as large and complex as New York City, and there were many problems in this area of election administration in 2001.

- There was a tremendous shortage in election workers. The city needed another 3,371 poll inspectors to fully staff polling sites, and there were major shortages in poll site coordinators, information clerks, poll clerks, and language interpreters as well.

- Many poll workers were found to be inadequately trained and informed.

- Language minority voters experienced many problems. In one survey of Asian-American voters, more than 300 of 1,500 voters complained of voting problems in the 2001 primaries. In the general election, 700 of 2,300 Asian-American voters surveyed had a problem in voting, including 375 who said they were illegally asked for identification.

- There was a wide variation in the quality of polling sites throughout the city, in terms of such indicators as convenience of location and length of the lines to vote.

- Poll worker recruitment and training in New York City is deficient. For example, the Board of Elections routinely hired workers who failed the training test, many recruited were not assigned to a training session, and some workers were never assigned to a position on election day.

ADMINISTRATIVE PROBLEMS

Elections in New York City include the use of many types of paper ballots, including affidavit ballots, emergency ballots, and absentee ballots. All of these paper ballots must be judged to be valid or invalid and then counted. This process can lead to a number of question marks during and after an election, which was the case in 2001.

- At the end of the primary election, the Board of Elections invalidated over 40,000 paper ballots for various reasons. When the number of invalidated votes were disproportionate to one candidate, that candidate raised questions about the process by which the casting and counting of such votes took place.

- Given the number of paper ballots that had to be counted, many days passed before the final outcome of the race was determined, leading to uncertainty among the candidates, administrators, and the public.

- The rate of use of paper ballots varied among the boroughs, raising questions about why such differences existed and suggesting possible disparate impacts and outcomes.

IMPROVEMENTS MADE BY NEW YORK CITY

In the aftermath of the 2000 election crisis, New York City did take a few meaningful steps to improve its election process.

- The Board of Elections established standards for what constitutes a valid vote on paper ballots and the process by which they are counted.

- Civic organizations in the city mobilized to recruit poll workers and monitor elections.

- The city increased funding for the election by between $8 million and $9 million. New funding went to increasing poll worker pay from $125 to $200, improving poll worker training and training materials, hiring more technicians, buying more machines and ballot scanners, expanding the board's phone information services, and hiring four language translators.

RECOMMENDATIONS

Clearly, although New York City has taken some steps to improve the system, many more reforms are required. Recommendations include the following:

- Funding to the Board of Elections should be increased so it can continue improving its procedures.

- Recruitment of Board of Elections' staff should expand beyond the political parties.

- Election worker training methods and materials need to be improved.

- The voting machine sensor device should be activated to prevent lost votes.

- There should be an outside monitor of election administration.

- The state should adopt a statewide voter registration system.

- The state should establish a process for purchasing new voting technology that includes input from voting rights and civic organizations, and new machines should be accessible for the disabled and language minority voters.

- Voter registration deadlines should be moved closer to election day.

- The city should improve and expand voter education and outreach activities.

THE 2001 LOS ANGELES ELECTION

Los Angeles is the most ethnically diverse city in the nation. As such, in the 2001 mayoral election, the city had to provide ballots and voting information in seven different languages. Moreover, Los Angeles is the largest election jurisdiction in the nation to use punch card ballot machines—the scourge of the 2000 presidential election, blamed as the primary reason for the large number of lost votes in Florida. Los Angeles was also in the national spotlight because the election was seen as the first major opportunity for a Latino candidate in a city whose demographics have changed dramatically over the past several years. Yet the 2001 election proceeded with few problems or complaints.

Given its success, Los Angeles provides a model for many American cities that are likely to become increasingly diverse in the future. Los Angeles took three important steps to avoid the potential problems created by language barriers and less than modern voting technology.

- It had previously adopted many of the election system reforms that have been advocated since the 2000 election, such as provisional voting and establishing state definitions of what constitutes a vote on various types of voting machines. It had also adopted procedures for election certification and candidate challenges.

- It invested heavily in voter education.

- It worked with minority communities to ensure that language minority voters' needs were met.

Succeeding with Punch Card Ballots

While the residual vote rate (the combined overvote and undervote) for the type of punch card ballot machine Los Angeles uses was 3 percent nationally in 2000, in Los Angeles the rate was only 2.4 percent. Moreover, in the 2001 mayoral election, the city dramatically reduced the lost vote rate of the punch card ballot machines, especially among minority voters.

- The overvote rate in the mayoral race was approximately half the rate of the 2000 presidential election.

- The undervote rate in the mayoral race was 43 percent lower than the rate in the 2000 presidential election.

Ninety percent of predominantly Black and Latino voting precincts saw their residual ballot rate decline between the 2000 presidential election and the 2001 mayoral election.

Achieving Success with Voter Education

California already had in place a comprehensive voter education program that required administrators to mail voters sample ballots and detailed voting information. Los Angeles went beyond this in 2001 specifically to address how to vote on punch card ballot machines.

- The voting guide provided a new section explaining how to vote on the machines properly.

- New signs about punch card ballots were put up in polling places.

- The city undertook a “Got Chad?” public education campaign.

MEETING THE CHALLENGE OF LANGUAGE DIVERSITY

In addition to Los Angeles being the most ethnically diverse city in the nation, 25 percent of the city's voters do not speak English well. Due to its diversity, the city must provide election materials in English, Chinese, Japanese, Korean, Spanish, Tagalog, and Vietnamese. In 22 percent of precincts, most voters need language assistance.

Los Angeles has been able to address the needs of these language minority voters largely by working in partnership with the affected populations through the Community Voter Outreach Committee. The committee helped administrators identify needs among language minority voters. The committee pinpointed which voting sites were most likely to have voters in need of assistance.

REMAINING PROBLEMS

Of course, problems did occur in the 2001 mayoral election.

- Some poll workers illegally asked for voter identification.
- Some poll workers did not allow provisional voting.
- Some polling sites were moved shortly before the election, leaving little opportunity to alert voters to the change and causing some voters to arrive at the wrong polling site. Some voters never received information as to where their new polling site was located.

LESSONS FROM LOS ANGELES

In terms of the language diversity that complicated its administration, the Los Angeles election is a portent of things to come for many American cities in the near future. As such, its successes and failures should be examined to see what lessons they provide.

Moreover, although Los Angeles was able to achieve success with the punch card ballot machines, they have been de-certified by the state and will no longer be in use within the next few years. This will be an especially welcome change for language minority voters. Voting systems with touch screen technology, which are expected to replace the punch card ballot machines, can be programmed to ensure voters receive ballots in their native languages.

Finally, the experience in Los Angeles demonstrates that an effective election system can be developed through voter education efforts, along with provisional balloting, having clearly set standards and procedures, and addressing the needs of language minority voters by soliciting their active involvement.

THE 2001 VIRGINIA GUBERNATORIAL ELECTION

Virginia was one of just two states to hold a gubernatorial election in 2001. Although the election did not proceed flawlessly, the system performed extremely well, in part because the state already had in place such things as a statewide voter registration system and provisional voting, which were among the reforms advocated in the aftermath of the 2000 election.

The state took a number of additional steps between the 2000 and 2001 elections that proved effective. As a result, although there is still room for improvement, Virginia in 2001 provided a valuable lesson for the rest of the country.

REDUCING LOST VOTES THROUGH VOTER NOTIFICATION AND VERIFICATION TECHNOLOGY

After the 2000 election, the Virginia General Assembly amended the election law to permit all types of voting machines, which at

the moment includes the optical scan system, paper ballots, Direct Recording Electronic systems (DREs), and punch card ballots, to initially refuse a ballot on which the voter marked more than one selection for the same office—an "overvote." The voter would then be given the option to correct the ballot before submitting it. Some jurisdictions, primarily those using optical scan and punch card ballot systems, changed the software on their voting machines to do this with dramatic results.

- Whereas 1.59 percent of ballots for governor went uncounted in 1997, and 1.8 percent of presidential ballots went uncounted in 2000, only 0.97 percent of ballots for governor went uncounted in 2001.

- In one jurisdiction that employed the new software, the drop in uncounted votes was even more striking. While in 2000, this jurisdiction invalidated between 600 and 700 ballots as overvotes, in 2001 the jurisdiction invalidated only one ballot.

PUNCH CARD MACHINE PERFORMANCE

Punch card ballot machines have come to be seen as the symbol of the Florida 2000 election fiasco. Most studies conducted after that election reported that punch card machines have the highest number of votes lost of any voting system. Yet in 2001, Virginia was able to achieve great success in the seven jurisdictions using punch card ballots by incorporating the new software described above.

In 2000, jurisdictions using punch card ballot machines had a 2.07 percent uncounted ballot rate. In 2001, punch card jurisdictions

had a 0.73 percent uncounted ballot rate. Punch card ballot machines performed slightly better than DRE machines (machines with a user interface), which some advocate as the ideal replacement for the punch card ballots. In 2001, jurisdictions using DRE machines had a 0.74 percent lost vote rate.

While other factors may well have contributed to these remarkable results, such as greater voter awareness of voting processes after 2000 and voter education efforts, this small improvement in the voting machines clearly had a tremendous positive impact on the performance of the system.

In addition, Virginia tested several other potential reforms in 2001. For example, four jurisdictions used touch screen technology—ATM-like machines—for the first time. Voters responded extremely positively to these systems. As a result, the machines are expected to be the first new voting machines to be certified in Virginia in seven years.

ELECTION SYSTEM PROBLEMS

As indicated, the 2001 Virginia election was not completely error-free.

- The optical scanner for absentee ballots in Arlington County could not read 51 of 690 ballots, representing 7.39 percent of such ballots.

- Due to redistricting, voters had to be notified of new districts and, in some cases, changed polling sites. In Fairfax County, 18,000 residents were mailed voter registration cards instructing them to go to the wrong location.

Moreover, voters voiced a good number of complaints after the 2000 election. At hearings convened by Congressman Bobby Scott, voters cited many problems they had encountered, including:

- difficulties faced in registering to vote through the Department of Motor Vehicles and citizen voter registration drives;

- poor poll worker performance; and

- election administration problems that were more serious in African-American areas and included late receipt of registration cards, too few or poorly operating voting machines, and long lines. One witness complained that there were heavy police presences in African-American precincts.

State Actions between the 2000 and 2001 Elections

Although the state already had a largely efficient election system, since voters did encounter problems in 2000, the government did not stand pat. The legislature created a Joint Subcommittee to Study Election Process and Voting Technologies, which split into two task forces—one on technology and voting equipment, and another on voter registration and election day processes. Both task forces made proposals for the General Assembly to consider.

The General Assembly already had passed a law in 2001 establishing standards for hand-counting punch card ballots when a recount is necessary. However, it did not establish standards for initial hand counts of paper ballots. It required the State Board of Elections to promulgate standards for resolutions of recounts. The State Board also created standards for manually recounting ballots for systems other than punch card ballot machines.

The Future

Virginia's election system works well, and the progress it has made should be continued. The state should focus on three areas with respect to upcoming elections:

- establishing standards for hand counts of paper ballots;
- providing adequate funding for upgrading and replacing voting machines; and
- requiring all machines to have software that notifies the voter of an overvote and provides the opportunity for correction of the ballot, and providing funding for such software.

THE 2001 NEW JERSEY ELECTIONS

The 2001 election in New Jersey, which included a contentious gubernatorial race, was especially challenging because of both the psychological and practical effects of the World Trade Center attack and the anthrax scare, both of which took place just prior to the election. This may have played a role in New Jersey having its lowest voter turnout since the state's new constitution was adopted in 1947. However, the problems that occurred in the 2001 election were more the result of long-standing flaws, including structural flaws in the state's system, than about the unique circumstances of this particular election year.

STRUCTURAL FLAWS

The structural flaws in the system reduce responsibility for carrying out elections effectively and leave local and county administrators unaccountable. These flaws make it almost impossible for the public, the press, and even government officials to know how the administration of elections is progressing or to respond to problems that may occur.

For example, New Jersey has an extremely decentralized system whereby local and county officials are responsible for most election tasks, and there is very limited state authority or responsibility for carrying out elections. This means that each locality is carrying out its election duties in different ways and with varying degrees of success. The state does not have many specific standards that the counties must achieve, leaving the level of performance geographically disparate.

The localities and counties are not even asked to reveal the outcomes of their various performances. Counties are not required to report on most aspects of their election performance, and thus they are not held accountable by the state or the public.

General Outcomes

These structural flaws make it difficult to make an over-arching assessment of the election system during the 2001 election. However, we can make some general statements about how the election system performed in 2001.

- The rate at which votes go uncounted in New Jersey hovers around the national average. However, the number of uncounted votes in the 2001 elections actually rose slightly, despite the fact that one of the few actions the state took after the 2000 election was to replace punch card ballot machines.

- The counties in New Jersey use a wide variety of voting machines, with a corresponding variety in the number of problems that occur.

- Despite official reports that indicate otherwise, election observers and voting advocates in New Jersey report that many polling sites and systems remain inaccessible for the disabled.

COUNTY-SPECIFIC OUTCOMES

A closer look at four particular counties through interviews and media reports indicate that there were a broad assortment of problems that occurred in these counties that should be troubling to both voters and elected officials in New Jersey.

- In Passaic County, a county already subject to a federal monitor for past voting rights violations, Hispanic voters received postcards that not only were designed to intimidate but contained fraudulent information on voting.

- In this same county, voters received phone calls on election day telling them to bring identification to the polls. Since there is no such requirement in New Jersey, this can be seen as a clear voter suppression tactic.

- In Cumberland County, Spanish absentee ballots had a major translation error.

- In Atlantic City in Atlantic County, there were disputes over voter registration of the homeless.

- In Lawrence Township, Mercer County, there were major battles over absentee ballot counts and recounts.

OUTCOMES REPORTED BY ELECTION ADMINISTRATORS

Interviews with local election administrators also aided in filling out the picture of what occurred in New Jersey's 2001 election. Many of the responses indicated favorable attitudes toward reforms that have been undertaken. Findings included the following:

- Voters responded positively to a change in the law requiring poll sites to open at 6:00 A.M. instead of 7:00 A.M.

- Administrators strongly endorsed the legislature's act of doubling of the pay rate of poll workers to $200.

- Administrators favor use of provisional ballots, which have been employed in New Jersey since 1999, but some have difficulty with poll workers who fail to offer them.

Yet the changes put in place, which amount to tinkering with individual components of the system, are not enough. The system must undergo comprehensive reform; the issues most in need of redress include increasing the standards counties are held to, improving bilingual services, establishing statewide standards for voting equipment, and promoting elections to increase voter participation.

NOTES

1. Anya Sostek, "The Immortal Chad," *Governing Magazine*, January 2002, p. 26.

2. The Constitution Project, "Pending Legislation," www.constitution-project.org/eri/legislation.htm.

3. MIT/CalTech Voting Technology Project, "Voting, What Is, What Could Be," July 2001, p. 10.

4. See The National Commission on Federal Election Reform, "To Assure Pride and Confidence in the Electoral Process," August 2001; General Accounting Office, "Statistical Analysis of Factors that Affected Uncounted Votes in the 2000 Presidential Election," GAO-02-122, October 2001; Democratic Investigative Staff, House Committee on the Judiciary, U.S. House of Representatives, "How to Make Over One Million Votes Disappear," report prepared for Rep. John Conyers, Jr., August 2001; Minority Staff, Special Investigations Division, Committee on Government Reform, U.S. House of Representatives, "Income and Racial Disparities in the Undercount in the 2000 Presidential Election," July 9, 2001; Ford Fessenden, "Ballots Case by Blacks and Older Voters Were Tossed in Far Greater Numbers," *New York Times*, November 12, 2001, p. A17; John Mintz and Dan Keating, "A Racial Gap in Voided Votes Precinct Analysis Finds Stark Inequity in Polling Problems," *Washington Post*, December 27, 2000, p. A1.

5. In New York City, due to the use of lever machines, lost votes only include "undervotes" or ballot entries in which no vote is marked.

6. When using the optical scan system the voter must indicate his or her choice by filling in a circle or completing an arrow. Optical scanners then read the marks made on the ballots. DREs have an interface that is either a set of physical buttons or a touch screen upon which the voter casts his or her vote. These machines simultaneously record the voter's choices.

7. Demos, "An Overdue Reform: The Need for Statewide Computerized Registration Systems," January 2002, p. 3.

8. Caltech/MIT Voting Technology Project, "Voting, What Is, What Could Be," July 2001, p. 10.

9.Ibid.

10. It should be noted, however, that, as the postscript to the Los Angeles report details, there were some serious poll site problems in the 2002 primary election in Los Angeles.

11. Demos, "An Overdue Reform: The Need for Statewide Computerized Voter Registration Systems," January 2002, p. 3.

12. Suggested by Professor Christopher Edley, Harvard University School of Law, in his additional statement in the report of the National Commission on Federal Election Reform, "To Assure Pride and Confidence in the Electoral Process," August 2001.

13. National Commission on Federal Election Reform, "To Assure Pride and Confidence in the Electoral Process."

14. The bilingual voting materials requirements of the amendments to the Voting Rights Act mandate that bilingual voting materials must be provided by states or localities that have more than 10,000 voting age citizens or more than 5 percent of voting age citizens who are members of a single language minority. See 42 U.S.C. 1973b(f)(4), 1973aa–1a.

15. U.S. Commission on Civil Rights, "Voting Irregularities in Florida during the 2000 Presidential Election," 2001, Chapter 6.

16. *Election Reform Issues: Hearing before the Senate Committee on Rules and Administration,* 107th Congress (2001)(statement of Honorable Xavier Becerra, Representative in Congress from the State of California, Congressional Asian Pacific American Caucus), June 28, 2001.

17. A few months after the 2001 primary, the secretary of state of California decertified punch card voting technology and ordered that such machines be replaced by 2005. Thereafter, a judge in U.S. District Court ordered the state to replace all punch card ballot machines by the 2004 election. The state is considering an appeal, claiming that does not give it enough time to make the necessary changes.

18. The National Commission on Federal Election Reform, "To Assure Pride and Confidence in the Electoral Process," August 2001, p. 49.

19. Democratic Caucus Special Committee on Election Reform, "Revitalizing our Nation's Election System," 2001, pp. 11–23.

20. Caltech/MIT Voting Technology Project, "Voting, What Is, What Could Be," July 2001, p. 33.

21. Jim Drinkard and Peter Eisler, "Weakest Part of Any Voting Machine: People," *USA Today,* March 1, 2001, p. 13A.

22. See on-line report at www.tcf.org

L.A. STORY:
THE 2001 ELECTION

THAD E. HALL

EXECUTIVE SUMMARY

The Los Angeles mayoral election was held just six months after the Florida presidential election fiasco but the results could not have been more different. California is no Florida when it comes to administering elections. With its progressive election system—including a liberal provisional balloting law and clear standards for counting votes and certifying an election—California had few problems at the polls.

In the mayoral election, Los Angeles also had few problems with the effectiveness of the punch card voting technology that was used to record votes. Los Angeles is the largest election jurisdiction in the nation to use punch cards, and several studies conducted in the aftermath of the 2000 election found punch cards to have higher rates of residual ballots—ballots where votes were not counted because of under- or over-voting. The city had just five months to get this voting technology to work for its highly diverse population. By implementing an aggressive and highly effective voter education program that informed voters about the problem of "chads," Los Angeles had a much lower over-vote and under-vote rate in 2001 as compared to the 2000 presidential election. Importantly, the residual vote rates were lower across key demographic groups. More than 90 percent of predominately African-American and Latino precincts had marked declines in uncounted votes. With proper voter education and attention given to the chad problem, the city was able to ensure that punch cards worked for the voters.

The mayoral election also highlighted the new politics of ethnic coalition building that is now the norm in many large metropolitan

cities. Over the past two decades, most large American cities have undergone broad demographic changes, primarily spurred by immigration. Nowhere is this diversity more evident than in Los Angeles. The city is the most diverse in the nation; no ethnic group comprises a majority of the population. This diversity is quite evident on election day, as ballots are printed in seven different languages: English, Chinese, Japanese, Korean, Spanish, Tagalog, and Vietnamese.

Serving the needs of these ethnic voters is a costly administrative activity, requiring election officials to provide bilingual poll workers, translators, and voter education materials in many different languages. However, Los Angeles County utilizes a community-based participatory management program—the Community Voter Outreach Committee (CVOC)—that allows individuals representing any community group, including language-minority voters, to have input in how elections are run and to propose changes in how resources are allocated. The CVOC helps the county effectively target language-minority voters, ensuring that their needs are met on election day.

The Los Angeles mayoral election illustrated how to overcome two issues in election administration that are likely to become more pervasive in the future. First, how do you educate voters regarding problems that they may encounter at the polls? Los Angeles addressed this problem quite effectively in 2001, while the state's comprehensive voter education system also had ensured that residual vote counts in California in the 2000 election were below the national average. California is clearly a model for how to educate voters effectively.

Second, how can cities address the demands brought by ethnic diversity. In Florida, several election administrators addressed the problem using the "ostrich method": they buried their heads in the

sand and refused to admit that there might be a problem. Los Angeles has addressed the diversity issue head-on, creating a community outreach program that gives these voters a stake in the election process. And while these groups could often do more to make elections a success—especially if they would help the city and county recruit translators and bilingual poll workers—they serve as an invaluable resource, helping the city serve all of its populations as effectively as possible.

1. INTRODUCTION

The greatest fear of an election administrator is a close election. That nightmare came true for election officials in Florida, who withered under the intense November heat in 2000. However, the weather was much milder in sunny California. Out there, the election was not even close; Vice President Al Gore won the state by almost 1.3 million votes. Even though Los Angeles County uses punch cards—the type of voting equipment that caused so many problems in Florida—no one questioned the election outcome in California.

However, the storm clouds from the election debacle in Florida soon spread across the nation, and on April 17, 2001, the American Civil Liberties Union (ACLU) sued the State of California, arguing that the state's election system violated the equal protection rights of California citizens. The ACLU argued that the use of various types of voting equipment—with highly varying rates of accuracy in recording votes—was discriminatory, especially because "a disproportionate number of African American, Latino, and Asian American voters do not have their votes counted at all."[1] The ACLU also argued that California's voluntary vote counting standards needed to be codified, so that they could withstand the type of legal scrutiny that occurred in Florida.

In light of the Florida election results and subsequent lawsuits, the question was: How would Los Angeles fare running its mayoral election in 2001, especially with the city still using punch card voting technology? The answer, fortunately, was that Los Angeles performed quite well in the post-Florida political environment. In large part, the city benefited from California having a highly progressive election legal system that is in many ways the envy of other states. The city also acted in a very proactive manner to deal with the problems that arose in the 2000 elections, especially as they related to punch card ballots and chads. Through voter education and poll worker training, the city was able to make its punch card system work better for all voters, especially for the Latino and African-American voters who were key players in the election.

However, the greatest challenge facing Los Angeles—and the area where it has had some of its greatest success—is in how it handles its ethnic diversity and language-minority voters. No other part of America has the diversity of Los Angeles, and this diversity affects its politics and the management of its elections. To be successful politically, a politician has to appeal to a broad cross-section of the population and create a multi-ethnic coalition. Likewise, for an election to be conducted successfully, all of these coalitions have to be able to participate equally.

Florida gave us examples of the failure to address the challenge of diversity and language minorities. Florida election administrator Donna Bryant said that she did not print ballots in Spanish—even though almost a third of Osceola County's population is Hispanic—because doing so would have been "a hassle" and "because [the County has not] been ordered by the U.S. Justice Department."[2] This "hassle" led to a disproportionate number of Hispanic voters having their ballots not counted. The voting precincts with a voting

population that is more than 20 percent Hispanic cast approximately one-third of the ballots but accounted for more than one-half of all over-votes in Osceola County during the 2000 election. The U.S. Justice Department subsequently determined that the actions of elections officials of Osceola County to print ballots in Spanish violated the Voting Rights Act's requirements related to language-minority voters.[3]

Los Angeles provides us with an example of a jurisdiction that is very proactive about ensuring that minority voters can participate. While Osceola County, Florida, was finding the idea of ballots in two languages to be a "hassle," Los Angeles was printing both ballots and voter education materials in seven different languages. Los Angeles was recruiting bilingual poll workers and ensuring that precincts with very high populations of language-minority voters had translators. The challenge of diversity is an important example of what the future likely holds for election administrators across the country as America's population becomes more diverse and more like Los Angeles.

2. In 2001, the Punch Cards Work

The Los Angeles mayoral election was decided by more than 40,000 votes, with Jim Hahn winning a tough race.[4] With this large margin of victory, there was little concern that there would be an election crisis similar to the Florida presidential fiasco. However, election administrators could not know that the race would not be close, and they had to prepare for the careful scrutiny of the media. Fortunately, election officials were able to develop a comprehensive plan for ensuring that the election would be a success.

California's election processes are very advanced in an administrative sense. Many of the election reforms that have been suggested since the Florida election debacle are initiatives that are already in place in California. For example, they already have provisional balloting, the process whereby voters are allowed to vote even if there is a problem at the polls, with the ballot's legitimacy determined after election day by the election administrator. The state has definitions for what constitutes a vote on its various voting technologies and detailed processes for election certification and candidate challenges. California also has an extensive voter education program, which helps to ensure that all voters can come to the polls knowledgeable about their voting rights, the candidates on the ballot, and the ballot design that awaits them at the polls.

However, all of this progressivity is hindered by the pervasive use of punch card voting technology. The City of Los Angeles and Los Angeles County use Votomatic punch card voting technology. The county began using this system in 1968, starting with the June 1968 California presidential primary election. Interestingly enough, the system had numerous glitches that were overlooked because other political events in that election overshadowed these problems.[5]

As the Caltech/MIT Voting Technology project found, the problem with punch card voting technology is that it has much higher rates of ballots being left uncounted because of over-votes or under-votes than is the case for other voting technologies.[6] The national average residual vote—the combined over-vote and under-vote rate—for the Votomatic punch card system in the 2000 election was 3 percent. In the 2000 presidential race in California, the residual vote rate for the Votomatic was slightly lower, at 2.4 percent, but this was more than twice as large as the residual vote for other voting technologies used in California, such as optical scan and electronic voting.

There is great diversity in the types of voting equipment used in California, but minority voters tend to live in jurisdictions that utilize more error-prone technologies. In a recent study, Michael Alvarez and Betsy Sinclair examined whether there are racial differences in the types of voting technology used across the state and differences in the rates of uncounted ballots.[7] They found that in the 2000 presidential election, minority voters were more likely to use punch cards than any other voting technology. Not surprisingly, this study also found a high correlation between race and uncounted ballots, especially for the Votomatic punch card technology. For a Votomatic punch card county like Los Angeles County, where the minority population is above 50 percent, the over-vote rate for minority voters was twice as high as it was in counties that used a different voting technology, and the under-vote rate in Los Angeles

County was eight times larger. Because minority voters in California are more likely to live where punch card voting is conducted, these minority voters are also more likely to see their ballots go uncounted in the final election certification. Alvarez and Sinclair show that, for such a diverse jurisdiction as Los Angeles, the use of punch cards is likely to be detrimental to the effective participation of all citizens. The likelihood that a white voter had her vote counted during the 2000 election was higher than the likelihood that a minority voter had his vote counted.

Just five months later, in the Los Angeles mayoral election, there was a dramatic reduction in the error rate for voters using punch card voting technology. The reductions were especially large among minority voters. Table 2.1 shows the over-vote and under-vote rates for (1) the June 5, 2001, mayoral race, (2) a special election also held on June 5, (3) the 2000 presidential election in Los Angeles County, and (4) the Caltech/MIT residual vote data. The over-vote rate in the mayoral race was approximately half the rate in the 2000 presidential election, and the under-vote rate was approximately 43% lower. Additionally, residual vote rates in the 2001 mayoral election were also much lower than the national averages for punch card voting technology identified by the Caltech/MIT Study.

The effectiveness of this effort can also be seen in the fact that under-voting was even lower at the polling place, where election officials have more control over the voting experience. Voters who vote at polling places would seem to be more likely to over-vote than individuals who vote by absentee ballot, but are much less likely to under-vote. In fact, the aggregate error rate (under-votes plus over-votes) for absentee voters is much higher than it is for voters who vote at the polls. Still, punch card technology allows for over-voting, something that can be eliminated by some voting technologies, such as touch-screen voting.

TABLE 2.1

OVER- AND UNDER-VOTE RATES DISAGGREGATED BY METHOD OF VOTING (PERCENTAGE OF TOTAL VOTE)

	OVER-VOTE			UNDER-VOTE		
	OVERALL	POLLING PLACE	ABSENTEE	OVERALL	POLLING PLACE	ABSENTEE
Los Angeles County 2000 presidential	0.5	NA	NA	2.2	NA	NA
City of Los Angeles 2001 mayoral	0.23	0.26	0.15	1.42	1.26	2.33
32nd congressional 2001 special election	0.57	0.66	0.21	3.93	3.81	5.78
Caltech/MIT national punch card average	Total residual votes: 2.5					

Source: Los Angeles County Registrar, Recorder/County Clerk; City of Los Angeles, Office of the City Clerk, Elections Division.

ADDRESSING CHADS THROUGH VOTER EDUCATION

The likelihood that different groups of voters would have their ballots counted differently had raised a fundamental question for election officials in Los Angeles: In the aftermath of the 2000 presidential race, how would the City of Los Angeles ensure that all voters could participate effectively? The answer turned out to be intensified voter education, even beyond the measures normally taken.

California is one of only a few states that have a comprehensive voter education program. State law requires local election administrators to send each eligible voter an official sample ballot and voter information pamphlet through the mail prior to every election that is held. In 2000, Los Angeles County distributed 4.2 million sample ballots to voters at least two weeks prior to both the primary and general elections. These sample ballots reflect the ballot the voters will encounter *in their precincts*.[8] The sample ballot contains every race and every referendum that a voter will encounter at the polls, and the items are listed in the exact same order as they will appear on the ballots in their precinct.[9] It also has basic information on how to register to vote, how to vote absentee, basic voting rights, and how to contact local and state election officials.[10]

Preceding and during the 2001 mayoral race, the city engaged in a voter education campaign to specifically combat the high error rate inherent in the Votomatic voting technology. The voter education guide had a section on how to vote with the Votomatic and the importance of checking ballots for chads. There were also new signs in polling places, and on every ballot box, admonishing voters to check for chads before they put their ballot in the ballot box. Short of replacing its voting technology, the "Got Chad?" education campaign was the only solution Los Angeles had to combat over-votes and under-votes in the mayoral election.

Considering the diversity of Los Angeles, a larger question is this: How effective were the voter education efforts in reaching minority populations? The data strongly suggest that the voter education campaign designed by the election administrators in Los Angeles was very successful. According to data collected by Michael Alvarez and Betsy Sinclair at the California Institute of Technology, more than 90 percent of predominantly black and Latino voting precincts saw their over- and under-vote rates decline between the 2000 and the 2001 elections. This finding illustrates the importance of voter education in helping voters successfully participate in the electoral process. Because of public awareness—raised by signs, verbal comments by poll workers, and the media coverage of the chad problem in Florida—voters were aware of the problems that could arise in voting on the Votomatic punch cards and took the time to ensure their votes counted.

This lesson about the importance of voter education is likely to become more pressing in coming years, as state and local election officials switch voting technologies. Nationally, a third of all voters currently use punch cards, and many of these voters will likely come to the polls in the next decade to find themselves confronted by a new voting technology. If their local election administrator fails to educate voters about the new technology, unnecessary errors will likely be introduced into the voting process. But education clearly can make the transition easier. A report by the minority staff of the House Government Reform and Oversight Committee found that when Detroit switched from punch cards to optical scan voting in the last election, voter education was a key component in making the switch successful, with the error rates in the city declining precipitously between the last punch card election and the first election on the optical scan equipment.[11]

Even though voter education lowered voting errors in the mayoral race, voters still failed to vote their entire ballot. The L.A. race also created a natural experiment for what happens to over-vote and under-vote rates when an item moves from being first on the ballot to being second. The day of the Los Angeles mayoral election, there was also a race to fill a vacancy in the 32nd U.S. congressional district, a district that is partially in the City of Los Angeles, with the remainder of the district in unincorporated Los Angeles County. Table 2.2 compares the over-vote and under-vote rates for when the congressional election was the lead item on the ballot—in Los Angeles County—and when it was second on the ballot—in the City of Los Angeles. The error rates for this race vary dramatically based on ballot location, with the over-vote and under-vote rates climbing dramatically when an item moves down ballot. The over-vote rate was twice as high for the 32nd congressional race when it was not the first item, and the under-vote rate increased five-fold. Although voters seem to have been much more careful in how they voted on the first race on the ballot, the data from the 32nd U.S. congressional race would suggest that residual vote rates tend to increase as a voter goes down the ballot. This is primarily a function of voters failing to vote in the down-ballot races, races that voters might deem to be less important or about which they are less informed.

TABLE 2.2

OVER- AND UNDER-VOTES BY ITEM PLACEMENT ON BALLOT (PERCENTAGE OF TOTAL VOTE)

	OVER-VOTE			UNDER-VOTE		
	POLLING PLACE			POLLING PLACE		
	LEAD ITEM	SECOND ITEM	ABSENTEE	LEAD ITEM	SECOND ITEM	ABSENTEE
32nd congressional 2001 special election	0.31	0.70	0.21	0.86	4.11	5.78

Source: Los Angeles County Registrar, Recorder/County Clerk.

3. Successful Election Administration in Los Angeles

The media often focused on the failure of voting technology as the main election-related problem in the 2000 election. However, the chads reflected only one of many failures in the election in Florida. Three specific problems that were not widely discussed at the time by the media stand out. First, Florida did not address the needs of minority voters—especially language-minority voters—effectively. Second, the state did not use provisional balloting. Third, Florida did not have a rational and logical procedure for certifying the election. Fortunately for Los Angeles voters, California has comprehensive answers to many of the procedural problems that stymied election administrators in Florida. The success of the 2001 mayoral election is very much related to the administrative system that California has developed over the years. The California election system serves its electorate by being open and ensuring that voters come to the polls well informed about the voting process.

The Challenge of Ethnic Diversity: Language-Minority Voters

The 2001 elections featured races in two of the most ethnically diverse places in America, New York City and Los Angeles, as is illustrated by the data in Table 3.1 (see page 21). New York City

and Los Angeles County each have more minority voters than the two states holding elections in 2001—New Jersey and Virginia—combined. Perhaps most striking, neither city has a racial or ethnic group that comprises a majority of the population. In Los Angeles, Hispanic voters make up almost 45 percent of the population, and Asian and African-American voters each comprise 10 percent of the population. New York has large African-American and Hispanic populations, with both groups making up just over a quarter of the population.

In Los Angeles, even the minority populations are diverse. The city has one of the most diverse Asian populations in the country and differs from other cities in that the Chinese population is not the dominant group. As Figure 3.1 illustrates, in the city itself, the Filipino and Korean populations are both larger than the Chinese. The city also has large Vietnamese and Japanese populations; together they are 15 percent of the Asian community. In Los Angeles County, the Asian population is distributed slightly differently than it is in the city, with a slightly larger Chinese population, but the other components of the Asian population remain quite large.

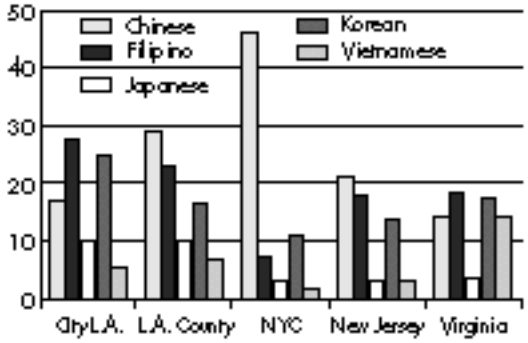
The demographics of Los Angeles create many administrative challenges for election administrators. Table 3.2 (see page 22) shows the percentage of individuals in Los Angeles County who do not speak English very well, as reported in the 1990 U.S. Census.[12] The Voting Rights Act (VRA) requires an election jurisdiction to provide voting materials in other languages if more than 5 percent of the citizens of voting age in a state or specific jurisdiction are of a single language minority and are limited-English proficient, or if more than ten thousand of the citizens of voting age in a jurisdiction are members of a single language minority and are limited-English proficient.[13]

TABLE 3.1
RACIAL AND ETHNIC DEMOGRAPHICS, CITIES AND STATES WITH MAJOR 2001 ELECTIONS (PERCENTAGE OF TOTAL POPULATION)

	WHITE	BLACK	ASIAN	HISPANIC
City of Los Angeles	46.9	11.2	10.0	46.5
Los Angeles County	48.7	9.8	9.8	44.6
New York City	44.7	26.6	9.8	27.0
New Jersey	72.6	13.6	5.7	13.3
Virginia	72.3	19.6	3.7	4.7

Source: U.S. Bureau of the Census, State and County Quick Facts, available at http://quickfacts.census.gov/qfd/.

FIGURE 3.1
ASIAN POPULATION SUBGROUPS IN CITIES AND STATES WITH MAJOR 2001 ELECTIONS



Source: U.S. Bureau of the Census, State and County Quick Facts, available at http://quickfacts.census.gov/qfd/.

TABLE 3.2
NONFLUENT ENGLISH-SPEAKING POPULATION IN L.A. COUNTY

	NUMBER OF PEOPLE	PERCENTAGE OF TOTAL POPULATION
Total population over five years old	8,135,401	
Total population who do not speak English "very well"	2,045,848	25.0
Spanish speakers who do not speak English "very well"	1,496,461	18.0
Asian language speakers who do not speak English "very well"	379,921	4.7
Other language speakers who do not speak English "very well"	169,466	2.0

Source: U.S. Bureau of the Census, State and County Quick Facts, available at http://quickfacts.census.gov/qfd/.

In Los Angeles County and the City of Los Angeles, the VRA requires that election materials have to be produced in seven languages: English, Chinese, Japanese, Korean, Spanish, Tagalog, and Vietnamese.[14]

In Los Angeles County, 1,100 precincts (22 percent of all precincts) have been identified where most voters need language assistance at the polls. In the City of Los Angeles, 18.5 percent of all precincts (327 out of 1,763) have similar language assistance needs. For these polls to operate effectively, the county or city election administrators have to find bilingual poll workers or translators to assist voters in the voting process. Many first-generation immigrants

and elderly foreign-born voters do not speak any English. For them to communicate with poll workers is very difficult unless there is a bilingual poll worker or a voter at the precinct who speaks their native language. Moreover, many of these voters do not come from a culture that promotes democratic participation, and they have little understanding of the electoral process. The Korean American Coalition runs an election day voter hotline, and it has found that the most common problems facing Korean voters relate to their lack of understanding of the basics of the democratic process. They often do not understand the positions that the different candidates are running for, how these elected officials can affect their lives, and how to vote.[15]

Perhaps the one voting group that has the most difficult time voting are elderly Chinese voters. These voters come from a country with no democratic culture, and many of the elderly voters in this population have visual acuity problems and unique language issues. Many older Chinese immigrants—and all of the elderly Chinese I saw at polling places in Los Angeles—speak no English and also do not speak the main Chinese dialect spoken today by young Chinese Americans. Elderly Chinese typically speak the Cantonese dialect, but younger Chinese immigrants and second-generation Chinese Americans speak the Mandarin dialect. Because so few elderly Chinese Americans are bilingual, and few young Chinese speak Cantonese, it is very difficult to recruit poll workers or translators for polling places with large Chinese-American populations.

For many non-English speaking voters, the language problems are exacerbated by age and the need for complete assistance at the polls. At a polling place in Chinatown, I watched more than a dozen elderly Chinese-American women vote. An interpreter had to assist them in getting signed in at the polls (most brought their sample

ballot, which expedited this process). These voters then needed assistance getting the punch card ballot into the voting machine and assistance in actually voting. They knew who they wanted to vote for, but some did not have the manual dexterity to vote, others needed assistance reading the vote recorder pages (which were in English), and others had the same visual acuity problems faced by millions of Americans (they cannot read the print size used on the vote recorder or on sample ballots).

MINORITY COMMUNITY INVOLVEMENT IN ELECTION ADMINISTRATION

Los Angeles addresses the needs of these voters on an ongoing basis through a Community Voter Outreach Committee (CVOC). The CVOC has always been open to all members of the community, but for much of its existence, CVOC meetings were attended by few people, primarily political party officials and members of the League of Women Voters. However, in the 1990s, this committee became dominated by organizations representing the county's language-minority community. The Los Angeles County registrar, Conny McCormack, thinks that the involvement of these organizations in the work of the committee has been invaluable.

> They have helped us, because of their personal knowledge of the demographic changes in the County. We have found that Census information gets stale very quickly because of how mobile our citizens are. The ethnic makeup of whole neighborhoods change completely in less than a decade; for example formerly Hispanic communities change as these voters move out and another group move in. We use their information as a targeting criteria for

> which precincts should have written translated materials and bilingual poll workers. These groups have personal knowledge of where the pockets of language minority voters reside.16

Ms. McCormack's comments also point out the role that mobility plays in the process of targeting language-minority voters. Each year, approximately 16 percent of the U.S. population changes its place of residence. However, annual mobility rates are 20 percent or more for African Americans, Asians, Hispanic, and foreign-born Americans.[17] This requires Los Angeles to work very hard to provide services to a moving target of language-minority voters. Through the CVOC, the county can get input from members of the community who can effectively track the movements of these communities across the Los Angeles landscape.

PROVISIONAL BALLOTING

When the United States Commission on Civil Rights held hearings in Florida, the commissioners heard testimony from numerous witnesses stating that they were not allowed to vote in the presidential election because their names did not appear on the voter rolls in their precinct. These voters were outraged in large measure because they felt as though they had done everything they were supposed to do. They had registered to vote. They had taken the time out of their busy days to come to the polls. They had waited patiently in line with their neighbors and friends. And when they finally arrived at the front of the line, a poll worker told them that they could not vote, sending them away. These voters had come to the polls to exercise their right to vote and were forced to leave without being able to do so.

The same voter in California would have had a much more rewarding experience because of the state's provisional voting law. California has a comprehensive provisional voting law that allows a voter to cast a provisional ballot if he is not on the voting roster. So if the voter in Florida who was turned away for not being on the voting rolls lived in California, she would have been able to vote provisionally. To cast a provisional ballot, the voter is given a ballot the same as any other voter. However, instead of the ballot being put directly in the ballot box, it is sealed in a Provisional Ballot Envelope that contains voter and precinct information. The voter's eligibility is then determined later by checking the voter registration records.[18]

The beauty of provisional voting is that it allows the voter on election day to get to cast a ballot and participate in the electoral process. Disputes about whether to count the ballot or not happen later, when a decision can be made by well-trained election officials equipped to determine if a voter was eligible to vote, not by temporary poll workers who are quite busy on election day. The voter gets to cast her ballot, confident that she can participate in the electoral process, and the election administrator gets to evaluate a voter's eligibility at a time and place more relaxed than a polling place on election day.

CERTIFYING THE ELECTION

Perhaps the most astounding thing that happened in Florida was to see its secretary of state certify the presidential election in Florida when it was obvious that all of the ballots had not been counted. In fact, the deadline for certifying the election was *before* the deadline for overseas absentee ballots to be received and counted.[19] Election administrators in Florida were forced to work in an untenable

environment, having to provide to the secretary of state a final election tally for their election jurisdictions when they knew that all ballots from all eligible voters had not been received and counted.

California has a much more reasonable certification law, which ensures that the election can be certified only after all votes from all eligible voters are counted. This is a time-consuming procedure in California because the state has one of the highest rates of absentee voting in America and utilizes provisional voting. Counting all of these votes in the mayoral election was a time-consuming process.

By 11:00 P.M. on election night, it was clear that Jim Hahn would be elected mayor by just over 40,000 votes—a landslide compared to the margin in the 2000 presidential election in Florida. However, while the election ended on June 5, the work of the election officials had just begun. The day after the election, in a giant warehouse just south of downtown Los Angeles, the final audit of the election was underway. On row after row of tables, voting rosters, which show the number of voters who signed in at the polling sites, were being audited. These numbers have to equal the number of votes cast, and workers were making sure that math done by the poll workers on election night added up. The city tolerates an error rate of five votes per precinct on this audit, although actual error rates are typically much lower. State law also requires the city to verify that the computerized vote tallying equipment functioned properly by conducting a manual recount of all votes cast in 1 percent of the voting precincts.

While temporary election workers sat quietly at tables auditing the voting rosters, across the room other election workers were counting absentee ballots. In the 2001 mayoral primary election, 25 percent of all voters voted by absentee ballot. In the June 5 runoff, 19 percent of all voters—120,645—voted absentee. Fortunately, 90

percent of these ballots came in before election day, and most were counted as the polls closed on election night. However, approximately ten thousand ballots arrived on election day, and verifying these ballots takes time. For every absentee vote, an election worker uses a computer to pull up a digital image of the voter's registration form. The signature on the form is then compared to the signature on the absentee voting envelope to verify its authenticity and determine if the vote should be counted.

As the workers counted absentee ballots, tray after tray of uncounted provisional ballots reminded them that their jobs would not be over soon. In the mayoral election, approximately fifteen thousand provisional ballots were cast, which is a small number compared to the more than one hundred thousand that were cast in the 2000 presidential election. Once the absentee ballots were counted, election workers could then hand count the provisional ballots. The process of researching a provisional ballot can be quite time consuming. For a perfectly completed provisional ballot, this evaluation process takes the election's staff between five and ten minutes to complete. However, more difficult provisional cases can take up to an hour for a supervisor to complete, after an election staff member has made an initial attempt.[20]

AUDITS AND ELECTION CHALLENGES

It took eleven days to audit the voting rosters and to count all of the absentee and provisional ballots. This is a day longer than it took to certify the Florida election results, but then again, the City of Los Angeles also ensured that all votes had been counted and verified before the results were certified.[21] The Los Angeles example shows that, as states move to allowing more liberal provisional balloting,

it will become critical that states give themselves enough time for the post-election canvas process. Otherwise, millions of Americans will vote provisionally but states will not have the time to count these ballots, which would make voting provisionally meaningless. Not surprisingly, all of this counting and recounting takes time, money, and manpower. For the mayoral election, the city hired almost fifteen hundred workers to work on the various post-election vote counting and certification procedures, and approximately 10 percent to 15 percent of the cost of an election in Los Angeles is incurred after the voters have voted.

Although all of this counting is necessary, the waiting can also be trying on candidates. When races are close, candidates and their supporters hope that their candidate will pull it out in the end. A *Los Angeles Times* article on June 17, 2001, announcing the certification also illustrates how important election reform is for local candidates, who are often involved in close races:

> With all of the votes finally counted in two close contests for Los Angeles City Council, the winners did not change Saturday: Dennis Zine was the narrow victor over Judith Hirshberg in the 3rd District race and Jack Weiss won over Tom Hayden in the 5th District. Of the more than 42,000 votes cast in the 3rd District, Zine . . . won with just 88 votes more than Hirshberg . . . according to the final results of the June 5 election released Saturday. In the final tally for the 5th District, Weiss . . . beat Hayden . . . by 369 of the more than 53,000 votes cast, according to the official results.
>
> The election day returns were too close to call because thousands of provisional and absentee ballots had not been counted. Both Weiss and Zine held their earlier leads. . . . Hayden did not concede defeat Saturday, but Hirshberg did. Despite the closeness

of the final tally, Hirshberg said she will not seek a recount because there are too many votes to make up. Zine, 53, said it was a relief to win after more than a week of agonizing over whether his narrow margin of victory would hold.

4. Problems at the Polls

No election goes off without a hitch, and the 2001 mayoral race in Los Angeles was no different. Most Americans vote in major elections every other year—at most, every year. Because voting is an infrequent activity, it is managed by individuals—poll workers—who do not practice their job regularly. For the 2001 mayor's race, the City of Los Angeles hired 8,192 poll workers; for the 2000 general election, the county hired more than 25,000. The success of an election—and the quality of experience that a voter has at a polling place—is in large measure based on the quality and demeanor of the poll workers.

So how many problems were there on election day in Los Angeles? An answer to this question can be found by examining the problems that came to the Los Angeles City election help desk, where problems at polling places were phoned in and addressed. Several of the early calls set an ominous tone that there might be a serious problem. A small but not insignificant number of polling places reported not having polling booths when they initially opened. The polling places had voters who wanted to vote, and punch card voting machines for them to vote on, but no booth where the voters could vote. This problem was solved by the county, which provided the polling places with booths, and by quick-thinking poll workers, who created makeshift polling booths until the official ones arrived.

With this problem solved, the rest of the day centered around addressing more common and often mundane problems. Several polling places opened late, and many reported being understaffed. For example, at one polling place in Inglewood, the election inspector was the only poll worker to show up for the election. The poll inspector was able to recruit several poll workers, but these individuals had not been trained for their jobs.[22] Many polling places reported that they did not have sufficient supplies or had voting machines that were inoperable. Poll workers often had to make do with polls located in inadequate facilities, which were not disabled-accessible or lacked sufficient parking.

At the polls I visited in Los Angeles, I observed great variation in poll worker performance, some positive and some negative. For example,

- There were poll workers who asked voters for identification even though there is a California law against doing that. (The poll worker's rationale behind asking—in a predominantly Korean and Spanish precinct—was "How else can you know if they are citizens?")

- There were poll workers who went out of their way to encourage voters not on the voting roster to vote provisionally.

- At one poll, only the inspector (the lead poll worker) had any experience at all. In fact, both of the other poll workers had been recruited on election day because the scheduled poll workers failed to show up.

The calls that the city and county election officials received can be corroborated by the findings of other organizations who monitor

elections. For example, Stephen Kaufman, the lead attorney for the Villaraigosa campaign, organized a network of lawyers to monitor key precincts. They reported several precincts where inspectors failed to bring supplemental voting lists (containing voter registrations processed late in the election cycle) to the polls, refused to allow voters to vote provisionally, and engaged in similar problematic behaviors. His network of attorneys, armed with cellular telephones, were able to contact the city, bring these problems to its attention, and have them addressed quickly.[23]

There are many groups—such as the NAACP, the Mexican American Legal Defense and Education Fund (MALDEF), and the Asian Pacific American Legal Center—that monitor elections. However, these groups do not work with the City or County of Los Angeles to recruit poll workers to work in the most error-prone polling places, even though many of these precincts are in heavily minority communities. These communities need bilingual poll workers who understand the intricacies of the election process, so that problems can be resolved quickly and efficiently. The problems in these precincts are well documented; the poll monitors from these various interest groups document the problems during election day.

Unfortunately, these groups often do not expend similar energies to solve the problems that they identify. As the president of the Los Angeles chapter of the NAACP noted during an interview, her group does not help to recruit better poll workers for these problem polling places, even though she recognized that doing so would likely increase the quality of elections for minority voters.[24] The NAACP is not unique; the Asian Pacific American Legal Center also does not have a program for recruiting bilingual poll workers, even though having these workers is very important to facilitating the election process for the Asian community.

One reason there are so many problems at the polls in California, is that state law asserts that no voting precinct can have more than one thousand registered voters in statewide elections. For other elections, voting precincts can be consolidated based on the assumption that voter turnout will be lower, which was done in the mayoral election. The County and City of Los Angeles strive to maintain consistent precinct boundaries between statewide and city-wide elections; 88 percent of the precincts in the 2001 mayoral election matched those used in the 2000 presidential election.

The City of Los Angeles established 2,143 polling precincts for the primary and general election for mayor and City Council in 2001. Precinct boundaries can greatly limit the location of polling places. For instance, it is not always possible to locate a polling place in a public facility, such as a school or government office building. This means that polling places have to be located in residences or businesses, which creates issues for the county related to access to a polling place, especially access for the disabled. For example, one polling place was a Buddhist meditation center, located in a hilly residential neighborhood. The poll was completely inaccessible to the physically disabled, with steep stairs impeding the front entrance and with the rear entrance also having stairs. Nationally, more than 80 percent of polling places are inaccessible, and a small but significant number of polling places in Los Angeles are as well.

MOVING POLL SITES

A small but pernicious problem is the moving of polling places between elections or right before an election. This problem was identified by Geraldine Washington, president of the Los Angeles

chapter of the NAACP, as a very important issue for her organization. In the 2001 mayoral election, approximately 160 polling places out of 2,143 were relocated between the mayoral primary and the general election. Additionally, some polls moved within a facility; for example, the poll was publicized on the voter's sample ballot as being in a school auditorium but was moved to the library.

Why do polls move? The most publicized case in the June 5 election involved a poll moved from a church. The City of Los Angeles was informed three days before the election that the church would no longer serve as a polling place. The city posted both signs and an actual human being at the old polling place to inform voters of the change in poll location. Nonetheless, a voter complained and the story was on the national news. When the city or county is notified up to six days before an election, they send every voter a postcard notifying them of the change in polling place. Interestingly enough, it is often the more "public minded" institutions—such as schools and churches—that cancel on the city or county most frequently. This requires more polls to be in private buildings, where accessibility is likely to be a problem.

Polling places that moved were a contentious issue in a City Council race on the ballot with the mayoral race. Tom Hayden was running for the Fifth District Council seat and lost by 369 votes. Although he did not challenge the election, he did suggest that polling places that moved hurt his chances. As reported in the *Los Angeles Times* (June 20, 2001),

> Hayden did support the demands of some homeowner leaders in Laurel Canyon and elsewhere for an investigation into the alleged irregularities, which he said included a last-minute change of polling places that might have prevented some of his supporters

> from voting. Frank Martinez, executive officer for the city clerk, said a review found that the city did take appropriate steps to direct voters to new polling stations after owners of some preliminary locations withdrew their use in the days before the election.

The administrative success of the L.A. mayor's race was important, but it was little covered by the media because of the highly charged nature of the race, which pitted the first modern Latino candidate for mayor in a general election against a long-time city leader. Many voters and pundits saw Antonio Villaraigosa as an image of what Latino politics could be in the modern, diverse world of southern California. However, other interests—especially the African- American community—saw the election as a battle for power between the establishment candidate, Jim Hahn, who had a reputation for understanding their interests, and the outsider candidate who represented the rising power of the Latino minority community.

5. The Politics of the 2001 Mayoral Election: The Battle of Coalition Politics

Politics in Los Angeles is based on the ability to build strong coalitions across ethnic communities. With a population of 3,694,820, the mayor of Los Angeles represents more people than twenty-four governors and has the most ethnically diverse population of any American city.[25] Because of its size and diversity, Los Angeles currently faces challenges—in politics and in election administration—that many other jurisdictions will face in the near future. The U.S. Census projects that, between 2001 and 2030, the demographics of the U.S. population will change dramatically. The white, non-Hispanic population is expected to decline from 71 percent of the population to 60 percent. The Hispanic population will increase to almost 20 percent of the population, the Asian population will approach 10 percent, and the black population will stabilize at 12 percent. These changes will bring the U.S. population close to the diversity now seen in Los Angeles.

The rise in the ethnic population of major cities like Los Angeles is also a challenge for political leaders. Some candidates have used ethnicity as a means of amassing support, polarizing the electorate, and intentionally undermining public confidence in the election process. An example of this is the reaction of the mayor of the City

of Compton, Omar Bradley, when he lost a close race for reelection on June 5 in an upset. The day after the mayor failed to retain his office, he sent a letter to Conny McCormack, the Los Angeles County registrar, asking for "verification of U.S. citizenship of each voter with a Latino 'sir name'[sic], "strongly implying a linkage between ethnic minority voters, immigrants, and voter fraud. Other parts of his letter also implied that ethnic minority groups had fraudulently voted and cost him the election.

Ethnic and Racial Group Competition in Los Angeles

The reaction of Omar Bradley illustrates how important it is for election administrators to ensure that all ethnic groups are treated equally and fairly in the electoral process. It also shows how Los Angeles' increasing ethnic diversity has affected its politics. Ethnic groups have organized their own communities and formed coalitions with other groups to work toward common political goals. In 1994, ethnic groups across Los Angeles mobilized to oppose Proposition 187, an anti-illegal immigrant initiative that would have denied public services to undocumented aliens and their children.[26] Although the measure passed statewide, the majority of Latinos, African Americans, and Asian Americans in Los Angeles voted against the initiative. Then in 1995, the multi-ethnic Defeat 209 Campaign, the Greater Los Angeles Affirmative Action Project, and the Metropolitan Alliance worked together to oppose Proposition 209, an anti-affirmative action campaign. Again, the measure passed statewide, but the City of Los Angeles opposed the initiative by 60 percent. In South Los Angeles, where 3.5 percent of the state's population resides, voters rejected 209 by 90 percent. According to a

Los Angeles County poll of Asian Americans, 76 percent voted against the measure.[27] Both propositions appear to have mobilized ethnic voters. Between 1994 and 1995, Latino turnout increased by 40 percent and African-American turnout increased by 100 percent.

Ethnic groups have also organized to attain political power through the city's political structure. Throughout the 1990s, African Americans and Latinos worked together to thwart attempts at increasing the number of City Council members because both groups believed expansion would dilute their political power. In 1998, Woody Fleming, a member of the commission formed to study structural reform, believed that City Council expansion would so harm African-American representation that he would "fight it to the death."[28] Anthony Chavez of the Mexican American Legal Defense and Education Fund, said "What we would maintain is that no matter how you draw the lines, if you increase council seats, diversity would diminish."[29]

VILLARAIGOSA VERSUS HAHN

The changes in the demographics of Los Angeles over the past decade also affected the dynamics of the 2001 Los Angeles mayoral general election. This race pitted Antonio Villaraigosa—the first Latino candidate to run a competitive campaign for mayor of Los Angeles in over 100 years—against Jim Hahn, who is part of a Los Angeles political dynasty. Both candidates were fighting to build a coalition among the city's diverse ethnic population. In the end, Hahn's coalition of moderate white, black, and Asian voters defeated Villaraigosa's coalition of Latino and liberal white voters.

Villaraigosa was seen by many among the political elite and in the Latino neighborhoods of Los Angeles as a Latino living the

American dream. A former State Assembly speaker, president of the local ACLU, and union organizer, he used a progressive political agenda to expand beyond his natural base among Hispanics to garner the support of liberals, Jewish voters, environmentalists, and the state's Democratic establishment, including Governor Gray Davis. His campaign strategy was designed to take advantage of the enormous growth in the Latino vote in Los Angeles. According to exit polls, Latinos cast three times as many votes in 2001 as they did in the 1993 mayoral race.[30] And although Villaraigosa lost, Latinos did have other wins in the election, including the race for city attorney.[31]

Since the Proposition 187 campaign of 1994, Latinos have registered to vote in record numbers and have become very involved in unions. Unions in the city have been successful in targeting Latino workers in the hotel and janitorial sectors to join service employee unions. Union membership is very important to many recent immigrants, who see joining a union as a step toward entering mainstream American society.[32] Unions have shown themselves as being quite adept at bringing benefits to their members—many high profile victories were won by unions in Los Angeles in the past several years—and this likely has increased the unions' desire to use their numbers to achieve political power for the Latino community.

Although the 2001 election was touted by many as proof of the rise of the Latino voter, the winner in the mayoral election won by walking a tightrope and crafting an unusual coalition. Jim Hahn brought together a coalition of black, Asian, and moderate white voters with an appeal based on his experience in government and support for "law and order." Hahn's message was intended to appeal to moderate voters in the San Fernando Valley; his appeal to black voters was based on history. His father, Kenneth Hahn, represented south-central Los Angeles for four decades as a Los Angeles

County supervisor and was a champion of black issues during this time; and the son leveraged his father's legacy to gain support among black voters. Hahn also benefited from a sense among the African-American community that it had been out of power at City Hall during the reign of Mayor Richard Riordan and that electing Villaraigosa would empower Latinos, not blacks. As Tom Edsall of *The Washington Post* noted, "Los Angeles is in the midst of a political, demographic and economic upheaval. Latinos, already a plurality of the city population, are verging on becoming the dominant voting bloc. And as the balance of power shifts, the Hispanic ascendancy conflicts less with the largely Anglo establishment than with the African American community."[33]

One key to winning the election was the ability of each candidate to turn out their supporters. Exit polls from the 2001 mayoral election show that the importance of white voters has declined dramatically since the 1993 mayoral race. In 1993, white voters accounted for 72 percent of voters; by 2001, they were barely a majority, at 52 percent. Latino voters account for half of this 20 percentage point decline in white turnout, as the Latino vote went from a 10 percent share of the turnout to a 22 percent share. Black voters increased their percent share from 12 percent to 17 percent, and Asians moved from a 4 percent share to a 6 percent share of the vote.[34]

Turnout was especially critical because the conflict between Latinos and African Americans hindered Hahn in his efforts to garner Latino votes and Villaraigosa in his effort to court black voters. The breadth of these coalitions also illustrates the importance of having an election system that addresses the needs of all voters from all socioeconomic backgrounds. If the voting technology in Los Angeles, the punch card, has higher error rates for some racial or ethnic groups compared to others, then one candidate's coalition

could be unduly benefited in the outcome of the election. Fortunately, Los Angeles election officials were able to minimize the impact of the biases inherent in the punch card system on the outcome of the vote.

6. WHAT CAN WE LEARN FROM LOS ANGELES?

Events strongly suggest that the Los Angeles mayoral race may prove to have been a vision of elections to come. The election race pitted two multi-racial coalitions against one another—one anchored by Hispanic voters, the other by black voters—and these coalitions did not have sizable overlaps. Most Hispanic voters voted for Villaraigosa and most blacks voted for Hahn. A similar pattern emerged in the Houston mayoral race, where Hispanic Republican Orlando Sanchez competed against black Mayor Lee Brown, and large majorities of each ethnic group voted for the candidate who was of the same ethnic background. And although the Latino candidate lost in both cases, the closeness of the races was seen as being a positive harbinger of the future power of Latino candidates. As Totcho Mindiola, director of the Center for Mexican American Studies at the University of Houston said, "People have predicted for years that the Hispanic population is going to be a political force to be dealt with. This is a major statement in that effort."[35] It remains to be seen whether the rise in the power of Latino voters will complement or compete with the interests of other minority groups in communities across the country.

The 2001 mayoral race will soon seem anachronistic in the way in which it was conducted because of the pending death of the punch card. On February 13, 2002, a federal judge ruled that all

punch card voting technology must be replaced statewide by the 2004 presidential election. This action was taken as part of a lawsuit filed by the ACLU, which alleged that the use of punch cards violated the voter's equal protection rights under the U.S. Constitution and the Voting Rights Act.

Los Angeles County Registrar Conny McCormack had previously noted that punch cards are "clearly not an optimum election system. It's time for a change."[36] Fortunately, it may be that there is funding on the way for this change. Because it has to produce ballots in seven different languages, the only voting technology that is feasible for the county to use other than punch cards is the touch-screen voting technology. Converting to this new technology is not cheap; in Los Angeles County alone, it is expected to cost just over $100 million to replace all punch card voting machines with touch-screen technology. The County cannot foot this bill alone, but fortunately, there are efforts ongoing at both the state and federal levels to provide funds for jurisdictions to improve their election systems.

Although expensive, a new system will be especially helpful to language-minority voters. With a touch-screen system, a voter is given a key card that activates the voting machine, but this key can be programmed to ensure that a voter receives a ballot in his native language. The touch-screen voting equipment would provide a Latino voter with a ballot in Spanish, a Filipino voter with a ballot in Tagalog, and an elderly Chinese woman with a ballot in Chinese. These systems are also more friendly to members of the disability community, who would be able to vote in complete privacy for the first time.

Cities across the country can learn much from the California election experience, especially as it is implemented in Los Angeles.

The voter education, provisional balloting, and certification process of California ensures that everyone can come to the polls ready to vote, vote without difficulty, and be assured their vote is counted. In Los Angeles, the way in which the city and county have developed programs to address the needs of their language-minority communities illustrates how effective community outreach can ensure that special needs communities receive the services they need. An election system works well only when the most vulnerable in a community can effectively participate in the election process. By reaching out and providing effective services to all citizens, the elderly voters in Los Angeles' Chinatown area can come to the polls knowing that there will be someone there who can translate the ballot for them and help them participate in one of America's greatest gifts—the right to vote.

LOS ANGELES: A POSTSCRIPT

Even in a state with progressive election laws, there is no guarantee that elections will be flawless events. Indeed, the 2002 statewide primary election in California underscored the point that no matter how progressive the laws are or how modern the technology, without increased poll worker and voter education and adequate funding for both, election snafus are likely to continue.

California's 2002 primary elections were the first statewide elections since the 2000 election and featured a tough Republican gubernatorial primary election and races for other statewide offices, Congress, and state assembly. Across the state, there were problems during the primary election, including in Los Angeles. More than one hundred poll workers quit the night before the election. Sheriff's deputies escorted emergency election workers to deliver ballots and supplies to at least 150 polling sites where scheduled election workers did not show up.[37] More than two dozen poll sites in Los Angeles either opened late or ran out of ballots and supplies, creating long lines and forcing hundreds of voters to be turned away from the polls for some period of time. And there were 11,626 voters in Los Angeles did not have any polling place at which to vote and were forced to cast mandatory absentee ballots. Reflecting the challenges of the new diversity of the state, ethnic politics again rose to the surface, with an assembly candidate Los Angeles' Second Council District accusing his opponent of trying to get absentee ballots with Spanish names set aside.[38]

Why were there so many problems in the March 5 primary that did not exist in the June 5 mayoral election? Several important changes occurred in the last year to change greatly the election environment across the state and in Los Angeles. First, the redistricting that accompanies the Census required the redrawing of precincts across the county. In the 2002 election, 20 percent of voters—more than 800,000 people—had to vote in a new precinct. Second, sending out supplies to the county's 4,845 polling places has been made more difficult by a new system that allows voters to register up to fifteen days before the election instead of the previous twenty-nine-day deadline. Third, the primary election was earlier than ever before, and with a March election date, many schools refused to allow their facilities to be used as polling places, requiring election officials to find new poll sites.

The election was made even more complicated by a change in voting rules in California. The director of the California Secretary of State's Elections Division said that "This is the most complex election California's had." For the third election cycle in a row, California voters had a new set of rules governing how they could vote in primary elections. The current system is a modified open primary. Under this system, voters who have registered with a party can vote only for candidates of that party. Nonpartisan voters—who are 15 percent of the electorate—can vote for either the Republican, Democratic, Natural Law, or American Independent candidate. However, Libertarian, Green, and Reform parties kept nonpartisan voters from voting for their candidates.[39] Poll workers were forced to work with dozens of different ballot types. For example, San Mateo County went from having fourteen ballot types in the 2000 primary election to having 268 in the 2002 primary. This new confusing system led even more poll workers to refuse to work for the $75 wage they earn for making sure everything is done correctly.

NOTES

1. "Suits Seek Uniformity in States' Vote-Counting," *Los Angeles Times,* April 18, 2001, p. A1.

2. John Mintz and Peter Slevin,"Human Factor Was at Core of Voting Fiasco; Decisions and Leadership were Erratic, Arbitrary," *Washington Post,* June 1, 2001, p. A1.

3. Robert E. Pierre, "Rights Panel Duo Fault Report; GOP Appointees Say Findings of Bias Are Not Defensible," *Washington Post,* June 6, 2001, p. A7; "Justice Department Announces Resolutions in Two Florida Voting Matters," Department of Justice, Press Release #380:06-27-02, June 28, 2002.

4. This study examines the mayoral general election. In California, municipal elections are almost exclusively nonpartisan. This means that all of the candidates for a given office—for example, mayor of the City of Los Angeles—are listed on the ballot in a primary, or nominating, election. In the nominating election, if any candidate receives more than 50 percent of the votes cast, that candidate wins the election. If no candidate breaks the 50 percent mark, a runoff, or general, election is held between the two candidates who received the most votes in the nominating election.

5. This story came from an interview with Conny McCormack, Los Angeles County registrar, June 9, 2001.

6. *Voting: What Is, What Could Be,* Caltech/MIT Voting Technology Project, 2001.

7. R. Michael Alvarez and D. E. "Betsy" Sinclair, "Are There Racial Differences in Uncounted Ballots? The Case of California," unpublished manuscript, 2001.

8. For statewide and federal races, the ballot order for candidates rotates by precinct. Thus, in one precinct the Democratic candidate would be listed first, but in an adjoining precinct, the Republican would be listed first.

9. Getting the sample ballots to reflect the ballots a voter will see at the polling place is not easy. Consider two issues. First, the local election administrator has to ensure that all local elections, which often have small election boundaries, have to be correctly placed on the sample ballots. Second, California uses a system of ballot rotation, which ensures that the candidate order for any given race varies by precinct, so that no one candidate has an advantage. These factors mean that the election administrator cannot print just one set of sample ballots; they have to be customized by precinct.

10. In addition to the sample ballot and voter education information that local election administrators provide to voters, the California secretary of state also issues a voter information guide for the entire state. The guide contains summaries, analyses, arguments, and the full text of every statewide ballot measure, which is important in a state like California, which has many complex initiatives on the ballot in every election.

11. *Election Reform in Detroit: New Voting Technology and Increased Voter Education Significantly Reduced Uncounted Ballots,* House Government Reform and Oversight Committee, 2001, available at http://www.house.gov/reform/min/pdfs/pdf_inves/pdf_elec_detroit_rep.pdf.

12. The 2000 Census data regarding language proficiency, by county, will not be available until the end of September 2002.

13. 42 UCR 1973aa-1a(b)(2)(A)(i). It can be found online at http://www4.law.cornell.edu/uscode/unframed/42/1973aa-1a.html, last accessed November 30, 2001. See also *To Assure Pride and Confidence in the Electoral Process: The Report of the National Commission on Federal Election Reform* (Washington, D.C.: Brookings Institution Press, 2002).

14. The VRA requirements create a need for document translation, and translating and printing the sample ballots in six languages is a complicated task. Generally, sixty days prior to an election, the English version of the sample ballot is prepared. The document includes candidate statements submitted and paid for by the candidates. Then, fifty-seven days before the election, the sample ballot and vote recorder pages are sent to a vendor to be translated and received back at the county forty-five days before the election. The translation sample ballots are then printed in all six foreign languages and are either sent to voters or packaged to be used as samples in all polling precincts. (Interview with Jennifer Collins-Foley, Los Angeles County Elections, June 4, 2001.)

15. Interview with Kathy Choi, Korean American Coalition, June 8, 2001.

16. Interview with Conny McCormack, June 8, 2001.

17. Data on population movements in the United States can be found in "Geographical Mobility," a report issued annually by the U.S. Census Bureau.

18. The voter's voting information on file has to match the voting information on the provisional ballot, and the signatures have to match as well. Los Angeles County uses provisional balloting extensively. In the 2000 election, 100,000 provisional ballots were cast, and 61,000 were found to be valid ballots that were counted in the final vote certification.

19. The report of The Governor's Select Task Force on Election Procedures, Standards, and Technology in Florida clearly shows that it is not possible to certify an election in Florida and count all ballots. On page 59, the report notes that "in 1982, a consent decree . . . allow[ed] certain overseas ballots to be counted up to 10 days after the date of the General Election" and then notes on page 67 that the "task [of certification] must be completed for any statewide or Federal office by 5 P.M. on the 7th day after the general election." The task force report can be found at http://www.collinscenter.org/usr_doc/52816.doc last accessed on October 29, 2001.

20. Interviews with Kris Heffron, election supervisor, City of Los Angeles, June 7, 2001, and Conny McCormack, Los Angeles County registrar, recorder, and county clerk, June 8, 2001.

21. Counting all of the ballots in Los Angeles County after the presidential election took three weeks. Then again, the voters could be sure that the election officials actually counted all of the ballots they received.

22. This is based on an interview with the polling inspector conducted on election day by the author.

23. Interview with Stephen Kaufman, June 7, 2001. He noted that the Hahn campaign conducted a similar effort to ensure that polls in the precincts targeted by its campaign were functioning well.

24. Interview with Geraldine Washington, president, Los Angeles Chapter, NAACP, June 6, 2001.

25. The City of Los Angeles is the largest election jurisdiction in the nation, behind only Los Angeles County. New York City is a larger city than Los Angeles, but it is not a unified election jurisdiction. Each of the five counties that comprise New York City has its own election administrator.

26. A short summary of the proposition and its aftermath was written by Stanley Mailman, of counsel to Satterlee Stephens Burke & Burke LLP, and published in the *New York Law Journal* (January 3, 1995). It can be found online at http://www.ssbb.com/article1.html, last accessed November 30, 2001.

27. Connie Rice, "Toward Affirmative-Action," *Nation,* January 13 1997, p. 22.

28. Jim Newton, "Council Size Issue to Be Put to the Voters," *Los Angeles Times,* October 20, 1998. p. B1.

29. Anne-Marie O'Connor, "Move to Increase City Council Size Deadlocks Panel," *Los Angeles Times,* August 30, 1998, p. B1.

30. Hector Tober, Nancy Cleeland, and Patrick McDonnell, "In the End, It Was a Crusade for Latinos and For the Future," *Los Angeles Times,* June 6, 2001, p. A19.

31. See, for example, David Bacon, "Crossing L.A.'s Racial Divide," *In These Times,* June 11, 2001, p. 5; Marc Cooper, "Villaraigosa's Hot in Los Angeles," *Nation,* June 4, 2001, p. 11; and Matea Gold, "An Upside Seen For Latinos, Despite Villarigosa's Loss: Experts Cite His Strong Support Among the Ethnic Group, Its Increased Turnout and Delgaddio's Win as Positive Results," *Los Angeles Times,* June 14, 2001, p. 2-1.

32. George Skelton, "Latino Impact Felt Through Labor Movement," *Los Angeles Times,* June 14, 2001, p. 2-10.

33. Thomas Edsall, "L.A. Politics Being Turned Inside Out," *Washington Post,* November 24, 2001, p. A4. See also James Rainey and Greg Krikorian, "Hahn Won on His Appeal to Moderates, Conservatives," *Los Angeles Times,* June 7, 2001, p. A1.

34. Taken from *Los Angeles Times* exit poll data. These data can be accessed online at http://www.latimes.com/news/custom/timespoll/la-010606exitpoll.story?coll=la%2Dnews%2Dti mes%5Fpoll, and was last accessed November 30, 2001.

35. Lianne Hart, "Brown Looks Set to Win Runoff, Third Term as Houston Mayor," *Los Angeles Times,* December 2, 2001, p. A45.

36. Nancy Vogel, "Voting Devices to Be Updated," *Los Angeles Times,* September 19, 2001, p. 1.

37. "Poll Workers Pull Out, Put Registrar on the Spot," Andrew Silva, *The Sun,* March 6, 2002.

38. "Unexpected Civics Lesson for Kids at Polling Place," Patrick McGreevy, *Los Angeles Times,* March 8, 2002, p. A1.

39. Rachel Gordon, "Vast Array of Ballots Complicates Election: Polling Places to Juggle Many More Forms," *San Francisco Chronicle*, March 4, 2002, p. A6.

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