"By the way … We have to fix that"

By R. Doug Lewis

States and local governments were faced with long lines and long wait times for some voters in Election 2012. What causes election problems? How does government get to the point where elections get off the front pages and return to stable events? The solutions are not simply limited to election administration. Smooth elections are a combination of policy, usually mandated at the state level by legislation or by regulation, resources allocated to the elections process, political considerations, and then administration of the process at the local level. What can states do to assure the best possible service to voters? What is the proper mix of policy, politics, practices and procedures?

President Obama called attention to the long lines and long wait times for some voters in Election 2012 in his acceptance speech, and then again in his inaugural address, calling attention to the need to ensure Americans are able to vote without unreasonably long wait times. His now often-quoted, "By the way, we have to fix that" statement set off a new round of proposed federal and state legislation related to elections.

The issue of long lines or long wait times is an example of why elections are a complex process that sometimes defy even excellent administration. The discussion contained herein is specific to voters waiting to vote, but it is also about using the specific occurrence to demonstrate how interconnected policies, resources, political objectives and administration come together—or when they don't—to affect the outcome of American democracy.

The larger context is to illustrate the domino effect of each element that can and does lead to unintended consequences in elections in each state. Because American elections are not truly designed as a streamlined process but rather as a patchwork quilt of laws, practices, political objectives, court decisions and partisan-driven agendas, solutions to the problems become more difficult to administer in ways that satisfy all desires.

State leaders need to consider how the effects of policies, politics, practices and procedures impact the voting process. The interplay of how state and local leaders—and sometimes the courts—respond to each of those factors most often determines the difference between success or problems in elections. Since faith in voting is paramount to the well-being of American democracy, focusing on the elements that affect voters' rights and confidence in the fairness of voting is essential to developing successful solutions.

Long Lines—Treat the Symptoms or Treat the Causes?

The first question to be answered is what constitutes a long line? Is the length of the line the problem or is it the amount of time that a voter waits in line? Experienced election officials will relate that voters don't mind lines as long as there is movement within the line and it keeps a steady progress. Wait times, however, do become troublesome when voters spend longer than one hour to vote.

From a national survey of 10,200 voters—200 in each state plus the District of Columbia—conducted by MIT and CalTech after the 2012 election, Charles Stewart of MIT reported publicly that voters nationwide reported waiting an average of 13 minutes to vote on Election Day. However, 3 percent of the voters reported waiting for more than one hour and the average wait time of that group of voters was 129 minutes.[1]

Are long wait times for voters simply a matter of poor election administration? While that may be true in some instances, it is unlikely to be the principal cause in all instances.

Length of Ballot. According to a survey[2] conducted after Election 2012 by The Election Center, a nonprofit organization specializing in voter registration and election administration, many causes lead to longer wait times for voters. Some of the causes are due directly to actions by legislative bodies, such as state legislatures or county or city commissions, that create long ballots, which require far more time to study. Where there were long wait times, more than 58 percent of the election adminis-

trators reported that the main cause of the line was the length of the ballot. For instance, in Florida, the legislature ordered 11 constitutional amendments be placed on the ballot in a presidential election year. Since one of the amendments was more than 600 words in length, the number of voters casting ballots went from the previous average of 10 to 12 per hour to an average of four to five per hour.

If the state already has many offices on the ballot during a presidential year, then additional ballot issues will slow the rate at which voters are processed. Additionally, local governments—city, county, school boards and others—also add bond issues or referendums that further slow the rate of voting. To prevent long lines under these conditions, election administrators would have to know:

- How many voters can actually vote on the ballot per hour and then ensure that there are enough voting machines and related equipment to help relieve the congestion.

- Since voting equipment cannot be instantly purchased and pressed into service, however, election administrators need to consult a crystal ball one year in advance to guess whether ballots will be exceedingly long so they can purchase enough equipment well in advance of the election. While it is possible to predict the races that will appear on a ballot, except for special elections, it is almost impossible to predict the number of propositions that will be placed on a ballot by state and local governments.

Lack of Resources. Resources to buy and service additional voting equipment during 2009–12 were virtually nonexistent. Local and state governments traditionally have approached voting equipment and ballots as items to be purchased to handle the average number of voters per hour or per day, rather than providing enough equipment to handle the numbers of voters at peak periods. Funds previously available under the Help America Vote Act are no longer available in most states and already have been spent. At this time, it does not appear that Congress will continue funding for elections.

Peak Period Voting. Voters tend to come in waves, especially in presidential election years. Those waves most often follow the pattern—in descending order—of the first two to three hours of the polls opening, then the last two hours of the day, with the middle hours around lunch usually being the smallest of the three waves. Purchasing additional voting equipment can take up to two years in some states and locales because of the governmentally required

bidding and purchasing processes. Rapidly adapting to changing needs on Election Day is difficult to accomplish even when local administrators see problems develop. Even ballots can involve purchasing decisions up to weeks or months in advance. In the Election Center survey, 20 percent of the election administrators indicated that lack of voting equipment or ballots was a contributing factor to long wait times.

In this one example of voting delays, we can see policies of state or local governments—rather than election administrators—about ballot issues and ballot length as significant contributors to waiting times. We also can see that resource allocation is an additional consideration since governments historically have been unwilling to fund sufficient resources to process peak period voting.

Election Administration Issues. Election administrators have pointed to their own problems in not correctly identifying potential delays and means to correct those problems in the future. Among the issues administrators said were within their responsibilities were:

- Not anticipating how long provisional voters will take to complete the registration process prior to voting a provisional ballot;

- Not anticipating that Election Day registrations could delay voting for all other voters. For states that have Election Day registration, the numbers appearing at the polls on the day of the election to register and then vote appeared to create significant delays, since it was taking seven to 10 minutes per voter to register first;

- States employing electronic pollbooks underestimated the time it takes to process voters on newer technology—and in a few instances, discovered that the electronic pollbooks didn't have all the voter registrations in the electronic format;

- Too many voters assigned to polling places. This can be a three-pronged problem of policy, resources and administration. If state law allows too many voters to be assigned to one precinct, then it contributes to the problem (policies around the nation allow for a low of 250 voters per precinct to more than 6,000 in others). Local funding decisions by non-election staff to reduce the number of polling places to save costs on both personnel and equipment also can influence success or failure. Election official decisions on check-in procedures or resource allocation also can slow voter processing; and

- Polling places that are too small to handle waves of voters. If the facility used for voting is not sufficient to handle large crowds with enough parking for voters, the end result may be long lines and long wait times. This problem is likely to worsen over time since schools, reacting to the events in Newtown, Conn., in 2012, likely will continue their push to remove schools as voting places. Policymakers likely will need to determine if schools should be used at all, or if it becomes clear that conducting elections without the use of schools is critical to the success of democracy, then policy may need to force schools to be closed to children on Election Day. Any consideration of forcing the election process to abandon schools as voting locations is likely to have one of the most dramatic impacts on the cost and conduct of elections in the U.S. Since the number of facilities that can provide parking and handle high volumes of people are limited; replacing schools as voting facilities will be difficult. Again, each of the elements of policy, resource allocation and administration of elections affect voter waiting times.

Other Election Concerns with Policy Implications

While the wait time for voters gained the most attention in Election 2012, other issues loom where political considerations, policy decisions through laws or administrative interpretations by state leaders, or resource restrictions affect the ability to administer effective elections. Some of those reviewed here are:

- *Absentee Ballots.* Ballots not received by voters or not returned in time by voters affect the election process. The policies, most well intentioned to give voters maximum time to participate, have made it virtually impossible for election administrators to serve voters on absentee ballots if state law or regulation—the policy part of the decision—allows voters to request an absentee ballot in the week leading up to Election Day.
  - If voters are still mailing in absentee ballot requests during that final week or final days, the voter is unlikely to be able to successfully cast his or her ballot.
  - If the voter is allowed to request an absentee ballot any later than one week prior to Election Day, the election office may not have enough time to adequately process the request. Additionally, it leaves almost no time

for delivery of the absentee ballot to the voter in time to be received back prior to the legal cutoff date for accepting a mailed ballot.

- Recognize when policy needs to adjust or be changed: when administrative practice becomes too difficult to serve voters well, then the policy itself should change. Wiser policy choices are likely to be that requests for an absentee ballot need to end a minimum of one week before Election Day at the latest. There needs to be time for the ballot to be delivered, filled out and returned by the state's statutory deadline for processing.
- Volumes of mailed ballots have grown so extensively in recent years that this is no longer a small percentage of voters using mailed ballots. Policymakers need to change policies to fit the conditions.
- Resource management is also a factor here. The U.S. Postal Service has reduced the number of mail processing centers and that affects the length of time it takes to respond to voters' requests, as well as the length of time it takes mail to arrive either to the voter or back to the election office. With the complications created by the problems facing the U.S. Postal Service, delivery times have grown ever longer and what used to take one day for delivery now can take as many as four days or longer.
- Policy choices have to reflect either a longer period of time for compliance prior to Election Day by establishing an earlier cutoff date for requesting a ballot, or a policy change in allowing ballots to be received and counted for a period of time after Election Day. Since the latter creates greater concerns about the integrity of an election, and perhaps even equal protection lawsuits, one choice becomes more likely than the other.

- *Early Voting.* Another resource issue is that election administration staffing has not grown commensurately with vastly increased volumes of mail, as well as large increases in voting age population. If a jurisdiction also engages in early voting—in-person voting prior to Election Day— the resources are stretched. That leaves election administrators struggling to hire experienced staff to handle not only the higher absentee ballot requests and/or ballot by mail efforts, but also to staff longer periods of early voting **and still** provide full service on Election Day as well. Factors affecting early voting:

- Early voting policy decisions affect the success of an election. Forcing early voting into too few locations means not serving voters well and can lead to extraordinary wait times. This is principally a problem in urban jurisdictions.
- Policy decisions that mandate only certain facilities can be used as early voting sites also can affect success. Some facilities are simply too small to handle large numbers of voters. (Example: Most libraries in cities where automobiles are the principal mode of transportation are not ideal; there is rarely enough parking at such facilities and libraries are not normally designed to handle high volumes of people in peak periods.)
- Political considerations became the fodder of lawsuits in Election 2012 over whether to allow early voting during the weekend prior to Election Day in some locations; not all states allow it. Political activists strongly want early voting sites to be open on that last weekend prior to election so churches can encourage voters to go to the polls. The practical impact on election administration, however, is that it makes it very difficult for proper preparation for Election Day voting.
- Policymakers—and even judicial decision makers—need to at least consider how changes in policies affect election administration. Early voting requires the best and most capable of full-time and seasonal staff—the same individuals that are counted on for success on Election Day. Additionally, the lessons learned from states that have conducted early voting for the greatest number of years is that ending early voting on the Thursday or Friday before Election Day is truly necessary. Local election administrators need the time to prepare and distribute the pollbooks—both printed and electronic—so all Election Day polling places have current voting information. These considerations are not minor to the success of voting on Election Day. Good policies and good practices to serve the needs of voters are intertwined but all too often political objectives outweigh necessary administrative practices. Examples of some of these are:
  - From an election administrator's point of view, early voting is allowed on other weekends so those same voters motivated on the last Sunday could just as easily have been motivated on a previous weekend.

- The inability to have enough time to process the information from early voting prior to Election Day can lead to the possibility of major errors on Election Day, which can mean confusion as to the actual winners of the election.
- A final consideration affects the time to convert voting equipment from use in early voting and to clear the totals so that you can verify the numbers for Election Day voting takes considerable time.
  - Pulling those machines out of early voting sites and returning them to headquarters, preparing them and checking them for any needed repairs or servicing before being redistributed for Election Day use becomes critical. If not enough time is allowed to make the adjustments and logistics work, then there may not be enough equipment on Election Day if voter numbers increase in some areas.
  - Some local jurisdictions have the resources to set aside these machines and not redeploy them, but that also means they are unavailable in times of greater Election Day voting.

Policies and Politics Affect Practices and Procedures

Political considerations and policy decisions need to adequately understand the administrative impact that can make the difference between success and failure in elections. Good elections don't just happen and bad ones are more costly than just in terms of money or resources. Faith is paramount to the success of American democracy—faith in the process, faith that the process is fair, faith that the constituent's vote will be counted correctly and faith that the outcomes are an accurate reflection of the public will.

Looming Policy Issues Facing States

Voting Equipment. The largest resource challenge facing states and legislatures in the next five years is how to fund and replace aging voting equipment. For some states, that is a pressing decision. No rational individual wants to replace voting equipment in a presidential election year. New voting equipment always has a learning curve that impacts voters, political groups, election staff and poll workers. Equipment needs to be purchased and used in elections that are not high-turnout.

More first-time and occasional voters come out in presidential election years and they are voters who are most likely to be affected by any changes made to the process.

Policymakers will want to ensure voting equipment gets purchased and used in elections prior to presidential election years. Many state and local jurisdictions in America do not have an option of waiting until 2017 before purchasing new voting equipment. If there is acceptance that purchasing and using the equipment in 2016 is not a wise course of action, then purchasing must begin in 2013 and 2014.

Technical Skills and Services. The second major policy decision for many state governments is to recognize the changing nature of elections in America means that greater technical skills are needed in the elections professions. Both state and local governments must prepare for recruiting, hiring and training technical people for roles in elections. That is likely to mean higher personnel costs at both the state and local levels.

Election budgets are likely to escalate for a period of time until enough technical skills are serving the needs of voters. The smallest 50 percent of election offices around the nation, where the entire election staff is one to three people, are unlikely to be able to afford those kinds of skills. That means states will need to provide those skills or contract for them through other sources. The model developed by the state of Georgia utilizing the technical services of engineering, software and hardware specialists through the Kennesaw State University is likely to be needed in more states.

Training Is Important to Success. Election administration has evolved significantly in the past 25 years and the professionalism of election and voter registration administrators has improved through training at the state and local level. The academic, innovative and challenging training offered through the Election Center's Professional Education Program has resulted in more than 700 election professionals achieving the status of Certified Election/Registration Administrator since 1994, when professional education was created for the election profession. Auburn University and the Election Center have developed academically based public administration courses specializing in election and voter registration administration.

That collaboration of academia, a nonprofit organization and professionals has dramatically shaped better election administration throughout America. Training is still the bedrock of advance-ment and improvement in processes to serve voters and democracy. Ensuring that states begin to fully support the national certification and training also will be a key element in successful elections of the future.

Conclusions

Policies are equally as important to the success of elections as administrative competency. Resources —funded or withheld—also determine the ability to conduct thriving elections. Political decisions and responding to political pressures also can greatly impact the difference between success and failure in elections.

Clearly states have immediate and long-term policy decisions facing them that will determine the likelihood of the continued health of American democracy. Good elections are likely to cost more in the near term—but the cost of bad elections is likely to far outweigh the advantages of delay. Solving the appropriate waiting time for voters is achievable and may be one of the less thorny issues confronting policymakers related to elections within the states. Good elections are not simply administrative excellence. They result from the proper mix of policies, politics, practices and procedures.

Notes

[1] CalTech/MIT Voting Technology Project, December 2012, Dr. Charles Stewart, *cstewart@mit.edu*.

[2] Election Center, Survey on Long Lines, November 2012, *www.electioncenter.org*.

About the Author

Doug Lewis, a certified elections/registration administrator (CERA), is executive director of The Election Center, a nonpartisan, nonprofit organization representing the nation's election officials. He has been called on by Congress, federal agencies, state legislatures, and national and worldwide news media for solutions to voting issues.