



# Protecting the Integrity and Accessibility of Voting in 2004 and Beyond: A Statement of Principles on Voting Systems and Voter Verification

*People For the American Way  
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## Introduction

As the 2004 election approaches, there is significant concern among Americans that our voting system has not been sufficiently protected from a repeat of widespread disenfranchisement. New technologies require election officials to grapple with a complex set of interests, including accessibility for people with disabilities and sufficient security and accountability to prevent elections from being affected by equipment malfunction or tampering. The enormous logistical difficulties facing state and local election officials in implementing the Help America Vote Act are compounded by limited resources and a lack of guidance from the federal government. Preventing disaster on Election Day will require a public commitment from election officials at all levels of government – especially chief state election officials – as well as the resources to put in place equipment and procedures that will advance and protect the voting rights of all Americans.

People For the American Way believes that maintaining the integrity of our electoral process is critical to America's democratic institutions. We also believe that providing people with disabilities with the opportunity to vote in an independent and private matter is essential to comply with the moral and legal imperative of equality. We are confident that there is a clear way forward that will allow states to achieve both goals to the maximum extent feasible for this year's elections, while encouraging additional advances in technology to fully serve the needs of all voters and election officials in future elections.

**We believe action by election officials should be guided by four fundamental principles:**

- 1) The voting process, particularly the voting systems and the administration of elections, must be uniform and nondiscriminatory;**
- 2) Voters must be able to independently and privately cast and verify their ballot;**
- 3) Any voting system must comply with national certification standards; and**
- 4) Voter confidence and reliability in the electoral process must be maintained.**

The following pages detail People For the American Way's position on the application of these principles to the use of new voting technologies this year and the continued improvement of those technologies in the near future. We hope that this paper will help guide public officials at the state, federal, and local levels in their work to secure the right to vote for all Americans.

## **Security, Accessibility and Accountability**

The disenfranchisement of several million voters during the 2000 presidential election provided the impetus for election reform legislation that would attempt to create a more fair and uniform electoral system throughout the country.

In addition to providing funding for the replacement of outdated technologies in the states, the Help America Vote Act of 2002 (HAVA) highlights the importance of making voting systems accessible to all communities, especially those historically disenfranchised. By encouraging the replacement of outdated punchcard and lever voting systems with electronic voting machines, HAVA attempts to create a more uniform and nondiscriminatory election process. We acknowledge that neither the federal election process nor current voting technologies are perfect, and that the financial realities facing most states inhibit their ability to effectively implement the best technology immediately. Yet, we should not, as the old adage goes, let the perfect be the enemy of the good.

Historically, persons with disabilities have been forced to subjugate their right to vote in an independent and private manner. Additionally, machines and balloting systems have disenfranchised persons with limited English proficiency by failing to recognize their needs. This should no longer continue. Public policy should encourage the continued development of voting system technologies that will accommodate the needs of all Americans, particularly the disability and limited English proficient communities.

In addition, in the wake of a presidential election marred by disenfranchisement and difficulty verifying voters' intentions, it is urgently necessary to address security concerns over electronic voting systems and their potential to undermine public confidence in the integrity of the election. State and local election officials – and independent voting systems experts – must have the opportunity to fully review the hardware, source-code and software of electronic voting systems before they are used to verify their security and integrity. Furthermore, random audits and the sampling of ballots should be used to create an extra layer of protection against fraud and any software malfunctions.

**We believe that adding voter-verified audit trails, with appropriate alternate technology to accommodate voters with disabilities and voters with limited English proficiency, would provide a necessary layer of security that would also improve voter confidence in the election process.**

Public confidence in the election process is directly linked to the transparency of the process. Therefore, the process of adopting a new voting system should be transparent and incorporate public input through forums and hearings. A broad-based state advisory panel with diverse citizen representation should be established by each state and consulted throughout the process of considering and adopting any new voting systems. This will help instill voter confidence in the election process and a sense of ownership in the maintenance of a truly democratic system.

The proper administration of elections by state and local election officials is equally important. The overall effectiveness of the voting process is dependent upon a variety of factors, not the least of those being the proper training of poll workers and election officials

and the education of voters about new registration and voting requirements. We know from experience, particularly in the 2000 and 2002 elections, that misinformation from poll workers regarding such things as identification requirements, provisional ballot options, and even poll site closing times can result in the disenfranchisement of millions of voters across the country. The best technology in the world cannot correct human error that prohibits voters from entering a poll site.

Although there are important actions that need to be taken by federal, state, and local officials, the primary responsibility for overseeing elections lies with the nation's chief state election officials. We pledge to work with them and other election officials to help them meet their obligations. But it is ultimately their responsibility to evaluate existing problems and obstacles and to identify and implement plans to overcome them. We will also work to hold them publicly accountable for making elections free and fair for every voter.

### **Electronic Voting Machines**

In order to achieve the goals outlined above, we must be diligent in our efforts to equip all poll sites with the best possible voting systems. Direct Recording Electronic voting systems (DREs) are the most versatile and user-friendly of any available voting system. Each machine can easily be programmed to display ballots in different languages and can be made fully accessible for persons with disabilities. Optical scan, punchcard and lever machines cannot easily accommodate different languages, and because punchcard and optical scan machines are paper systems, they are not fully accessible for the blind or visually impaired. Similarly, the mechanical nature of lever machines impedes accessibility for voters with limited mobility and strength. For these reasons, People For the American Way believes that DREs are the best available voting systems at this time.

Yet, the concerns raised about the potential for fraud with DREs cannot be ignored. Therefore, we must work to further secure electronic voting systems. Recently, this problem was highlighted in the special election for Florida House District 91, where low turnout and 134 undervotes prompted speculation about the legitimacy of the vote count that crowned the winning candidate by a margin of 12 votes. The lack of a voter verified audit trail made it impossible to conduct a meaningful recount. For this reason and many others, PFAW believes that any voting system should provide a tested and certified voter verifiable audit trail.

Being able to verify and correct one's vote is one of the key reforms that was pushed by PFAW and the civil rights community for inclusion in HAVA. As a result, HAVA requires for the first time that a voter must be able to review his or her ballot before it is officially cast and counted, and must be given the opportunity to change the ballot or receive a new one. This is the requirement for voter verification. However, PFAW strongly believes that the security concerns regarding DREs require more than simply a paper audit trail of all votes cast, but also verified documentation of each ballot. Specifically, voter verified audit trails would help provide the Election Advisory Commission, created under HAVA to (among other things) test and certify voting system hardware and software, with the data and other information needed to determine whether a particular system should be certified. Voter-verified audit trails would also allow local and state election officials to manually recount each vote cast on the system, if necessary (independently of what was recorded on the system electronically), and permit

election officials to conduct random audits of the system to ensure that the electronic system accurately records the votes cast.

Such a voter verifiable audit trail does not *necessitate* the use of paper. Future technologies could include encrypted ballots, votemeters or modular voting architecture. For example, an electronic voting system called *Automark*, which creates a voter verified audit trail with an audible capacity for voters with visual impairments, is being considered for certification. Because it uses a touch screen interface that prints onto an optical scan ballot, it also accommodates voters with limited English proficiency. Although this system is not yet certified, it appears to have enormous potential.

Many have called for a voter-verified paper trail (VVPT) to address the security issues regarding DREs. However, adding a paper trail to electronic voting systems is not the ultimate panacea for the potential problems inherent with a major election. While a paper trail might alleviate some of the security concerns, it would also disadvantage those with limited English proficiency and most assuredly disadvantage the disability community. Hence, the use of voter-verified paper trails should be implemented only as a short term solution to ensure voter confidence and should only be used in conjunction with alternative technology that permits voters with disabilities and limited English proficiency to verify their votes independently and privately.

### **Plan for 2004 Presidential Election Season**

We realize that it is unlikely that all districts will be able to purchase DREs with contemporaneous voter verifiable trail capability before the 2004 election, so we have developed implementation guidelines to help ensure the security and integrity of the 2004 election. Reality dictates that states should consider the use of VVPTs with DREs for the 2004 election since they provide the best method of voter verification at this time.

**In general, we encourage all counties that currently have DRE's to retrofit them with voter-verified paper trails and ensure that each poll site also have alternative, yet equivalent, technology for the disability and language minority communities, for the 2004 election. For those counties with optical scan systems, we recommend that they be retrofitted with more accessible options to accommodate all communities. For those counties in the process of purchasing new voting systems, we recommend considering systems such as the *Automark* model.**

The guidelines listed below provide a more detailed framework, although not comprehensive, for improving the reliability, access and security of existing voting systems.

- Backup paper ballots for all districts without VVPTs,
- Randomly sample at least 5 % of districts within each state,
- Conduct an independent review of source codes,
- Update election administration security procedures, for instance:

- Only permit the use of certified systems, eliminating the possibility of uncertified and potentially vulnerable voting systems.
  - Put in place clear procedures for polling place operations.
  - Prohibit vote tallies from being transmitted via phone lines or the Internet, which prevents a hacker from using those avenues to gain access to the voting system.
  - Restrict physical access to voting equipment, including monitoring of users, etc.
  - Update equipment management practices.
  - Develop and implement statewide security plans, binding on local jurisdictions, including the dedication of security personnel for monitoring, testing and prevention.
  - Require testing, during certification, upon delivery, prior to, and on and after Election Day.
  - Implement parallel monitoring, in which machines are randomly taken out of service and tested on Election Day, in order to detect the presence of any “Trojan Horse” code that might become active and alter vote tallies only at a given time.
  - Ensure that election officials maintain control over ballot creation and loading onto the voting machines.
- Encourage the use of absentee ballots for all districts without VVPTs,
  - Require extensive poll worker training on the current voting systems and Election Day procedures,
  - Encourage independent monitoring of poll sites through programs like People For the American Way Foundation’s non-partisan Election Protection Initiative, and
  - Isolate individual voting machines, thus preventing any potential vulnerability in one machine from being used to access and alter the programming of other machines.

## Legislation

In response to the security concerns raised about DREs, a number of legislative proposals have been introduced. Congressman Rush Holt (D-12<sup>th</sup> NJ) was the first to introduce such a proposal, the Voter Confidence and Increased Accessibility Act of 2003 (H.R. 2239). Senator Bob Graham (D-FL) has introduced the Senate companion (S. 1980) of this bill. Congressman Holt’s proposal would require the use of VVPTs and would add more security requirements such as random audits, federal certification of the technology used for registration lists, and paper ballots for districts unable to retrofit their current systems with VVPTs.

Due to various concerns expressed by historically disadvantaged communities regarding VVPTs, Senator Hillary Clinton (D-NY) has recently introduced an alternative legislative proposal, the Protecting American Democracy Act of 2003 (S. 1986), that would instead require the implementation of voter verified trails with DREs, but not *necessarily* the use of paper. Likewise, it would also add more security measures to the election process. This proposal appears particularly promising because it contemplates the development of better systems of electronic voter verification that would have the advantage of preserving full and equal access for people with disabilities or other historically underrepresented voters.

Additionally, we are aware of other legislative proposals that are yet to be introduced which appear to be similar to that of Congressman Holt, but with extra security measures.

We share the goal of these current legislative vehicles to advance the purposes of HAVA and to preserve the integrity of the electoral process. We must and will remain vigilant to the potential for negative, intended or unintended, consequences of provisions that could be included in any federal legislation that moves forward dealing with such crucial and complex issues. We must and will work to ensure that the goals of HAVA and the legal protections included in other laws, such as the Voting Rights Act of 1965, are preserved.

We also urge members of Congress to provide state election officials with sufficient funds to implement HAVA and move swiftly toward adoption of voting technologies that will best ensure fair, secure, and accessible voting in 2004 and beyond. Even in a time of troubling federal deficits, when money can be found for administration and congressional priorities that include tens of billions of dollars for reconstruction and administration in Iraq, the integrity of our elections and our democracy should be treated as an urgent national priority.

While we will advocate diligently for increased federal support for the security related measures in HAVA, we also recognize that state officials have the primary responsibility for ensuring that elections conducted in their states are free and fair. We call on chief state election officials to take full responsibility for updating voting systems and improving the administration of elections, and to put clear processes in place now for ensuring that local election officials have the guidance, equipment, training, and support needed to prevent voter disenfranchisement in this year's elections. Four years after a presidential election was tarnished, and far too many Americans' votes irreparably prevented from being counted, we must not allow delays and finger-pointing to permit the integrity of another national election to be called into question.

We at People For the American Way will continue to work with federal, state and local officials to secure the voting rights of all Americans.