



**CITIZENS UNION OF THE CITY OF NEW YORK**  
**Testimony to the NYC Voter Assistance Commission**  
**on the Public Education and Implementation of New Voting Machines**  
**September 29, 2010**

Good afternoon Chair Kraus and members of the NYC Voting Assistance Commission (VAC). My name is Alex Camarda, and I am the Director for Public Policy and Advocacy for Citizens Union of the City of New York. Citizens Union is an independent, non-partisan, civic organization of New Yorkers who promote good government and advance political reform in our city and state. For more than a century, Citizens Union has served as a watchdog for the public interest and an advocate for the common good.

We thank you for allowing for public comment on methods to increase and improve voter participation, outreach, and administration in New York City and giving Citizens Union the opportunity to present its views on this matter.

Citizens Union has, over the last several years, monitored the Board's efforts to implement the provisions of the federal Help America Vote Act (HAVA) of 2002, providing guidance and advice to the Voter Assistance Commission, the Council Governmental Operations Committee, and the Board itself. During that time, Citizens Union has suggested criteria for the selection of new voting machines, advocated for increased funding to implement HAVA, and issued opinions on the training of poll workers and educating the public about the new machines. Citizens Union Foundation, our sister organization, worked in 2001 and from 2004 to 2008 to recruit poll workers for the City and reported on the experiences of some of those applicants, in training or while working on election day.

The debut of the new voting machines on primary day revealed many problems in election administration in New York City. There were anecdotal reports of all of the following issues:

**Poll Sites Opening Late**

The reported reasons for delays ranged from scanners not arriving on time to police officers not arriving on time with keys to unlock doors to school officials not make polling places available before Tuesday to allow for timely delivery of voting machine. Whatever the reasons, these delays likely resulted even lower participation than was already expected for a typically low-turnout election.

**Voters' Privacy Being Compromised**

A few examples of this are voters not being given privacy sleeves to place their ballots in, privacy booths being positioned in a way to allow others to watch ballots being filled out, poll workers collecting ballots from voters, voters not being informed that their ballots could be inserted into the scanner upside-down, and poll workers not standing a sufficient distance away from voters as they used the ballot marking devices (BMDs) or as they inserted their

ballots into the scanners. And when ballots were voided, they were not always properly handled, allowing others to see voters' choices. Many of these issues could have been avoided if poll workers had been trained to be sensitive to privacy.

### **Confusing Messaging Related to Overvotes**

While we credit the Board of Elections in the City of New York (City Board) for its outreach to voters through voting machines demonstrations held throughout the City in partnership with local organizations – Citizens Union held such a demo with the City Board – there were still aspects of the voting process that confused voters. When ballots were filled out with an “overvote” in which more candidates were selected than allowed for a particular race, the scanners notified voters of this occurrence, but did not clearly offer a remedy. Rather than notifying voters that their vote in that particular race would not count if they continued without filling out a new ballot, the screen prompted voters to “cast ballot” with the green button, or “don’t cast – return ballot” with the red button. Many voters may have found these prompts confusing. Citizens Union advocated that there be greater clarity when the process was being developed, but unfortunately no changes were made. Given the possibility for confusion, Citizens Union later recommended to voters that they use the ballot marking devices to fill out their ballots, as they help to prevent errors such as overvotes, and ensure that voters are notified when they do not vote in every contest.

### **Mechanical Failures**

There were reports of scanners not effectively taking in ballots, in part because perforations were not removed. Scanners produced error messages in some instances when ballots were received, creating confusion among those voters as to whether their vote actually counted. In my own experience using a ballot marking device at Frank Sinatra High School in Astoria, the ballot jammed in the machine when printed, and made a horrible screeching noise. While the helpful inspectors were able to remove the ballot, my vote was exposed because of the technical assistance. In general, it seems the more assistance one needs the greater the likelihood that privacy can be compromised.

While there were reports of all these problems, it is difficult to ascertain the extent of the problems because of the lack of data available as to how frequently they actually occurred. The Board has stated that 71 polling sites of 1,358, or 5 percent, opened late on Primary Day. As of forty-eight hours after election day, Public Advocate Bill deBlasio compiled complaints related to a broad array of issues at over 150 polling stations. Beyond that, there has been little quantitative data although the Board has promised to finish a report summarizing the Primary Day problems and would have it available to the public a couple weeks before the November election. Citizens Union believes that the Board's answering of questions posed by the Council, the Public Advocate and other organizations is the first step in identifying what went wrong on Primary Day, followed by appropriate steps to rectify those problems.

### **Recommendations for Reform**

#### **Before November 2<sup>nd</sup>**

In the short term, Citizens Union believes it is incumbent upon the boards of election throughout the state to conduct additional trainings to ensure that poll workers are able to better provide for privacy and the smooth running of elections on November 2<sup>nd</sup>. If training is not possible for all poll workers, this could be conducted with a smaller group of poll inspectors or other supervisors, who would then provide directives to all on-site poll

workers. Citizens Union recommends that there be additional training and new requirements to address issues stemming from the Primary Election, such as:

- i. earlier arrival times for poll workers on site to address any deficiencies such as broken machines or insufficient numbers of scanners;
- ii. informing voters of their ability to place ballots upside down in the scanner;
- iii. requiring poll workers to place privacy booths in locations that do not face public areas;
- iv. requiring poll workers to pre-void ballots that have been ripped or are unlikely to be scanned correctly; and
- v. instituting greater training regarding fixing broken voting machines.

### **Long-term Recommendations**

- i. The Board should report details of its operations to the Mayor's Preliminary and Final Management Report. The Board should go beyond what is included in its annual report which highlights voter registration totals, and also provide information on the number of affidavit ballots cast, the number of those deemed invalid, the traffic received by the Board website, the number of calls received by the voter hotline, comprehensive poll worker statistics and other information that would help the public understand how the Board operates.
- ii. The Board should post sample ballots on its website educating the public on the new machines, something long requested by Citizens Union and other good government organizations, and done by numerous other elections bodies throughout the country.
- iii. The Board should also create a dynamic online application form for the public to apply to become poll workers, instead of the static pdf download, thereby reducing the obstacles to applying to work at the polls and the time and effort needed to process hand-written requests.

As for the VAC itself, consistent with its mission to monitor voting and increase voter participation, we respectfully submit that VAC should consider running its own poll worker recruitment program, reaching out to non-traditional sources and compile data on the experiences of those workers in preparation for and on election day. Citizens Union did this itself as previously mentioned and, in 2006, was able to bring in 3,000 poll workers, 10 percent of the total employed by the Board, with a small staff of 2 employees. We think the VAC could have similar success and thereby address some of the issues that arose on Primary Day related to inspectors.

Thank you again for providing the opportunity for Citizens Union to provide its thoughts on Primary Day.

I am happy to answer any questions you might have.