

CITIZEN ELECTION OBSERVERS' GUIDE

People are the CEO's of their elections. The law states that you have the right to observe the elections process.

Elections Code section 2300 is the Voters' Bill of Rights and states:

- (9) (A) You have the right to ask questions about election procedures and observe the elections process.
(B) You have the right to ask questions of the precinct board and election officials regarding election procedures and to receive an answer or be directed to the appropriate official for an answer. However, if persistent questioning disrupts the execution of their duties, the board or election officials may discontinue responding to questions.
- (10) You have the right to report any illegal or fraudulent activity to a local elections official or to the Secretary of State's Office. . . .

If possible, hold questions until the demands on the poll workers allow them to answer. Also consider calling the Registrar of Voters for answers at the hotline number 800-696-0136 or 858-565-3360. Contact Psephos at 760-420-5488.

Several reasons exist to justify the effort by Citizen Election Observers (CEO's) to provide oversight of elections: 1) Your presence creates an environment that makes elections transparent. 2) The effort is an opportunity to collect evidence that could be used for an election contest, if justified. 3) The effort creates a sense of ownership of elections that is missing when government takes control of every aspect of the means by which government is itself controlled.

HOW TO DOCUMENT

Create Evidence, Not Anecdotes

Make sure you know the precinct number of the polling place you are documenting. Get the names of the poll workers.

You can document elections by making notes, obtaining copies, making audio recordings, taking photographs, and filming video. Normally, recording public events where no expectation of privacy exists does not violate privacy rights. The Elections Code states that no person may, *with the intent of dissuading someone from voting*, photograph, videotape, or otherwise record *a voter entering or exiting a polling place* within 100 feet of the polling place.

The official policy of the San Diego County Registrar of Voters is that photography of the elections process is permitted before the polls open and after the polls close. The Registrar of Voters has published a prohibition against *any* photography at the polling place while the polls are open notwithstanding the very limited circumstances addressed by the law. Psephos has taken the position that the Registrar of Voters is exercising authority she does not have. (See www.psephos-us.org/election_preparedness) The Registrar of Voters has not responded to requests by Psephos for her to produce the authority on which the prohibition is based. Take your own counsel on this issue. If you conclude that the Registrar of Voters has the authority to prohibit you from documenting your election with photography, don't do it.

Our goal is to ensure that the election is successful. If your efforts to document the election undermines the lawful acts need to administer it, then the effort is self-defeating. Therefore, do not create a continuing distraction that interferes with the voting process. Treat poll workers with respect, and require the same from them. Start with the belief that poll workers share our goal of

ensuring transparency and verifiability in elections. Be proactive when poll workers demonstrate that they do not share that goal.

WHAT TO OBSERVE AND DOCUMENT

The elections process on election day can be conveniently broken down as follows:

Opening the polling place

Voting

Closing the polling place

Canvassing the votes

OPENING:

- Citizens have a right to observe the set up and opening of the polls. If poll workers attempt to exclude you, call the Registrar of Voters at the hotline number 800-696-0136 or 858-565-3360.
- Observe and document that the seals on the voting machines, if any, are intact.
- Inspect and photograph both sides of the seal log that is signed by the poll workers testifying to the fact that no evidence of tampering of the seals was apparent at the opening of the poll. The seal log form can be viewed at www.psephos-us.org/election_preparedness.
- Inspect and photograph the ballot inventory form.
- Observe and document that the first voter is required to verify that the ballot box is empty, and that the voting machines have produced a zero count report.
- The ballot box must then be sealed with the seals provided.
- Observe and document that the polls open on time.

VOTING:

- Chain of custody of the ballots is the most critical security aspect to an election. You have a right to observe the ballot box throughout the day. Note and report any activity that threatens the integrity of the ballot box.
- The box holding the hand-marked paper ballots, the cannister in any voting machine holding the paper printout of ballots, and the memory card which is part of any voting machine, all contain ballots and must be treated as ballot boxes. They must all be subjected to a secure chain of custody.
- All eligible voters have a right to vote. Document whether voters are being denied a ballot.
- Observe and document the operation of the voting machines and note any breakdowns.
- Especially note any on site maintenance of the machines and any replacements of the machines, or their components during voting. The machines are certified by specific procedures and sealed in a ready condition. Any maintenance that includes removing seals or replacing parts void the certification. The attached printer is not subject to certification represented by the seals and may require maintenance. But, the seal on the canister holding the paper printout of the ballots must not be compromised.
- Observe and document whether the polling place is appropriate. If the setting is intended to influence a voter's choices, like a church displaying religious symbols or messages in

the presence of voters, document the symbols and messages and report them to the Registrar of Voters at the hotline number 800-696-0136 or 858-565-3360.

- Ask the poll workers for the address of the regional collections center where they will transport the ballots after the polls are closed.

CLOSING

- Poll workers must allow public observation of the closing and reconciliation process. If poll workers attempt to exclude observers, state firmly that you have a right to observe and that you are exercising that right. If in spite of an assertion of rights observers are excluded, report this immediately to the Registrar of Voters at the hotline number 800-696-0136 or 858-565-3360 and demand that the poll workers be instructed to open the polling place to the public. Document the response.
- Several forms will be used by the poll workers upon closing including the Certificate of Performance and the Ballot Statement. Either photograph the completed forms or copy the information on your own version of the form which can be downloaded at www.psephos-us.org/election_preparedness.
- Observe and document whether the number of ballots cast is reconciled against the poll book that shows the number of voters issued at ballot.
- Observe and document whether all ballots, whether cast, spoiled, surrendered, or not cast are accounted for.
- Observe and document whether all ballots are resealed into the ballot box for transportation. Once sealed, the ballot box must not be opened until it reaches the Registrar of Voters. Watch for poll workers sealing the ballot box, realizing they forgot to put something in it, and cutting open the seal. This must be reported immediately. Anything not included in the ballot box once sealed should be transported outside the ballot box.
- If possible, someone should meet the truck that will transport the ballots from a regional collections center and document the contents of the truck before any precinct ballots are collected.
- Follow the poll workers to the regional collections center to ensure the chain of custody. Document any detours.
- At the distribution center, the boxes and machines are delivered to a waiting truck which remains at the center until all precincts for that center are accounted for.
- Ensure that all of the precincts are accounted for before the truck departs.
- Ensure that no person has access to the storage area in the truck during transport.
- Note the number of any precinct attempting to transport the ballots directly to the Registrar of Voters. This is a violation of the chain of custody.
- Follow the truck to the Registrar of Voters. Note and stops or detours to ensure the ballots are not tampered with.
- The trucks will queue in a line behind the Registrar of Voters and you will not be able to follow them in your car. You may attempt to follow the truck on foot.

CANVASS

Absentee Ballots

For the seven business days preceding the election and during the day of the election, absentee ballots are being processed. Observing the absentee ballot process is beyond the scope of this

document. In summary, the ballots may be counted by the machines during this period, but the count may not be accessed until the polls close. You may observe the processing.

Precinct Ballots

- Observe the arrival of the ballot boxes. Document any boxes being delivered with seals that have been compromised.
- Observe the remaking of the paper trails from the voting machines to scannable paper ballots.
- Ensure that the memory cards from the precinct voting machines are not being read by the central tabulator.

Scanners (Diebold “AccuVote”)

The “AccuVote” has a history of being unreliable and is easily hacked. Nevertheless, paper ballots will be read by scanners. At this point, the process becomes secretive.

Expect that when the ballot boxes arrive, a poll worker will identify the precinct the box came from and select the memory card previously prepared to collect the ballots from that specific precinct. Unlike at the opening of the polling place where the first voter verifies that the ballot box is empty, no voter can verify what the memory card/ballot box contains.

The memory card will be inserted into the scanner and a “zero report” will be produced. The ballots for that precinct will then be fed into the machine for processing. Once processed, the poll worker will print a results report and an audit log. The memory card will be removed from the scanner and transported to a series of touchscreen voting machines (Diebold’s TSx). The chain of custody of the memory card should be transparent and observable. The memory cards are fed into the TSx’s which are networked with the central tabulator (GEMS) which is supposed to do the final tally.

In spite of the secrecy of the vote count, you can still document the following:

- Ballots and memory cards are subject to a secure chain of custody that is transparent.
- Cards won't upload: Document whether the card is replaced.
- Scanner breakdowns: Document the nature of the problem, whether all the ballots are recounted or the scanning continues with the remaining ballots, whether the memory card is replaced, and whether the problem scanner is replaced and either a new memory card or the existing memory card is used in the replacement scanner.
- Reconciliation, tally, or audit results don't add up or match.
- More votes than voters are reported.
- Votes show up in precincts with no registered votes.
- The chain of custody of the memory cards from the scanner to the central tabulator is secure and transparent.
- Whether the scanners are networked to the central tabulator.

Central Tabulator (GEMS)

The central tabulator is basically a desk top computer. The computer is located in a secure room with observation windows. In spite of the secrecy of the vote count by GEMS, you can still do the following:

- Document whether you can see the computer screens and everything else in the counting room.
- Document whether the central tabulator is attached to a network firewalled from the Internet or whether there is a direct or wireless connection to the Internet.
- The Registrar of Voters is required to report results to the Secretary of State during the canvass. Document whether the data is being uploaded to the Secretary of State across the Internet directly, or whether the data is removed from the central tabulator on a separate storage medium, like a CD-ROM, and inserted into a computer system independent of the central tabulator to transmit the data.
- Document the names and positions of each person who enters the counting room.
- Document whether anyone working for a vendor touches the tabulator.
- Document whether you can observe the handling and processing of memory cards or cartridges.
- Collect each interim results report and *keep it*, especially if election officials come around and try to collect the reports or ask for them back, and especially if they say there is an error on the reports.
- Document chain of custody when things are moved from one place to another.
- Document the time and circumstances when you see conferences or huddles. (Note: Some elections offices use a “wrangler” who will attempt to distract observers during time periods when there are significant problems.)
- Results for a candidate go down when more votes come in.
- Negative votes are being counted or machines are counting backwards.
- Reconciliation, tally, or audit results don't add up or match.
- More votes than voters are reported.
- Votes show up in precincts with no registered votes.

Summary

Throughout the day be flexible, patient, and vigilant.

No guide such as this can cover every possible occurrence. So, exercise good judgment and take initiative.

Your efforts ensure that elections are not pre-canned, commercial products delivered to give citizens the false impression that they are exercising sovereignty over government created to serve the People. Only you can make sure that elections are not just theater.

At the end of the day, reflect upon the contribution you have made to ensuring that democracy in the United States is vibrant and alive. A living democracy can only exist when citizens assume ownership of the process that makes them free.

This Psephos publication is subject to the disclaimer located at

<http://www.psephos-us.org/disclaimer.html>

Psephos is a non-profit, not-partisan organization committed to ensuring integrity in elections.

© 2008 Psephos. All rights reserved.