



CITIZENS UNION OF THE CITY OF NEW YORK
Testimony to the NYC Council Governmental Operations Committee
on Issues Surrounding the Implementation of
New Voting Machines on Primary Day
October 4, 2010

Good afternoon Chair Brewer and members of the Council Governmental Operations Committee. 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 issues surrounding the implementation of new voting machines on Primary Day 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 surveyed the experiences of 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. These have been widely reported in the press and, in the last week, been the topic of discussion at a hearing held by the State Senate Elections Committee and a meeting of the Voter Assistance Commission (VAC). Rather than repeat the problems that arose, I'd like to take the opportunity to comment on the City Board's (Board) explanation related to some of the issues that came about on Primary Day.

Problems on Primary Day and Explanations of the City Board

The Board has asserted that the portrayal in the press of the primary day was, in a word, "incorrect" according to Executive Director George Gonzalez. Legal Counsel Steve Richmond echoed these sentiments in a meeting of the Voter Assistance Commission on September 29th, stating that the problems on Primary Day were typical and comparable to those of other elections. Citizens Union does not believe the Board has supported that assessment, as it has not revealed any data as of yet that would quantitatively show how this election compares to those in past years. We urge the Board to do so in response to the

request of this committee and others so an evaluation based on actual data, rather than anecdotes, can be made. The Board should, for instance, make public on its website its incident logs compiling calls by poll workers to the Board and calls from its hotline from the primary this year and last year so a comparison can actually be made.

The anecdotal problems that were reported by various sources on Primary Day were generally either operational in nature or linked to the performance of poll workers. Chief among the operational problems was the late opening of 71 poll sites, or 5 percent of all poll sites, as identified by the Board. In its testimony before the Senate Elections committee, the Board has identified two short-term causes that had a cascading effect, ultimately causing poll sites to be unready to receive voters when polls opened. The first was last minute poll site changes in Manhattan and Brooklyn that caused poll worker assignments to change, thus causing some to not arrive on time at sites or not to show up at all. The Board has not yet identified publicly where and why these poll site changes occurred other than general references to school construction, whether this will happen again in the general election, and what steps can be taken to prevent last-minute changes of poll sites. We urge the Council to pursue this as part of their larger set of requests to the Board.

The second short-term cause cited by the Board for poll sites being unready to receive voters was the time-consuming testing of every scanner and ballot marking device (BMD) of the Democratic primary ballot. This 12-hour, labor-intensive process apparently caused late equipment delivery to poll sites, which was compounded by some schools not being open in advance for machine delivery, and custodians and police officers being late on the morning of September 14th. The Board has not made clear how this will be resolved for the General Election. It is not clear if just knowing that testing the scanners and BMDs takes many hours is sufficient for preventing future delays. Citizens Union urges the Council to find out what measures are being taken while obtaining feedback on their other data requests from the Board.

Problems related to poll worker training, which range from greater awareness about voters' right to privacy to awareness that Primary Day includes voters in parties other than the Democratic party, were the other major category of problems. While Citizens Union is pleased that the Board will conduct another training session for Poll Site Coordinators before the general election, it has indicated it will not hold another full poll worker training. This is worrisome, considering so many problems can ultimately be linked to poll worker training, and not all poll sites have Coordinators. It is even more troubling in light of the testimony of District Leader JoAnn Simon of Assembly District 52 in Brooklyn to the State Senate Elections Committee, who indicated that poll workers are routinely given answers to the "test" they are given and learned from pictures rather than the actual new machines during their training.

We call on the Board, in addressing questions from this Council committee and the Public Advocate's office, to identify the major problems on Primary Day and tailor their training of Coordinators accordingly rather than doing a general training covering the entire 230-page manual for poll workers, as implied by their legal counsel at the most recent VAC meeting. We also believe the Board should reemphasize in its training that BMDs are for all voters, not just those who needed assistance. As Citizens Union promoted through the media on election day, BMDs – unlike the electronic scanners – notify voters of undervotes, provide clearer messaging on overvotes, allow for the easy enlargement of font, and reduce the chance of stray marks that may invalidate a vote. Douglas Kellner, the State Board

Commissioner, agreed with this messaging in his testimony before the State Senate Elections Committee, noting that at \$3,000 per ballot cast, these machines ought to be better promoted for use by all.

Funding and the Board

The Board has largely argued that the major long-term causes of Primary Day deficiencies, whether they are linked to poll worker training or are more operational in nature, were the result of a lack of money and time. It may very well be that the City Board was underfunded, as Citizens Union has long advocated for more funding for HAVA implementation and voter education. The Board's own success, however, in making voters feel largely comfortable with the new process is under-reported and under-credited, and can serve as an example of how dollars can be stretched to produce positive results. In the current fiscal climate, one in which Wall Street firms that provide 10 percent of the City's tax revenues are downsizing and reducing the tax base, the Board would be well served to look at its own outreach program as a model for other areas of the agency. Doing more with less is the likely future for the City Board and many other city agencies, whether it's deserved or not.

It is also worth noting that part of the Board's inability to receive adequate funding is due in part to its unwillingness to be more transparent, to routinely track and report data of the kind this committee has asked for, the MMR requests, and most importantly, is vital to improving performance, as made clear by this last election. Citizens Union has long urged that the Board track and make data available for the MMR, something Douglas Kellner, the State Board Commissioner, has agreed the City Board should do, making clear this is not an issue of jurisdiction. Furthermore, given that the City provides the majority of the Board's funds, it is incumbent upon the Board to explain to the City how it uses these public dollars..

The antiquated bipartisan structure of the Board from the Commission itself to the lowest-level positions is also a huge drain on funding. Not only does it undermine the hiring of staff based on merit rather than patronage, which hurts performance, it requires, according to Executive Director George Gonzales, that in many instances, two people must do a job that could be done by one. This is hardly affordable in the current economic climate let alone beneficial for productivity. One need not look any further than the poor quality of too many poll workers, albeit not all, to see the negative effects of this dated structure.

Moving Forward

Before this election, Citizens Union indicated before this committee that it has not as forcefully advocated for greater funding for the Board as it would have if there were greater transparency regarding how it has used public funds. Citizens Union believes the best course going forward is for the Board to become more transparent, track data on its performance and provide reporting for the MMR in exchange for consideration for more adequate funding from the Council and the Mayor. Even if significant additional funding is not soon forthcoming during tough economic times, good government groups, the Voter Assistance Commission and others can help support the Board, as we did with its public education campaign. It's these types of creative public-private partnerships that must be utilized to boost the capacity of the Board, particularly during difficult fiscal times. These partnerships present a viable path ahead that will be far more constructive than a war of words waged in the media that leaves all parties feeling angry, frustrated, and unappreciated.

While Citizens Union hopes a broad agreement exchanging transparency and more meritocracy at lower Board positions in exchange for greater consideration for funding and private partnerships can be achieved, the Council should also consider leveraging its current powers to achieve needed reforms at the City Board to improve long-term performance at the agency if an agreement can't be reached. The Council's powers over the purse, its role in the appointment of Board Commissioners, its ability to subpoena and FOIL documents all give it leverage to persuade the Board to take necessary steps to change. There is also, of course, the ability to pass legislation and while there is ambiguity in regard to the Council's authority related to some specific proposals, Citizens Union would respectfully submit that the Council could be more assertive in creatively using the law to exert authority over election-related matters. The City's campaign finance system stands as an example of what can be achieved when boldness trumps hesitation. With this posture in mind, Citizens Union recommends the following be pursued by the Council legislatively or through its other levers of influence:

Recommendations for Reform

1. **End patronage hiring and implement merit-based hiring for most administrative and poll worker positions;**
2. To acquire details of the Board's operations, **require the Board to report 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;
3. Improve public education and access to information through **system modernization and better use of improved technology so voters can see sample ballots on the board websites prior to Election Day and receive email notifications of election dates, deadlines and other useful information.** 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.
4. **Improve poll worker recruitment by mandating increased outreach through different modes to diverse sources.** For example, conduct more active recruitment efforts among not-for-profit and civic organizations, city agencies and CUNY institutions to encourage a greater involvement of the more civically-minded professionals.

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.