

Testimony of Ken Smukler, President, InfoVoter Technologies

**Presented to the Commission on Federal Election Reform
(Carter-Baker Commission)**

**June 30, 2005 Hearing
Rice University, Houston, TX.**

Note: These remarks and data are based upon the MYVOTE1 National Election Report: Voice of the Electorate 2004. www.infovoter.net.

President Carter, Secretary Baker, distinguished Commission Members, staff and guests:

My name is Ken Smukler. I am President of InfoVoter Technologies.

Allow me to take a moment at the outset to thank the folks who made this testimony possible. The Open Society Institute, JEHT Foundation, Knight Foundation and most importantly, Geri Mannion and The Carnegie Corporation of New York whose vision and passion saved literally tens of thousands of voters in 2004 from the fate of a vote that did not, could not, or would not be counted.

Sunday October 24th, 2004. Day 1. NBC News launches its promotion of the National Election Hotline -- 1.866.MYVOTE1 -- across its cable properties, owned-and-operated stations, and affiliates. Day 1 marked the culmination of months of work by the MYVOTE1 Consortium: the University of Pennsylvania Fels Institute of Government, The Reform Institute, The Common Cause Education Fund, The Hispanic Voter Project at Johns Hopkins University and the National Constitution Center.

Tuesday October 26th. 2004. Day 3. Responding to a reporter's inquiry regarding the nature of call traffic on the MYVOTE1 hotline, I give the following statement that appears in the Philadelphia Inquirer:

"Of the 2000 Florida calls we've taken, the lion's share is coming out of Broward...That might change although it's a little late for Broward to be handing out absentee ballots."

Day 4, NBC6, the local NBC affiliate in South Florida, runs a story, based on the MYVOTE1 data, raising the concern that absentee ballots are missing in Broward County.

Day 5. The Florida Sun Sentinel, citing activity on the MYVOTE1 hotline and its companion, 1.866.OURVOTE, runs a story entitled "Broward To Resend Thousands of Missing Absentee Ballots". The story led with these words,

“Hoping to avoid another presidential election fiasco, Broward County officials scrambled Wednesday to replace tens of thousands of missing absentee ballots, cut long waits for early voting and beef up a phone system deluged with calls from angry voters.”

Broward County 2004 is a cautionary tale for election officials.

In just five days of operation, an election monitoring station in Philadelphia identified problems arising in a county in South Florida triggering a series of events that ultimately forced Broward County to take actions that, in the absence of such a system, may never have been taken.

As technology can empower voters during the election process it equally empowers all of us in the business of trying to improve the system of elections after the polls are closed.

As of midnight Election Day, November 2nd 2004, the MYVOTE1 hotline had taken over 208,000 calls, processed over 102,000 poll location inquiries, attempted to transfer over 96,000 calls to local boards of election and captured over 55,000 audio recordings of voters in distress. Its companion, the OURVOTE hotline, took an additional 205,000 calls and processed an additional 54,000 poll location inquiries.

At the press conference following the April 18th Carter-Baker hearings, Secretary Baker noted that the “cynical view...[would be]...that the easy, bipartisan recommendations were all included in HAVA and that the low-hanging fruit has been picked, if you will. But I remain confident that there is more that we can do.”

Secretary Baker, you were correct on both counts: first, it would be cynical and, indeed, flawed to assume that all of the low hanging fruit had been picked in HAVA; second, there is more that we can do.

For the data generated by the national election hotlines leads to one inescapable conclusion: More voters are let down by our failure to communicate basic information to them in the days leading up to Election Day than are let down by the cumulative breakdowns in machines, provisional balloting, identification requirements, fraud and intimidation combined.

Put another way, if all we did was figure out a way for voters to receive the most basic of electoral information in the days leading up to an election – if all we did was give voters the answers to two basic questions: am I registered to vote and where do I vote -- we would do more to support the franchise in the US than all of the HAVA reforms combined.

Ladies and gentlemen, this is the low-hanging fruit that remains to be picked.

Poll Location Data

Of the 208,524 calls logged into the MYVOTE1 system, 102,058 or 49% simply needed to know where their poll location could be found. Of the [205,877 calls into OURVOTE, 54,778 or 26% selected the poll finder option.

The magnitude of the problem can be seen in the Internet traffic on Election Day running to mypollingplace.com – a national poll locator website. This website received over 3 *million* hits on Election Day.

Voter Registration Data

Of the 55,000 complaints we recorded over the MYVOTE1 hotline – calls that came from every state in the US – registration problems far out paced any other problem type.

The data distributes the calls by problem type as follows:

Provisional Ballots:	1.8%
Mechanical:	1.8%
Identification:	3.6%
Ballot/Screen:	3.6%
Coercion/Intimidation:	4.0%
Poll Access:	13.4%
Absentee:	20.7%
Registration:	38.9%

Note: These numbers are based upon an analysis of 7,500 audio files originating primarily in the states of Florida, Pennsylvania, Ohio, South Carolina, Michigan, California, Texas, and Arizona.

The overwhelming majority of callers citing registration as a problem simply did not know if, in fact, they were registered to vote. They knew that they had filled out a registration form yet, just days before the election, they had not received a registration card -- and time was running out.

To really appreciate the devastating impact of registration failure, I implore the members of this Commission to listen to the voices of voters who first called the hotline just curious, next confused, then frustrated, and finally furious at a system that, through no fault of their own, failed them.

I have said many times that I am like the boy in the movie, *The Sixth Sense* – I hear the voices of voters who, for all intents and purposes in the 2004 election, are dead. You should too.

A review of Secretaries of State websites finds only nine (9) that can get a voter from a street address to poll a location or provide registration

information. I know of only a handful of county websites and no newspaper in the country that provides this information.

The bottom line: In 2004, a properly working phone system at the county or municipal board of election is a lifeline for voters in the days preceding the election; a dysfunctional phone system was, more often than not, a death sentence for the franchise.

In 2004, Phone Systems Failed

The MYVOTE1 hotline was built to enable callers to transfer to their local county board of election after they retrieved their poll location or registered their complaint. The Interactive Voice Response System (IVRS) that processed their call was designed to recognize and tabulate whether the transferred call was picked up by the local board or was met by a busy signal or no answer.

Of the 96,092 calls we attempted to transfer out of the MYVOTE1 system to a local county board of election, only 50,987 or 53% were even answered. If we factor in those that were answered by a voice mail system and never processed by a live operator, only one conclusion becomes clear: On Election Day 2004, a voter placing a call to a local county board of election was more likely to get no one than get an answer.

In the State of South Carolina alone, where we attempted to transfer 3,716 calls, only 652 transferred successfully --- 82% of the calls transferred went unanswered.

Moving Forward

If phones are the problem, phones are the solution: If we insure that voters can access their poll location and registration status in an automated environment by phone, more will vote. It is as simple as that.

This is not an issue of federalization versus states' rights. I have no doubt that the non-profit community and national media networks will continue to provide a national hotline and website as a safety net for voters. But it should be just that: a safety net for voters living in jurisdictions where the first responders, the local boards of election and Secretaries of State, have failed.

There are promising signs on the horizon.

The District of Columbia Board of Elections and Ethics, the first local board to offer voters a choice of DRE and optical scan voting at every poll location, has taken the lead in automating its phone system to include poll locator and registration functionality.

The HAVA directors for the states of Delaware and New Jersey have asked to connect to the MYVOTE1 system to monitor call traffic in their jurisdictions.

We must move to the universal adoption, at both the state and local level, of phone and Internet systems that provide poll location information in an automated environment. Such systems could cut the call traffic running into local boards by 50% on Election Day. Providing registration status in an automated environment may cut call traffic by as much as 75%.

In 2004, the MYVOTE1 Consortium proved that the same technology that for years has been used to buy a movie ticket or train ticket over the phone could be applied to customer service in an electoral environment. The MYVOTE1 Consortium built this technology at a cost that was but a small fraction of the HAVA budget for a state the size of Vermont.

Today I have presented the Commission with a glimpse of the data generated by the MYVOTE1 and OURVOTE hotlines...but it is just a glimpse.

This data tells us things we may find intuitive – like 65% of the callers to the MYVOTE1 hotline were women – and some things that we may find counterintuitive – like areas of high Latino concentration presented a relatively small percentage of callers choosing the Spanish-speaking option.

But it can tell us so much more: which hours of Election Day experience the most call traffic; what percentage of problems came from households with median household incomes less than \$50,000; which machine types posed the greatest problem for voters; where were long lines linked to insufficient machines. Every piece of analysis will provide insight into how to make the business of elections more customer-friendly.

The MYVOTE1 database was designed to create a baseline against which future elections should be measured; a wealth of data to be mined for greater truths about the electorate and Election Day.

The Election Assistance Commission, fulfilling its clearinghouse role under the Help America Vote Act, should immediately acquire the MYVOTE1 and OURVOTE data. The EAC should use its resources to fund a comprehensive academic analysis of the data. In addition, the EAC should work to insure on-line access to this data for state and local election board officials.

Again there are promising signs on the horizon. Senator Dodd, a key architect of the Help America Vote Act has approached the EAC seeking full analysis of and access to the MYVOTE1 data. A copy of the Senator's letter to the EAC is attached to the MYVOTE1 Report.

President Carter, Secretary Baker and Members of the Commission, if we do not address the critical telecommunication failures of 2004, if we do

not listen to the voice of the voters coming through this system and analyze this data in 2005, and if we do not move at the state level to make an automated poll location and registration phone system a reality by 2006, ours will not be a failure of technology, it will be a failure of leadership.

Thank you.