

A Blueprint for Transforming the Boston Election Department

April 7, 2007

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The City of Boston ran out of ballots in 38 of 254 voting precincts on Election Day, November 7, 2006. Mayor Thomas Menino requested a thorough review of the Election Department, and this report is part of that review. I received complete access to officials and documents in the course of this review.

Over the past five months, I met regularly with Boston Election Department staff, and the Department rapidly implemented several reforms. For example,

- In November 2006, Election Commissioner Geraldine Cuddyer instituted weekly team meetings to improve communication within the Department.
- In January 2007, and upon the request of the Election Advisory Committee, Mayor Menino introduced legislation asking the State of Massachusetts to allow for “Early Voting,” by which citizens could vote in person up to two weeks before Election Day. If the State allows this change, it will be easier for shift-workers to vote at their convenience, and the normal rush of voters to the polls on Election Day will be reduced.
- Also in January, the Election Department began requisitioning new secure ballot containers with the extra capacity needed to handle multiple-page ballots.
- In February, the Mayor committed to revitalizing the annual City List process.
- In March, the Election Department was encouraged to hire three new employees for then-vacant positions, and those three positions have now been posted.
- Also in March, the Election Department began construction at the Frontage Road warehouse to handle storage of soon-to-be-delivered “handicap accessible” machines that are required by the Help America Vote Act (HAVA).

Still, a great deal of work needs to be done, requiring a Departmental reorganization and sustained investment in personnel and training.

The City has the capacity, and presumably the will, to transform the Boston Election Department into a national model for mobilizing new voters, removing physical and

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language barriers to voting and running fair and efficient elections. Through analysis of voting records, election laws, and 59 extensive interviews with community leaders and City employees, a consistent picture of the Department emerged.

Fundamental problems with the Boston Election Department do not stem from the personnel who are there but from the people who are *not* there. The Department is understaffed, yet responsibilities have grown considerably since the 2002 passage of HAVA. The Boston Election Department has not adjusted to keep pace. There is no effective system for internal training. There is no common library where up-to-date reference materials about election laws are maintained. The computer systems are antiquated and poorly maintained, and even the phone system is out-of-date.

Often criticized by community activists, the Boston Election Department has, for years, operated in a defensive and reactive way. Large budget cuts between 2000 and 2003 accompanied the replacement of bulky “lever” voting machines, but budget cuts continued even as post-HAVA state aid failed to materialize. By November 2006, the Department operated with a skeleton crew while implementing a U.S. Justice Department agreement aimed at removing language barriers for Chinese- and Vietnamese-speaking voters.

The Boston Election Department does not have the personnel, training, or funding consistently to oversee smoothly run elections and to produce an annual City List of residents.

There have, however, been some recent successes since 2005, often mentioned by interviewees outside of the Department: Language and physical access to the voting process have improved, and an Election Advisory Committee – mandated by the agreement with the Justice Department – has proved crucial to the operations of the Department. Commissioner Geraldine Cuddyer should be commended for the Department’s work on language and physical access issues.

This Report closes with 14 recommendations for transforming the Department. An appendix includes a proposed organization chart along with priorities for hiring eight new employees over the next two years. Documentation concerning how to implement many of these reforms have been passed along to the Department.

I begin, however, with a very general recommendation aimed at shaping how staffers within the Department view their job. The Department needs to be proactive, working to support the department's **dual missions**:

- to **maximize the number of active voters in the City of Boston** and
- to **maintain an accurate annual City List of residents**.

Accordingly, the Department's name should be changed to
The Boston Department of Voter Mobilization.

Background and Discussion:

In the closing days of the 2006 Massachusetts gubernatorial campaign, all signs pointed toward high voter turnout. Turnout is usually a third lower in “off-year” elections, when no presidential candidate is on the ballot.² Massachusetts citizens, though, were animated by an energetic grass-roots campaign in support of Deval Patrick's gubernatorial bid. That campaign pitted Patrick against Republican Lieutenant Governor, Kerry Healey. Furthermore, a controversial and heavily-advertised initiative petition, Question 1, sought to expand the sale of wine in grocery stores.

Nationally, more voters were paying attention to politics than in typical off-years because of opposition to President Bush's policies in Iraq and a general sense that the U.S. House and Senate might switch control from Republicans to Democrats. By all accounts, then, the Boston Election Department should not have been surprised when turnout did, indeed, surge on Tuesday, November 7, 2006. Nationwide that day, turnout topped 40 percent, the highest for an off-year election in fourteen years.³ In Boston, 156,361 people voted – an increase of 61 percent over the municipal elections a year earlier and at least 20 percent more than in a “typical” Boston off-year election.⁴

² For a general review and discussion, see Brian J. Gaines, “The Importance of Empirical Election Research for Understanding the Role of the Citizen in a Modern Democracy,” Department of Political Science, University of Illinois at Urbana-Champaign, September 16, 2005.

www.civiced.org/pdfs/germanPaper0905/GainesCCEEsay.pdf.

³ Curtis Gans, “Bush, Iraq Propel Modest Turnout Increase,” American University, Center for the Study of the American Electorate, November 9, 2006.

www.american.edu/media/electionexperts/2006_Voter_turnout_AU-CSAE.pdf.

⁴ There were 346,343 Boston residents registered to vote on November 7, 2006, of whom 156,361 successfully voted. 97,160 voted in the November 8, 2005 municipal elections. Note that the number of “registered voters” is clearly inflated, because it includes “inactive voters” who have not responded to the annual city census. In many cases, those voters have moved, but remain on the list of possible voters for at

Boston is New England's largest and most densely populated city. The city's electoral map is divided into 254 precincts, and thirty-eight of those precincts ran out of ballots on Election Day. Most of these polling locations received additional ballots within several minutes,⁵ but five precincts were without ballots for more than an hour. These shortages tended to occur during the evening rush hour when many people were voting after work and when additional ballots were difficult to deliver.

Long-time employees of the Election Department did, indeed, anticipate the surge in voters, but by November 2006 the Department had been depleted of personnel and expertise.

Precincts that ran out of ballots on Election Day 2006 were distributed across the City. *There is no correlation between the ethnic or language compositions of precincts that ran out of ballots.* Boston does not have a "City Ballot" because City Council



boundaries run throughout the City and because different bilingual ballots are delivered to polling places based on language communities represented there. Accordingly, 39 different ballots are printed for Boston's 254 precincts, located in 181 polling places. The City's

system for sending out ballots broke down on November 7, 2006. There should be no excuses for this failure, and nothing like it should ever happen again. There were, though, several contributing causes, including:

- Ballots were printed on two pages, yet storage containers for securely delivering ballots to precincts were designed for one-page ballots. This effectively cut the typical transportation capacity in half.
- The two-page ballot, understandably, confused some voters and significantly increased the percentage of "spoiled" ballots.

least 5 years. The November list of "active voters" -- 278,127 -- is a more accurate estimate of the true registration base, of which 56.23% voted.

⁵ For example, Ward 1, Precinct 13 (in East Boston) ran out ballots at 6:31 p.m., and additional ballots were available at 6:32 p.m. Ward 2, Precinct 6 (in Charlestown) also reported a one minute shortage at 7:20 p.m. Most shortages lasted less than 20 minutes. See also, Donovan Slack and Yvonne Abraham, "City Scrambles to Deliver Ballots as Voters Wait," *The Boston Globe*, November 8, 2006.

- As precincts ran through ballots, word spread among polling locations about possible shortages, and Department phone lines were inundated with calls for additional ballots.
- The Department had no effective way of determining which calls for more ballots were urgent and which were simply precautionary. As a result, some precincts received multiple shipments of ballots that would not be needed, diverting the Department's delivery resources from sending ballots to precincts that were truly in need of ballots.

Elections in Massachusetts are governed under state laws (Title VIII of the Massachusetts General Laws, and especially Chapter 54), with the Secretary of the Commonwealth serving as the chief election officer. Day-to-day operations of elections, however, are handled by local election officials. In most of Massachusetts' municipalities, Town Clerks also handle elections. The Secretary as well as all local election officials are also subject to the federal Voting Rights Act, the Help America Vote Act, and court rulings aimed at making voting fair and accessible.

Massachusetts' chief election officer is William Galvin, Secretary of the Commonwealth, and he oversees the State's Election Division.⁶ On December 15, 2006, Secretary Galvin and Boston's Board of Election Commissioners agreed that the City had unintentionally violated a state law requiring polling places to have enough ballots for each registered voter.⁷ Mayor Menino and Secretary Galvin agreed that the Secretary would appoint, "after consultation with the City of Boston, an individual or individuals" to "assist Boston Election Officials."⁸ Most of the recommendations in this report can be pursued without the assistance of the Secretary of the Commonwealth, but it is crucial that the City and the Secretary continue working together.

On paper, Boston's Election Department is governed by a four-person Board of Election Commissioners, with the Chairman serving as Department Head. The general structure of Election Boards in Massachusetts is outlined in M.G.L. 51, section 16a, though the City of Boston is further restricted by statutes that make currently make it

⁶ <http://www.sec.state.ma.us/ele/eleidx.htm>

⁷ Massachusetts General Laws, Chapter 54, Subsection 45.

⁸ "Settlement Agreement and Agreed Order with the City of Boston Pursuant to M.G.L. c. 56, s.s. 60 and 950 C.M.R. s.s. 56.05. December 15, 2006.

impossible for the Mayor unilaterally to reform or restructure the Commission.⁹

Commissioners are appointed by the Mayor and are selected from a list provided by the town Republican Party Committee and by the town Democrat Party Committee.

The current Board has three members, two Democrats (Geraldine Cuddyer, Michael Chinetti) and one Republican (Nancy Hairston). During Nancy Lo's tenure as Board Chairman, Commissioners were relieved of oversight functions and were given jobs within the Department that had previously been done by other City employees. Indeed, Ms. Hairston's promotion to the Board involved few changes in her daily functions, and she continues the same kinds of clerical tasks that she performed when she was part of the front office staff. This division of labor continued under Commissioner Geraldine Cuddyer, and today the Board has essentially ceased to function as an independent oversight body.

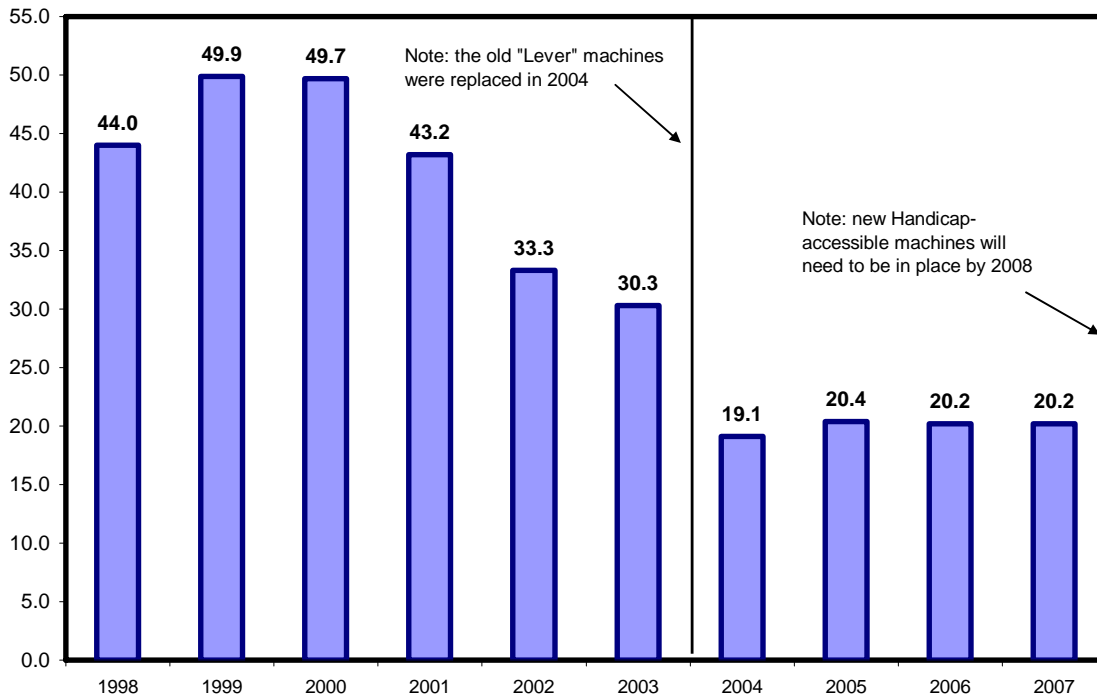
Budget cuts over the past 6 years weakened the independent capacity of the Election Commission, since Commissioners needed to take on staff responsibilities simply to ensure the smooth running of the 2004 elections.

Cost comparisons with other municipalities in the United States are not straightforward because the Boston Department runs the annual City List, while no other major municipalities in the country face similar demands. Indeed, at least a third of the annual person-hours in the Boston Department are devoted to the City List, yet Boston still maintains a smaller staff than election departments in comparable municipalities. Furthermore, Massachusetts is one of just seven states in which elections are *not* substantially financed and administered by county boards. Very little sharing of personnel and expertise across jurisdictions happens in Massachusetts. The net result is that the Boston Election Department is required to do more than any comparably-sized city in the United States, but is attempting to do so with considerably fewer resources.

Though the City of Boston is under real fiscal pressure, there are very few, if any, budget savings in the Election Department. To fulfill the Department's dual missions of promoting and running fair and efficient elections, and maintaining an accurate annual City List, I recommend hiring eight additional full time equivalent personnel over the next two years.

⁹ St. 1895 c. 449 §§ 2-8; St. 1913 c. 835 § 78; Rev. Ord. 1961 c. 13 § 1; CBC 1975 Ord. T2 § 200

**Filled "Full Time Equivalent Employees" in the Boston Election Department,
1998-2007**



Furthermore, because of new voting machine requirements under the Help America Vote Act (HAVA), the City will need expanded storage capacity for handicapped-accessible machines. This most likely means renovating and adding new security protocols at the warehouse on Frontage Road.

By the late-1990s, the Election Department (excluding the Listing Board) employed nearly 50 full-time equivalent personnel. Between 2000 and 2003, that number was cut to approximately 30. Today there are only 20 filled full-time equivalent personnel in the Department, including the three Commissioners.

There were several reasons for cutting Department personnel over the past eight years. First, the City's move away from bulky and difficulty-to-maintain Shouptronic Mechanical Level voting machines in 2003 meant that the Warehouse no longer needed a large staff to repair and transport equipment. Second, the Secretary of State's growing use and promotion of the "federal form" for registration meant fewer front office staff were needed to handle registrants who walked in the door of the Department. And third, the economic downturn in the City after the dot-com bubble burst necessitated cutting budgets throughout City government.

It is clear that recent budget cuts went too far, placing the Department in a precarious position, unable to maintain an accurate City List or effectively to oversee the new post-HAVA demands on local elections administrators. Whatever excess needed to be cut

from the Department ten years ago has long since been cut, and it is time to invest, again, in mobilizing voters, in running elections, and in maintaining an accurate City List.

The Department's mandate to maintain an accurate City List is crucial, and the City should use this annual listing to register voters. Every Massachusetts municipality is required to compile an annual City List under provisions detailed in M.G.L. 51:4. Information in the annual list includes a person's name, birth date and occupation. Respondents are also marked as to whether they are legal citizens, voters (and if so, for which party they are registered), and veteran status. The number of dogs in a home is also recorded.

The City List is important for several reasons. First, it is the primary link to the Voting List in the City, and the procedure by which inactive voters are purged depends on maintaining an accurate list. Second, the Jury Commission draws on the City List for a representative sample of residents in the City. Therefore, any under- or over-representation of groups in the City List will be reflected in the Jury Pool. Third, the City List is used as an important reference and "starting point" for the decennial U.S. Census, which is then tied to the allocation of federal funds and to the apportionment of seats in the U.S. House of Representatives.

Maintenance of the City List has fallen into disrepair over the last four or five years. The Department does not have an accurate database of management companies or of condo associations. The door-to-door canvassing teams that have been sent out over the past few years have been poorly overseen, and some Department employees see the annual canvassing as an opportunity to gain overtime pay while putting in minimal effort.

The current City List paints an inaccurate picture of the distribution of ages in the City, the minority groups represented, and the number of inactive voters. For example, according to the City List, there are only 415 persons in the City who were born in 1989 – a figure that is at least off by an order of ten. And despite having thousands of 18 year olds in Boston who attend colleges and universities, the City List reports just 5,276 persons born in 1988. Indeed, residence list have not been solicited from several of the City's major universities since 2003, leaving entirely inaccurate population records for the areas around Boston University and Northeastern University.

A proposed new organization chart for the Department is attached as an appendix to this report. There is some fairly obvious “low hanging fruit” that can be pursued immediately, such as (1) investing in an improved phone system, and (2) working more effectively with the City’s Department of Management and Information Systems. More generally, though, I encourage, the City to invest in the Department and to implement the following 14 recommendations:

Recommendations:

1. The Election Advisory Committee should be made permanent and the City should work to implement the Committee’s recommendations that were outlined in April 2006.
2. The Mayor should fill the current vacancy on the Board of Election Commissioners.
3. The Department should institute a new annual survey of languages spoken or used in the City. This annual survey should be included with the City List mailings, and the results of the survey would be used to target translation resources.
4. Annual canvassing for the City List should be used, intentionally and aggressively, to register new voters.
5. Using a “Voting Birthday” letter, the Mayor should reach out to every Boston resident turning 18 years old, encouraging each to register and to become engaged in the City’s civic life.¹⁰

¹⁰ The Mayor, in his role as the head of the Boston School Department, has access to addresses of high school students, and this list is much better than the current City List for 17 year olds. However, using the Public Schools list would not reach young people who are not in Boston High Schools, and the address list for the Boston Public Schools is inaccurate for 20 to 25 percent of students. Some thought has been given to sharing the School list with the Election Department in order to improve the City List, but Boston’s current way of implementing the Federal Educational Rights and Privacy Act (FERPA, 20 U.S.C. § 1232g) precludes data sharing. The Boston Public Schools’ implementation of FERPA is more strict than required by law, and much more restrictive than in other Massachusetts towns. Accordingly, the Boston Public Schools should amend their procedures for sharing information to permit cooperation with the Department of Voter Mobilization.

6. All graduating high school students should be required to show that they have a voter registration form.¹¹
7. A “Director of Elections” position should be created and filled with a strong manager who has extensive experience in Election Law.
8. A “Community Outreach” section within the newly-named Department of Voter Mobilization would coordinate activities with community groups, with the Boston Public Schools, with other City departments, and among the poll workers. The “Community Outreach” section would also oversee the translation of materials into all languages deemed necessary.
9. A “Supervisor of External Operations” should oversee the warehouse and work, continuously, with the disability community to eliminate physical barriers to voting.
10. A “Deputy Supervisor for the City List” should be hired to coordinate the Annual Listing of City Residents.
11. Poll Worker programs should be expanded to recruit a minimum of 1 college student and 1 high school student per precinct. The School Department has agreed to begin this program so that it will be fully implemented by the 2008 general election.

¹¹ Currently, high school students in Boston may not graduate until they can show that they have paid off their library fines, paid all student activity fees, returned course books, and turned in the lock to their locker. With these hurdles out of the way, a school administrator (a guidance counselor, in most cases) hands a student an “orange card,” clearing the student to graduate. The Mayor, in his role as head of the Boston School Department, should require that receipt of an “orange card” be contingent upon picking up a voter registration card from the high school administrator. It is illegal to require anyone to register to vote, but it is incumbent on the City to *encourage* the next generation to vote. Registration materials should not be given to students who are not citizens. Superintendent Mike Contompasis supports this approach and hopes it can be in place by May 2007.

12. Continue Relocating Polling Locations with the goal of making *all* polling locations handicap accessible. The City should continue working the Disability Law Center and other advocates in Boston to help identify new polling locations.
13. Continue Merging Polling Locations. Although this is not the general trend around the country, after visiting several polling locations around Boston, and after consulting with advocates from the disability community in Boston, it seems clear that several precincts can – and should – be merged. This will not require changing the number of voting precincts, 254, but will decrease the number of polling places from 181 to, perhaps, 150.¹²
14. The Department should invest in an on-going internal training program, and employees should be encouraged to seek additional training through the Election Assistance Commission, through state organizations, and through the Election Center.

It is my sincere hope that, with a new Director of Elections in place, I will be able to pass along other operational suggestions for the Department. With adequate funding, and with a renewed emphasis on reaching out to new voters through a revitalized City List, Boston can – unquestionably – become a national model for voter mobilization and efficient elections.

Faithfully Submitted,

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April 7, 2007

¹² As illustrations, consider. (1) Moving the polling location for Ward 8, Precinct 2 from the Blackstone School (280 Shawmut Avenue) to the Cathedral Housing Project (1472 Washington Street), sharing the Project's Community Room which currently hosts voting for Ward 8, Precinct 1. The Blackstone School location has numerous access compliance problems, while the Cathedral Housing Project receives good marks. This would move would be about 1,500 feet. But with much better parking at the Cathedral Housing Project, it seems an entirely reasonable accommodation; (2) Similarly, the three precincts (11-3, 12-8, and 12-9) currently voting at the David A. Ellis School (302 Walnut Avenue) are plagued with access issues. Parking, ramp, and other access issues are considerably better at the nearby Lewis School (131 Walnut Avenue), where Ward 12, Precinct 3 is already voting.

Appendix:

Organizational Chart with Hiring Priorities

This proposed organizational chart for the Department of Voter Mobilization represents a reorganization of work needed to carry out the recommendations in this report. In addition to restructuring duties and lines of communication, the Department needs to fill eight new positions over the next two years. These positions are highlighted in red, below.

Not all of the hiring needs to take place immediately, but in 2007, the Department should seek to fill the following positions: (1) Director of Elections, (2) Supervisor of External Operations, (3) Administrative Assistant to the Executive Director, (4) Disability Access Coordinator, and (5) a College and High School Poll Worker Coordinator. As the City improves the City List process in 2008, the Department will need (6) an Employment Coordinator for the City List, (7) an additional Language Coordinator, and (8) an additional Assistant Registrar.

