

Voter Registration Systems

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What Is the Purpose of Voter Registration?

The fundamental purpose of a voter-registration system is to restrict access to the voting booth — to ensure that only those people entitled to vote in a given jurisdiction can do so, and that they each vote only once. Registration lists may not be essential to accomplishing that purpose, but they are almost universally recognized as the preferred method in the United States. Among the states, only North Dakota does not have voter registration, relying instead on identification documents or sworn affidavits.

Registration lists may also be used for other purposes. For example, election administrators can use them to help determine the best locations for polling places, how many voting stations and pollworkers to assign to a given polling place, voter turnout, and so forth. Other government agencies may use the lists, for example to help generate jury pools. Political parties and candidates also use the lists for campaign-related activities such as direct mail. While many states restrict the public use of voter registration lists to such political purposes, many others do not have such restrictions.

Voting eligibility has been an issue throughout the history of the United States. Most often, the focus has been on suffrage itself — who should have the right to vote — while the method of formally registering one's eligibility has played an integral, but secondary role. In the Colonial period and early years of the Republic, a narrowly defined franchise assured that those eligible to vote were publicly known in their small communities. Requirements based on land-ownership, age, and sex were the norm, and they were intended to limit voting to those with a stake in the community and the necessary understanding of public affairs that naturally followed. Although non-landowners and women may have voted in some places, eligibility was mostly limited to landed freemen of 21 years or older. Immigration, urbanization, and population growth necessitated a more organized system in order to provide an accurate list of voters for election day and to prevent fraud. Massachusetts enacted a voter registration law in 1801 and other states soon followed. Because the Constitution addressed neither eligibility nor how elections should be conducted, practices varied from state to state. Over time, uniform requirements for eligibility concerning race, sex, economic status, and age were adopted (the 15th, 19th, 24th, and 26th Amendments), while voter registration practices continued to diverge according to the administrative needs and political cultures of the individual states.

Eventually, a pattern of registration practices had developed to maintain control of the franchise and serve the interests of the political parties. Citizenship and lengthy residency requirements were adopted, in part, as a reaction to waves of immigration and the rise of machine politics. And by requiring a voter to declare their party affiliation at the time of registration, voting in primaries would be limited to party members only. In the South, the dominant Democratic Party adopted the white primary, which excluded African Americans from party membership and, consequently, from any kind of effective participation. The white primary, poll taxes, literacy tests, the grandfather clause and other discriminatory devices were eventually banned, yet they illustrate the history of voter registration as a means for limiting participation.

With the advent of universal suffrage in the 20th century, many of the legal battles over registration practices have largely subsided, except for the issue of voting by those who have been convicted of crimes. Recently, most of the debate about voter registration systems has revolved around concerns about errors, questionable practices relating to purges of files and third-party registration, and outright fraud, including registration of the dead, the nonresident, and the nonhuman.

In the wake of the contested presidential election results in Florida in 2000, most public attention focused on bad ballots and unskilled voters, but registration problems appeared to be at least as important a barrier to successful voting.¹ And with an increasingly mobile society, the arguably underfunded and understaffed local election jurisdictions tasked with registration duties in many states appeared unlikely to improve the accuracy of their lists.

With the passage of the Help America Vote Act (HAVA, P.L. 107-252) in 2002, Congress attempted to address voter registration problems by requiring computerization and integration of voter registration systems and placing primary responsibility at the state level of government. That requirement went into effect in January of this year,² and its impact on reducing error and the risk of fraud is not likely to be clear before the 2006 midterm elections or even later. At this point, it may be more useful to examine the topic from a somewhat broader perspective: What are desirable characteristics for an effective voter-registration system, what are the current federal requirements, and how likely is it that the current path states are taking will lead to effective systems?

What Are Desirable Characteristics of a Voter Registration System?

As with most such systems, voting registration has evolved over time, with new processes added to address problems and needs as they arise. While this is a perfectly reasonable approach, it can lead over time to a creaky, cumbersome, patchwork structure. The passage of HAVA provided states with a potential opportunity to develop new generations of registration systems, designed to function optimally. But in addition to the usual bureaucratic barriers to such an approach, there are some more fundamental difficulties.

The basic steps in developing voter registration and similar information systems may be described, somewhat simplistically, as follows:

1. Determine the goals of the system — what it is to accomplish.
2. Determine how best to meet those goals.
3. Design, build, and implement a system that meets those criteria.
4. Measure how well the system meets the goals.
5. Make improvements as necessary.

¹ The Caltech-MIT Voting Technology Project (VTP) estimated that 1.5–3 million votes were “lost” as a result of registration problems, and 1.5 million from voting technology (Caltech/MIT Voting Technology Project, *Voting: What Is, What Could Be*, July 2001, [<http://www.vote.caltech.edu/reports/2001report.htm>]).

² The deadline was January 1, 2004, with an available 2-year extension granted to all but ten states — Alaska, Arizona, Georgia, Hawaii, Kentucky, Minnesota, South Carolina, South Dakota, West Virginia, and North Dakota, which does not have voter registration and is therefore exempt from this requirement.

While HAVA sets certain requirements (see below), it does not resolve some basic issues about the goals of voter registration. One of the problems with developing effective voter registration systems is that there are significant differences in people's views about goals. With respect to the fundamental purpose of voter registration, this is largely a question of priority; the difference can be phrased something like, is it more important to ensure that all eligible persons can vote or that all ineligible persons cannot? In other words, is it more important to maximize enfranchisement or to minimize fraud? Of course, the hidden assumption in this question is that the two goals are at least to some degree mutually exclusive. They may be to the extent that information about the eligibility of a particular registrant or applicant is incomplete or uncertain. The question might therefore more helpfully be rephrased as, what level of uncertainty regarding eligibility is acceptable in a decision to add a voter to or keep a voter on a registration list? In other words, to what extent should benefit of the doubt be given to an applicant for whom there is some question about eligibility? Thus, in designing a system, one would need to determine the acceptable level, figure out how best to achieve it and build the system accordingly. Even here there will be differences in view — for example, should a person for whom uncertainty is above the threshold be rejected outright or given an opportunity to resolve the uncertainty?

Once goals are established and the system is implemented, it will be necessary to obtain relevant data to determine if the system is meeting its goals: For example, for how many applicants is eligibility uncertain? What decisions were made in those cases? How accurate were those decisions? Such data may be difficult to obtain, especially with respect to the last question.

More generally, it is easy to think of voter registration as fundamentally a database problem. That is a critical dimension, given that there are more than 175 million registered voters in the United States. That number is 65%–85% of the eligible citizenry, depending on the data sets used.³ In addition, more than 15% of Americans move every year.⁴ The death rate is about one-twentieth of that (approximately 0.8% for 2002,⁵ or about 2.4 million adults), with presumably a roughly equivalent rate of potential new voters coming of age. Those data translate into about 30–35 million potential record changes every year.⁶ Given such statistics, it is easy to see how voter registration lists can quickly come to contain a large number of duplicate and erroneous entries.

³ Election Assistance Commission, *Final Report of the 2004 Election Day Survey*, report prepared by Election Data Services, September 7, 2005, [http://www.eac.gov/election_survey_2004/intro.htm], p. 2-3–2-5.

⁴ *Ibid.* The number cited in the report was 17%, although according to the Census Bureau, moving rates declined to around 14% in 2003, with about 59% of those moving within the same county, 19% each interstate and intercounty, and 3% from abroad (Jason P. Schachter, “Geographical Mobility: 2002 to 2003,” *Current Population Reports*, U.S. Census Bureau, March 2004, [<http://www.census.gov/prod/2004pubs/p20-549.pdf>]).

⁵ National Center for Health Statistics, “Fast Stats A to Z: Deaths/Mortality,” 9 November 2005, [<http://www.cdc.gov/nchs/fastats/deaths.htm>].

⁶ This estimate is calculated from the percentages in Schachter, “Geographical Mobility.” The number will depend in part on how the databases are designed and configured.

However, there is a risk in stressing the database aspects of voter registration. The risk is that the technological aspects of the problem will be overemphasized, with other, equally important factors receiving insufficient attention. This is often cited as a problem in the information security arena. For example, the public debate about e-voting has tended to emphasize the risks of electronic versus paper records, which is a *technology* issue. There are two other major dimensions that need to be considered, however. They are *people* and *process*.⁷

The same is true for voter registration systems. It might be said that from the voter's perspective, the optimal registration system would be no registration system, or at least one that did not require any direct action by the voter to be included in the poll register.⁸ However, the American penchant for divided government, coupled with longstanding resistance to development of a national identification system, make voter-initiated registration likely to persist for the foreseeable future. Given that, the optimal system from a voter's perspective should be easy and convenient to use and designed to minimize the risk of errors by the registrant or election administrators.

Developing a voter-friendly registration system may be even more difficult than developing a voter-friendly voting system. Historically, voting systems have been notoriously voter-unfriendly, with the punchcard ballot, including the Palm Beach butterfly, being perhaps the most egregious example. American elections can be a usability expert's nightmare. They are complicated and repetitive, design is usually shackled by a broad range of sometimes bizarre regulations, and the task is performed by voters only once a year on average.

Voter registration can be even worse for voters in some ways, especially if they move or need to change their registration for some other reason. Registration happens much less often than voting on average, forms and rules vary substantially among jurisdictions,⁹ there is often very little feedback, and a mistaken rejection may mean disenfranchisement until the next election. Election-day registration and provisional balloting may help to address those difficulties, but they are no substitute for a system designed for voter usability.

Usability is also important for government officials involved in processing applications and maintaining the voter registration lists, as well as the pollworkers who use it on election day. As with changes in voting systems, changes in the way voter registration lists are compiled and maintained necessitate adequate training for all involved.

⁷ For a discussion of the need for a balanced approach to information security, see, for example, National Security Agency (NSA), "Defense in Depth: A Practical Strategy for Achieving Information Assurance in Today's Highly Networked Environments," NSA Security Recommendation Guide, 8 June 2001, [<http://nsa2.www.conxion.com/support/guides/sd-1.pdf>].

⁸ This can be done where the process is driven by the government, as in countries that use civil registries (see Louis Massicotte, "Voter Registration, Voter Identification, Increasing Turnout, Election Administration : A Few Hints from Foreign Experiences," Testimony before the U.S. Commission on Federal Election Reform, 30 June 2005, <http://www.american.edu/ia/cfer/0630test/massicotte.pdf>).

⁹ Forms may even vary within a jurisdiction. For example, North Carolina uses nine different voter registration forms (North Carolina State Board of Elections, "Agency Voter Registration Manual," October 2005, [<http://www.sboe.state.nc.us/pdf/AgencyManual.pdf>]).

Usability is not desirable simply for convenience. As lessons from voting systems show, usability affects accuracy and may also impact other important factors such as security. While some suggested guidelines are available for usability of voter registration systems,¹⁰ there appear to be no studies of the extent to which registration systems adhere to or are being developed under such guidelines.

Some other desirable properties of registration systems can be gleaned from a broader understanding of database characteristics in general. One of the most important of those characteristics is the error problem. Databases have errors, usually caused by mistaken data entry, such as transposition of numbers or letters. The more complex the database, the easier it is for errors to occur. In some cases, the percentage of records with errors can be quite large — 20–30%.¹¹ To determine eligibility, the records in a voter-registration database may be compared with those in another database such as that of a state motor vehicle department. In such a case, mistaken entries in either database regarding an eligible voter could cause an erroneous “administrative disenfranchisement.” Such errors would almost always result in erroneous exclusion rather than erroneous inclusion.

The way a database handles such mismatches will affect the rate at which such erroneous exclusions occur. Recognizing this problem, the U.S. Election Assistance Commission (EAC), in its guidance on voter registration systems, recommends that states avoid requiring a perfect match of a voter registration record with a verification database, stating that such procedures “may result in the rejection of a large number of eligible voters.”¹² The Brennan Center makes a similar recommendation, as well as several others regarding the verification process.¹³

The EAC guidance, which is voluntary, also discusses other desirable characteristics of a voter registration system, in the context of HAVA requirements, but in addition to recommendations that follow directly from the HAVA or NVRA requirements. It recommends a “top-down” approach, where the database is on a central state platform accessible at the local level. This was also a strong recommendation of the Carter-Baker Commission.¹⁴ The EAC guidance also recommends that states provide applicants the opportunity to correct information before rejecting an application. While HAVA requires technological security measures for voter registration databases, the EAC guidance goes further, recommending process controls and recovery capabilities. Finally, it

¹⁰ Association for Computing Machinery (ACM), “Statewide Databases of Registered Voters,” February 2006, available at [<http://www.acm.org/usacm/VRD/>].

¹¹ Justin Levitt, Wendy R. Weiser, and Ana Muñoz, “Making the List: Database Matching and Verification Processes for Voter Registration,” Brennan Center for Justice at New York University School of Law, March 2006, p. 23, [<http://www.brennancenter.org/programs/downloads/HAVA/svrd/SVRD%20matching%20report.pdf>]. There are many factors that influence the accuracy of databases, and error rates are much lower in many cases.

¹² Election Assistance Commission, “Voluntary Guidance on Implementation of Statewide Voter Registration Lists,” July 2005, [http://www.eac.gov/docs/Statewide_Registration_Guidelines_072605.pdf].

¹³ Levitt, Weiser, and Muñoz, “Making the List.”

¹⁴ Commission on Federal Election Reform, *Building Confidence in U.S. Elections*, September 2005, available at [<http://www.american.edu/ia/cfer/>].

recommends that states implement mechanisms for individuals to verify their registration status and records. The Caltech-MIT Voting Technology Project (VTP),¹⁵ the Carter-Baker Commission, and the Brennan Center¹⁶ have made a similar recommendation, and in addition recommend that the registration database be accessible to officials at each polling place.

At least three other recent reports contain recommendations for voter registration systems. Appleseed and Brennan released a joint report discussing best practices for outsourcing, database coordination and connectivity, use of identification numbers, access to information by officials and the public, list maintenance, and data recovery.¹⁷ A report by the Association for Computing Machinery contains fairly detailed recommendations on accuracy, privacy, usability, security, and reliability.¹⁸ A report by the League of Women Voters contains recommendations on several of the topics also addressed by the other two reports.¹⁹

What Does Federal Law Require?

The EAC guidance discusses four laws relating to voter registration. One of the principal requirements of the *Help America Vote Act* (P.L. 107-252) mandates that states establish and maintain a “single, uniform, official, centralized, interactive computerized statewide voter registration list” that includes information for every registered voter, and must be accessible to all election officials in the state. The deadline for implementation was January 1, 2004 — or 2006 if a state certified that it could not meet the deadline for good reason.

HAVA specified a number of criteria for developing and maintaining voter registration databases. For each registered voter, the system must use a unique identification number. In order to register to vote, applicants must provide a valid driver's license number or, for those who do not have a driver's license, the last four digits of the Social Security number. In the event that a registrant has neither, the state assigns a unique identifier for the individual. With respect to purging registration lists, an individual may be removed from the computerized list only in accordance with the appropriate provisions of the National Voter Registration Act (NVRA or “motor-voter” law, P.L. 103-31). Consistent with NVRA, registrants who have not responded to a notice and have not voted in two consecutive general elections for federal office shall be removed from the official list of registered voters except that no registration may be removed solely by reason of failure to vote. Election officials are required to perform list maintenance on a regular basis. The

¹⁵ VTP, *Voting: What Is, What Could Be*.

¹⁶ Levitt, Weiser, and Muñoz, “Making the List.”

¹⁷ Appleseed, “The Database Dilemma: Implementation of HAVA’s Statewide Voter Registration Database Requirement,” November 2005, available at [<http://appleseeds.net/servlet/PublicationInfo?articleId=49>]. Latham & Watkins, LLP, was also involved in developing the report.

¹⁸ ACM, “Statewide Databases.”

¹⁹ League of Women Voters, “Statewide Voter Registration Databases,” June 2005, [http://www.lwv.org/Content/ContentGroups/Publications/VoterInformation/voting_statewidelists_bw.pdf]

computerized list must be coordinated with other agency databases in the state, and the law requires sharing information between voter registration and motor vehicle authority databases. HAVA amended the Social Security Act to permit state officials to enter into an agreement with the Commissioner of Social Security to verify information.

As of January 1, 2003, voters who register by mail must present identification either with the registration or when voting, if they have not previously voted in a federal election in the state, or in the jurisdiction if the state did not comply with the registration list requirement. Accepted identification includes a copy of a current and valid photo identification (the original if voting in person), utility bill, bank statement, or government document that shows the name and address of the voter. Alternatively, the voter may cast a provisional ballot. This provision does not apply if the mail-in registration form includes the voter's name, date of birth, and driver's license number or the last 4 digits of the Social Security number, and they match an existing state identification record, nor does it apply to voters entitled to vote otherwise than in person under federal law.

Finally, HAVA requires that mail-in voter registration forms developed under NVRA include questions requiring voters to verify that they are U.S. citizens and old enough to vote. States must notify voters who fail to complete the citizenship question and provide an opportunity to complete the form prior to the next election.

National Voter Registration Act. Although the voter registration requirements of the Help America Vote Act are the most far-reaching, a number of other federal laws include important registration provisions, most notably NVRA. While this paper focuses on HAVA requirements, a brief discussion of the other laws mentioned in the EAC guidance is useful for placing the HAVA requirements in context. The NVRA was enacted in 1993, ostensibly to increase voter turnout, and it required states to adopt several uniform methods for eligible citizens to register to vote: 1) when applying for or renewing a driver's license; 2) by mail, using a form prescribed by the Federal Election Commission that must be accepted by each state (or using a state form designed according to FEC guidelines); and 3) at public agencies and offices, specifically public assistance offices and agencies that administer programs for persons with disabilities, recruiting offices for the Armed Forces, and other places that states could designate (public libraries, schools, city and county clerk's offices, and other government entities), as well as nongovernmental offices that agree to serve as voter registration sites. The NVRA also described the circumstances under which names could be removed from the voter registration list. North Dakota was exempt from the law because it has no voter registration program, as were Idaho, Minnesota, New Hampshire, Wisconsin, and Wyoming because they permit election day registration.

Some states resisted the new law and challenged it in the courts (California and South Carolina), while the Justice Department filed countersuits for non-compliance against those states as well as Pennsylvania and Illinois. NVRA was an unprecedented federal incursion into state election administration, and some objected to it as an unfunded mandate or questioned federal authority to direct state agencies to perform election tasks wholly unrelated to the agencies' primary functions. In the end, states implemented the NVRA requirements but its effect has been unclear, based on voter registration and

turnout statistics. Voter registration has increased slightly in the years since NVRA was enacted, from 71.6% of the voting age population in 1992 to 73.8% in 2000, according to the most recent Federal Election Commission report on the law. Voter turnout was 50.1% and 55.1% in the two presidential elections before enactment (1988 and 1992), and 49.8%, 51.1%, and 60.7% in elections since.²⁰

Voting Accessibility for the Elderly and Handicapped Act. Enacted in 1984, this act (P.L. 98-435) required states to facilitate registration and voting for the elderly and persons with disabilities. Specifically, the law required each state or political subdivision that conducts voter registration for federal elections to provide a reasonable number of permanent, accessible facilities, unless all potential voters in the jurisdiction could register by mail or at their residence. Also, states were required to provide large type instructions at polling places and registration facilities, as well as telecommunications devices for deaf persons. No state was permitted to require a medical certification for an absentee ballot or an application, unless it automatically qualified the voter to receive an absentee ballot regularly or to apply for one after the application deadline had passed. Finally, each state's chief election official was required to provide public notice, designed to reach elderly and handicapped voters, about these provisions, relevant provisions of the Voting Rights Act, and the provisions for voting by absentee ballot.

Uniformed and Overseas Citizens Absentee Voting Act. Members of the military and U.S. citizens who live abroad are eligible to register and vote absentee in federal elections under the provisions of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986 (P.L. 99-410). The law was enacted to improve absentee registration and voting for this group of voters and to consolidate existing laws. It was amended by the Help America Vote Act, the National Defense Authorization Act of 2002, and the National Defense Authorization Act of 2005. The main provisions of the law relating to voter registration require states to do the following:

1. Permit absent uniformed services voters, their spouses and dependents, and overseas voters who no longer maintain a residence in the U.S. to register absentee (overseas voters are eligible to register absentee in the jurisdiction of their last residence) and to vote by absentee ballot in all elections for federal office (including general, primary, special, and runoff elections). The Help America Vote Act added a new section that prohibits a state from refusing to accept a valid voter registration application on the grounds that it was submitted prior to the first date on which the state processes applications for the year.
2. Accept and process any valid voter registration application from an absent uniformed services voter or overseas voter if the application is received not less than 30 days before the election. The Help America Vote Act amended that section of the law to require a state to provide to a voter the reasons for rejecting a registration application.

²⁰ Federal Election Commission, *A Report to the 107th Congress: The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 1999-2000*. Turnout for 2004 is from Brian Falter, "Election Turnout in 2004 Was Highest Since 1968," *The Washington Post*, Jan. 15, 2005, p. A5.

In addition, the law recommends that states accept a federal application that registers a voter and requests an absentee ballot, and stipulates that voting materials be carried expeditiously by the postal service. The Secretary of Defense, who is charged with facilitating the law through the Federal Voting Assistance Program at the Pentagon, is required to undertake a detailed series of actions. It also requires the Election Assistance Commission to report to Congress on the number of ballots sent and returned in each election. The EAC's first report, for the 2004 election, was published in March 2006, although the results are unreliable because of state and local differences in keeping and reporting ballot totals.²¹ The EAC will continue to work with states to improve data collection, as required by UOCAVA.

UOCAVA is intended to overcome a number of inherent problems that make registration and voting difficult for persons who are out of the country, who may no longer have a domestic address, or who, because of their military service, move frequently. By its nature, absentee voting requires foresight and planning for state residents who are already registered; the difficulties multiply when the potential voter is not registered, does not reside in the state, is on active duty, or lives abroad permanently. While some states permit sending applications by facsimile, most voters covered by UOCAVA must rely on sending and receiving voting materials by mail, sometimes within a tight timeframe. In the aftermath of the 2000 election and the problems with military and overseas ballots in Florida, the recent series of amendments to UOCAVA seeks to address continuing difficulties faced by this class of voters.

How Are States Doing?

Several recent studies have examined state responses to the HAVA requirements for computerized voter-registration lists. In June 2005, the Election Reform Information Project released the results of a 50-state survey that found most states planned to use a "top-down" system, and 20 states planned to construct their systems in-house.²² According to the report, 15 states had statewide databases in place for the 2004 elections. The report did not include information on the performance of the different kinds of systems or procedures in use in different states.

One other all-state study was released in March 2006 by the Brennan Center.²³ The survey concluded that a few states were developing systems that would improve both accuracy of voter rolls and promote enfranchisement, whereas others states were implementing policies that would create barriers for voters. Most of these concerns stem from the use of very narrow matching criteria in verification procedures. Most states, the study found, were implementing systems with mixed effects. The study provides fairly

²¹ Election Assistance Commission, *Uniformed and Overseas Citizens Absentee Voters Act (UOCAVA): Survey Report Findings*, March 2006, [<http://www.eac.gov/docs/UOCAVASurvey%20Report%20-%20Final%203-3-06.doc>].

²² electionline.org, *Assorted Rolls: Statewide Voter Registration Databases Under HAVA*, June 2005, available at [<http://www.electionline.org>].

²³ Levitt, Weiser, and Muñoz, "Making the List."

specific descriptions of state practices for registration, verification, and governing statutes, but provides no information on performance.

Election Data Services performed a survey on the 2004 federal election for the EAC.²⁴ While the report has a section on voter registration, it contains little information that can be used to assess the performance of different kinds of voter-registration systems. However, the variation in how state and local jurisdictions keep and report statistics, even with respect to such basic information as the total number of registered voters, illustrates the difficulties in developing and implementing appropriate performance metrics with respect to voter registration systems. Nevertheless, the large percentage of “inactive voters” reported in many states, and the presence of some states where the number of voters reported exceeds the population, suggest a large number of ineligible voters or duplicate records. Effective implementation of HAVA’s list-maintenance requirements would be expected to lead to substantial reduction in those numbers. In fact, the report found that states using statewide databases had a substantially lower percentage of inactive voters (11.0%) than other states (16.5%).²⁵

The Government Accountability Office has produced three reports on voter registration over the last year. Each report focused on a small set of states. The first report, on verification of eligibility, found, not surprisingly, that procedures and progress in meeting requirements vary among states, and that election officials encounter several challenges to accurate verification, including the timeliness and accuracy of information relating to mortality, criminal status, and duplicate records, and difficulties with verification of citizenship and residency.²⁶ Challenges in receiving, checking, and processing voter registration applications were also a theme of the second report, a survey of local election officials.²⁷ The third report discussed a survey of the nine covered states that did not request a waiver of the HAVA voter registration list requirements for 2004.²⁸ Those states that did not previously have a statewide system (Arizona, Minnesota, South Dakota, and West Virginia) reported improvement in the accuracy of their voter registration lists as a result of implementation.

²⁴ Election Assistance Commission, *Final Report of the 2004 Election Day Survey*, report prepared by Election Data Services, September 7, 2005, available at [http://www.eac.gov/election_survey_2004/intro.htm]. .

²⁵ EAC, *Final Report*, p. 2-16. When Michigan switched to a statewide voter registration system, more than 600,000 duplicate registrations were eliminated (Government Accountability Office (GAO), *Additional Data Could Help State and Local Elections Officials Maintain Accurate Voter Registration Lists*, GAO-05-478, June 10, 2005, [<http://www.gao.gov/new.items/d05478.pdf>])

²⁶ GAO, *Additional Data Could Help*, p. 28.

²⁷ Government Accountability Office, *Views of Selected Local Election Officials on Managing Voter Registration and Ensuring Eligible Citizens Can Vote*, GAO-05-997, September 27, 2005, [<http://www.gao.gov/new.items/d05997.pdf>].

²⁸ Government Accountability Office, *Nine States’ Experiences Implementing Federal Requirements for Computerized Statewide Voter Registration Lists*, GAO-06-247, February 7, 2006, [<http://www.gao.gov/new.items/d06247.pdf>].

Conclusion

At this point, it is not possible to give a definitive answer to the question, how well are states doing at developing voting systems with desirable characteristics? Clearly, states are working, with somewhat mixed success, to implement the HAVA requirements. Yet, in a number of ways, there is no clear consensus on what would be a successful implementation. There are at least three things missing:

1. *A set of national consensus standards for voter registration systems.* There is such a set of standards for voting systems, with the most recent version, developed by the EAC in cooperation with the National Institute of Standards and Technology, released in December 2005.²⁹ There is some debate about whether the EAC has the authority under HAVA to develop guidelines for voter registration systems, or if it should do so. However, ad hoc attempts by various groups to develop best practices and the like, no matter how laudable, are no substitute for consensus standards.

2. *A set of consensus performance measures to determine the extent to which the systems exhibit the desirable characteristics.* Among the questions that might be addressed by such measures are the following:

1. Have appropriate systems and processes been put into place?
2. How well are those systems and processes working for election officials?
3. Do voters find it easier to register and to update registration information?
4. Are there fewer voters who are mistakenly disenfranchised?
5. Has voter privacy been compromised, or enhanced?
6. How many registration errors have been corrected?
7. Have cases of suspected registration fraud declined?
8. How closely does the number of voters in the registration list match the number expected from population data?

The first three questions require indirect metrics. These have the advantage of being somewhat easy to obtain, but they do not necessarily reflect desired outcomes.³⁰ The other questions require outcome measures, which, while in many ways preferable, can be difficult to obtain.

3. *Means of obtaining the necessary information for those metrics.* This may be the most difficult challenge, since it requires not only resources, but also accuracy and consistency in data collection among state and local election jurisdictions.

In the absence of standards, metrics, and good data, it may be difficult for public discourse about voter registration to move beyond speculative discussion that is informed more by anecdote and political philosophy than by fact.

²⁹ Election Assistance Commission, "Voluntary Voting System Guidelines," January 12, 2006, available at [http://www.eac.gov/vvsg_intro.htm].

³⁰ For example, while voter satisfaction is an important goal in itself, it may reflect factors other than how well the registration system functions, or how well it has been engineered for usability.