



**Testimony of Tony Simone,
Deputy Director, People For The American Way,
Northeast Regional Office**

April 24, 2006

Good morning. I am Tony Simone, Deputy Director, People For The American Way, Northeast Regional Office. Thank you for the opportunity to testify today on this most vital issue of election reform and protecting every vote. Thank you to the City Council Members of the Committee on Governmental Operations for holding this public hearing.

People For The American Way's (PFAW) Record Of Fighting To Protect Every Vote

People For The American Way is a national organization with our main mission of promoting and defending America's values. PFAW has over 900,000 members and supporters that defend constitutional and civil rights and promotes these democratic values through citizen participation, freedom of expression, freedom of religion, and respect for diversity. Our mission is to strengthen the Progressive Movement infrastructure and to find, train, and engage future progressive leaders. The Northeast Regional Office, with New York as its base of operations, is a major partner in working on national programs and independent local and regional initiatives.

Building on our 25-year history of civil rights advocacy, PFAW is leading the fight to ensure the every eligible voter is able to cast a ballot that counts. Some of our recent work includes:

- Our litigation team has challenged discriminatory and otherwise problematic elections laws and administration. In Allegheny County, Pennsylvania, PFAWF has just joined a lawsuit seeking to prevent last minute shift to touch screen machines that have failed in other jurisdictions for the May 1 election.
- Our federal lobbyists are urging nationwide election reforms, like the comprehensive Count Every Vote Act that would ensure the integrity of elections by increasing access to the ballot box and requiring voting machines to be verifiable and accessible
- There are many other examples of our fight to protect every vote, including the non-partisan Election Protection initiative led by our sister foundation People For the American Way Foundation (PFAWF), along with the efforts of our progressive coalition partners such as the Lawyers' Committee for Civil Rights Under Law.

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Most recently, PFAWF, the Lawyers' Committee and the NAACP assisted the thousands of displaced voters affected by Hurricane Katrina by again hosting the national EP Hotline (1-866-OUR-VOTE). PFAWF also worked closely with the NAACP to support their voter assistance centers located in and outside New Orleans. Furthermore, along with its coalition allies, PFAWF will continue to lead EP efforts for the upcoming 2006 and 2008 federal elections.

People For The American Way's Supports NYC Council Resolutions 228.

We support Resolution 228, urging the NY BOE to take various measures to ensure public input and public confidence in any election systems procured pursuant to the Help America Vote Act of 2002 (HAVA). In particular, PFAW commends the City Council on this resolution that recommends the following measures prior to selection of new machines:

- conducting public hearings in each borough, during both day and evening hours;
- Publishing an analysis of any acquisition, transition, and continuing costs of all systems under consideration; and
- Demonstrating in public, for all systems under consideration, that all work necessary for the conduct of elections is performed by BOE staff and not outside vendor technicians, with little accountability.

Additionally, PFAW supports the following general recommendations:

- Transparency, accountability and public input
- Public hearings & easily available analysis that show the voters that the government is holding itself and the voting systems' makers accountable.
- Public input, which is essential to instill confidence in voters and the public on the integrity of our election administration in New York State and the overall outcome of any election.
- Public testing of real-world Election Day situations to show the public that voting machines, such as OP/PB and DREs can perform in these situations.
- Many of the other recommended public testing measures mentioned in the resolution such as public testing of all considered voting machines, making sure paper ballots and voter paper verified audit records are of high quality, and

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isolating individual voting machines, thus preventing any potential vulnerability in one machine from being used to access and alter the programming of other machines.

- Public demonstration to the public the accuracy of the votes displayed on the DRE screen and voter verified printout, tallies, and DRE activity logs,
- Conducting a Public Hacking Test,
- Commitment to ensuring security and accessibility requirements for all voting machines chosen.
- Required extensive poll worker training on the current voting systems and Election Day procedures.
- Updated election administration security procedures, for instance:
 - Only permit the use of certified systems, eliminating the possibility of uncertified and potentially vulnerable voting systems.
 - Put in place clear procedures for polling place operations.
 - Prohibit vote tallies from being transmitted via phone lines or the Internet, which prevents a hacker from using those avenues to gain access to the voting system.
 - Restrict physical access to voting equipment, including monitoring of users, etc.
 - Update equipment management practices.
 - Develop and implement statewide security plans, binding on local jurisdictions, including the dedication of security personnel for monitoring, testing and prevention.
 - Require testing, during certification, upon delivery, prior to, and on and after Election Day.
 - Implement parallel monitoring, in which machines are randomly taken out of service and tested on Election Day, in order to detect the presence of any “Trojan Horse” code that might become active and alter vote tallies only at a given time.
 - Ensure that election officials maintain control over ballot creation and loading onto the voting machines.

People For The American Way’s Comments on Resolution 131

PFAW supports significant components of Resolution 131, including urging the NYS BOE to promptly certify the current Precinct Based/Optical Scan voting systems for procurement by the local BOE, and the NYC BOE to select a PB/OP system as a new voting technology for the City of New York. However, PFAW provides the following recommendations for Resolution 131:

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- We suggest language that does not rule out the future use of DRE's. While we do agree there might be problems with DRE's being used in New York State now and that the current technology may not be fully up to speed to ensure security, accuracy, accessibility and accountability, PFAW does not rule out future support for DRE's that encompass these principles.

PFAW's support for most of the principles laid out in Resolution 131 is due to the following reasons:

- The benefits of PBOS: The use of accessible paper ballots to verify votes cast on PB/OS will ensure voter and public confidence,
- Ensuring voter confidence from directly marking the ballot with their own hand,
- PBOS under consideration in NYC must be easily adapted for use by disabled and non-English speaking voters,
- The current PBOS system allows for verifiable recounts, allowing for protection against fraud,
- Scanners would immediately detect spoiled ballots/over-and-under-votes
- As stated in the resolution, Optical scans have a 30 year history of reliable performance
- Current DREs under consideration by NYS may not lend themselves to complete public control due to the presence of proprietary software/hardware,
- PB/OS are less costly than current DRE Machines under consideration and have a longer lifespan
- Computer security is 'notoriously difficult' to achieve with current DREs under consideration,
- Other jurisdictions have experienced severe problems with deploying the DREs under consideration,
- Voting machines need to undergo certification tests as soon as possible so machines can be certified and poll workers trained in time for the 2006 elections.

People For The American Way's Commitment To Protecting Every Vote

We are proud to be part of the NYS & NYC HAVA Implementation & Voting Rights coalitions with Common Cause, NYPIRG, AALDEF, DEMOS, Citizen Union, the many disability rights organizations and so many others to ensure real election reform in New York State.

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It is an outrage that New York State is last in HAVA implementation due to the paralysis in Albany. True government reform is needed in Albany in order to ensure real election reform. That is why PFAW supports many of the efforts by Common Cause, Citizen Union and other advocacy organizations in reforming the way our State government conducts the people's business.

The voters of New York State should not be penalized and disenfranchised due to the stalemate in Albany. While election reform, including the procurement of new voting machines, a voter database and other measures are long overdue; we should get the job done right and efficiently. The process should not be rushed now due to artificial deadlines set by the D.O.J. lawsuit on NY State non-compliance with HAVA implementation. In the end the voters will suffer. With our election turnouts already being so abysmally low, we cannot allow for voters to be discouraged from voting because unnecessary barriers or perceived integrity problems of our voting systems.

I commend the leaders on the City Council, the many advocacy organizations and individuals committed to election reform. Now we need to convince our leaders in Albany, other state capitals and in Washington D.C. to also be committed to the most vital part of our democracy: protecting every vote.

Thank you.