

**Statement of Keith Scarborough
Chairman of the Prince William County, Virginia Electoral Board**

**Forum: Lessons from Election Day 2012: Examining the Need for Election Reform
Democratic Members of the Committee on Oversight and Government Reform
United States House of Representatives**

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Woodbridge, Virginia**

I appreciate the opportunity to testify at this important forum.

Under Virginia law, every county and city has a three-person Electoral Board. We are nominated by our political party and appointed by the Circuit Court to staggered three-year terms. Two members of the Board represent the political party of the Governor. We work with the General Registrar to conduct all elections in our county. The views expressed here are my own and do not necessarily represent the views of my two Republican colleagues on the Board.

To paraphrase Charles Dickens, the 2012 election was the best of times and it was the worst of times. As a partisan Democrat, I was very happy with the results in our county, in Virginia and nationally. However, as a member of the Electoral Board, election day was very long and frustrating because of the delays that voters experienced at many of our precincts.

Some of our precincts had long lines during the day but were able to process voters and close their polling place on time at 7PM with no one waiting to vote. Many of our precincts had lines of voters remaining at 7PM and took an hour or so to process all of those voters. There were several precincts where it took substantially longer, up to two or three hours, to process all of their voters. The most serious delays occurred at the River Oaks Precinct, where the final vote was not cast until approximately 10:45PM.

These delays were unprecedented for our county. We have had long lines at some precincts during previous elections, but even in the high turnout presidential election in 2008, we did not experience anything close to the delays we had last year.

Those delays were also unacceptable. We received complaints from voters and elected officials, both Democrats and Republicans, from throughout the county. The Electoral Board, the General Registrar and her staff have been working since November 7th to fix this problem for future elections.

In addition, our Board of County Supervisors has established a citizens task force to look at what happened on election day and to make recommendations for improving the voting process for our county. I want to particularly commend Woodbridge District Supervisor Frank

Principi for his leadership on the Board of County Supervisors in pushing for the creation of this task force.

In my view, there were several factors that combined to create the delays we experienced at many precincts.

(1) This was the first presidential election after the redistricting process. In 2011, the Board of County Supervisors redrew the boundaries for a number of voting precincts and established several new precincts. Despite the best education efforts of the election community, the political parties and the campaigns, a significant number of voters came to the wrong precinct on November 7th and had to be directed to their correct precinct.

(2) There were two proposed state constitutional amendments on the ballot. Many voters first became aware of these proposals when they reached the voting machine and spent considerable time reading and trying to understand them. The Electoral Board has urged our members of the Virginia General Assembly to refrain from placing constitutional amendments on the ballot during presidential elections when we have the highest voter turnout.

(3) We have elections every year in Virginia but there are a number of persons who vote only in presidential years and then move without updating their voter registration status. There were a significant number of voters on November 7th who found that their names were marked with a question mark on the electronic poll book (EPB). The question mark was there because the Registrar had some reason to believe that the voter had moved from that precinct without updating their voter registration status.

If the voter has moved, the state code has very specific rules about whether he can still vote in that precinct, based on when and where he moved. If the voter has not moved, he must sign an *Affirmation of Eligibility* form before being allowed to vote. It can take considerable time for election officers to process these voters with question marks and this was a significant challenge in many precincts, including River Oaks.

(4) The most important factor leading to delays was that we had an inadequate number of voting machines, EPBs and election officers in many of our precincts.

Each county or city in Virginia makes its own decision on what type of voting equipment to purchase for their voters, from a list of vendors and equipment that has been approved by the State Board of Elections (SBE). Our Board of County Supervisors decided in 2003 to purchase direct recording electronic machines (DREs) and those machines were purchased largely with federal dollars. Other counties and cities have purchased both touch screen electronic machines and optical scanning equipment that enables the use of paper ballots.

Unfortunately, for a variety of reasons, the Virginia General Assembly voted in 2007 to prohibit Prince William County and all other local jurisdictions from purchasing any new DRE machines, with very limited exceptions. As a result, we have faced a finite and shrinking inventory of

voting machines for our voters. The population of the county and the number of precincts have both grown since 2003, but the number of voting machines we have available has not.

Also, the Electoral Board and Registrar added an additional location for absentee-in-person voting for the November 7th election. We had three sites in 2008 and four in 2012 to accommodate those voters who qualify to vote absentee under state law. None of the voting machines used for absentee-in-person voting can be used in the precincts on election day so that further reduced our inventory.

We had discussions in 2011 with the vendor for our voting machines, raising concerns about whether we had enough machines to make it through the 2012 presidential election. The vendor felt that we could, even with a shrinking number of aging machines. In hindsight, that was clearly not the case.

Virginia law provides a minimum standard, basically that there shall be at least one voting machine for every 750 registered voters in a precinct. The Registrar followed this standard in deciding how many voting machines would be placed in each precinct. The smaller precincts had three voting machines while the larger precincts had up to seven. Every available machine we had was deployed.

We had technical problems with some of the voting machines and EPBs, requiring them to be taken out of service for some period of time. Our machine technicians responded as quickly as possible to resolve those problems. Unlike some other counties or cities which have optical scanners, we did not have the option of using paper ballots to help process voters. Except for provisional voters and persons voting outside of the polling place, Virginia law prohibits us from using paper ballots so long as voting machines are operational in a precinct.

I visited a number of precincts on the eastern part of the county on election day and observed long lines at almost every one. I also observed very dedicated election officers working under challenging circumstances to process voters. When I arrived at River Oaks Precinct at approximately 6:30PM, the long line of voters snaked down several hallways in the school building. We locked the doors at 7PM and I remained at the precinct until the final vote was cast at about 10:45PM and not a single person left without voting. While the remarkable patience of those voters is to be commended, it is very likely that others left without voting throughout the day because of long lines. That is unacceptable.

It seems clear to me that the 1 to 750 ratio no longer makes sense, considering the growing size and diversity of our electorate. Simply providing the minimum number of voting machines may have been sufficient in the past, even in presidential years, but it no longer works. For several decades, neither party focused on Virginia in presidential elections so our turnout was relatively stable. The new reality for both the Commonwealth of Virginia and Prince William County is that we are battleground areas with changing demographics and we can expect hotly contested and high-turnout elections in presidential years. That means we need more voting machines and election officers to avoid the delays we experienced on November 7th.

The Electoral Board and the Registrar recognize that our current voting machines are nearing the end of their useful lives. We need a new generation of voting equipment and are committed to having it in place by the time of the next presidential election in 2016. We have expressed that commitment to the Board of County Supervisors, which will be required to make a substantial financial investment to purchase that new equipment.

I strongly support the FAST Voting Act which has been introduced in the House by Congressman Gerry Connolly and in the Senate by Senator Mark Warner. I particularly support no-excuse early voting. I worked at the DMV on the final day of absentee-in-person voting and saw several voters who waited in line only to be turned away because they did not meet any of the statutory "qualifications" to enable them to vote absentee. Making early voting more accessible would also help reduce long lines on election day.

Thank you for bringing this important forum to Prince William County and for your commitment to expediting voting.

BIO

Keith Scarborough is the Chairman of the Prince William County, Virginia Electoral Board. He was first appointed to the Board in 2007 by the Prince William County Circuit Court and was reappointed to another three-year term in 2011. He has served as Chairman since 2010. Scarborough has lived in northern Virginia since 1983 and in Prince William County since 1995. He has been actively involved in Democratic campaigns for over four decades. Scarborough was a delegate to the 2008 and 2012 Democratic National Conventions and is a member of the Democratic Party of Virginia State Central Committee from the 11th Congressional District. In his day job, he works as an attorney for an advertising trade association in Washington, DC.