

Testimony of the New York Democratic Lawyers Council  
on Early Voting at Joint Public Hearing of the New York Senate and  
Assembly Elections Committees  
November 20, 2019

The New York Democratic Lawyers Council is a coalition of attorneys and activists dedicated to ensuring that all eligible persons can register to vote easily; all registered voters are able to vote simply, fairly, and without intimidation; all votes are counted and all voting systems are open and reliable

Since 2004, NYDLC has deployed poll watchers in New York and beyond to ensure that voters have the necessary opportunities to exercise their rights.

This year we executed 178 observation shifts across 10 counties including all five boroughs of New York City, throughout the election period. In addition, we blasted an Early Voter experience survey to our membership and through our social media, asking voters questions about how and when they voted early, and what they thought of the experience. Between the assessments and incidents filed by our poll watchers, and the responses we received from voters, we captured 691 ‘snapshots’ from across the state of how various voting sites were functioning at different times – both during early voting and on election day.

For early voting in particular, we asked our poll watchers to actively assess poll sites for a rubric of considerations that reflected the criteria Democratic county election commissioners had told us were top of mind when considering sites, including Wi-Fi and cellular coverage, parking (where applicable), convenience to public transport (where applicable), and accessibility. Commissioners were tasked with identifying early voting sites that were easy to find and easy to access, while also providing reliable connectivity for e poll book technology (where being used).

In Suffolk County, for example, the connectivity issue directly affected the early voting model. Commissioners had initially intended to use assigned early voting sites, but switched to a vote center model (the model recommended by NYDLC as the most convenient for voters) after finding a threshold number of sites that had sufficient wireless coverage for all e poll books to connect to BOE servers during early voting.

(It should be noted that per e poll book vendors, the technology does not require access to the internet order to function for voters. E poll book tablets can connect to ballot printers via Bluetooth, and store a county's entire registration within their native drives. The tablets can therefore check-in voters without being connected to an off-location server, and upload the ensuing voter history once connectivity is re-established. However, for a variety of reasons, it is considered preferable and best practice to have Wi-Fi and cellphone coverage at early voting sites, if only to enable additional communication to the BOE by inspectors, voters, and others).

The experience in Suffolk, however, in which cellular and Wi-Fi coverage directly affected what kind of voting model the county could provide, underscores that early voting – like any other matter of infrastructure and development – conjoins with the issue of broadband access and cellular service. We received an additional report from Ostego, for example, with a nuanced question on voting policy during election day, and were told that voters could not reach the BOE via cell phone from the poll site in question. In short: better connectivity means more options for siting, and more and better communication for poll site staff and watchers. Early voting and e poll books add an additional layer of urgency to broadband development in non-urban areas, making it a matter of democracy in addition to one of economic development.

By and large, however, our watchers verified that commissioners were successful in their mission to provide the 2019 electorate with sites that were accessible, easy to find, and provided ample, dedicated free parking (where applicable).

Voters, in turn, told us much about how they utilized the early voting option, and interacted with their sites. In jurisdictions where voters predominately arrived to their voting site by using their own vehicle (as was the case in most areas outside of New York City), voters verified that free and dedicated parking was for the most part widely available (an exception perhaps being in Westchester county, where this was a challenge at certain times). In New York City, we learned from our voter experience survey that most people walked to their poll site (versus using public transport, ride share, or their own vehicle). Across the state, a plurality of voters came to vote early straight from home.

One contrast we gleaned from the voter survey was this: within the city, approximately only 31% of voters had ever been to their early voting site before for any reason. This was a marked departure from the state as whole – in which about 70% voters had previously visited their early voting site. However, voters both within the city and statewide overwhelmingly indicated that their early voting site was easy to find. On a scale of one to five with five being “very easy to find,” voters statewide ranked their site as 4.5, and voters in the city ranked it as 4.4

In both the city and throughout the state, a large majority of voters came to vote in the mid-morning through the mid-afternoon, typically on a weekend, and a plurality came directly from home, with a smaller portion coming from neither work or home, but voting while out doing other errands. Only about 8% of voters statewide came from work.

This points to areas of potential improvement both for siting and for hours: more poll sites in more areas open later may engender an increased possibility for voters to vote early after a traditional workday. In particular, the data on how few folks in the city had previously been to their early voting site, and how a plurality came from home, points towards the potential value of a voting center model, that places citywide centers at transit hubs through which New Yorkers typically pass en route to work or home. Such centers would cultivate the option for voters to vote at a wider variety of times, coming from a wide variety places (versus simply walking from home on a weekend, which is the trend indicated by our city data).

The most noteworthy reflection from our voter experience survey was this: a plurality of incidents reported to NYDLC throughout its almost 15-year history stem from voters not being found in the paper poll book or voting at the incorrect site. We therefore asked voters a number of questions about the ease with which they were located in e poll books. Out of the 197 responses to our voter survey, only four voters indicated they went to the incorrect site on their first attempt to vote, and only three voters indicated that there was any issue at all with them being located in the e poll book.

On the whole, therefore, NYDLC considers the implementation of e poll books to be a drastic paradigm shift that, properly funded and implemented, has the potential to allow vastly more voters to be found in the rolls, allowed to vote on the machine, and to vote at the correct site and have their ballot counted. Comments we received from voters echoed this this zeal. Voters submitted such remarks as “very convenient and able to vote on my time,” “easy peasy, thank you,” and, “I loved it and so glad we finally got this important change to voting in NY.”

Another consistent feedback, to the credit of county BOEs, is that poll workers seemed happy, well-trained, friendly, and excited to share this milestone with their fellow New York voters.

The need for continued, increased, and proper funding to ensure that the successes of 2019 continue to grow into future years was additionally underscored by this: in counties that could not afford to implement e poll books at every election day poll site, we were made aware -- by reports from places as diverse as Westchester and Yates -- that the logistical challenge of printing out paper histories of who voted early, and distributing these to election day poll sites for cross-reference, was very demanding. Such an issue would be resolved by more funding for more e poll books, and also more staff.

Furthermore, we caution that the successes of this year were successes of scale, that were implemented well for the 2019 electorate. The size, interest, and demands of the electorate, of course, change from year to year. 2020 will present New York with a larger electorate, and funds distributed to the counties to implement these paradigm-shifting improvements for voters must keep pace with a that.

Finally: we note that particularly due to the enfranchisement afforded to student voters by portability, a significant investment in better, more accessible siting, as well as supplies and staff, to assist voters on college campuses remains an urgent challenge. Due to their high rate of mobility, students remain one of the most indirectly suppressed voting populations in the state. BOEs should offer early voting sites near campus, on campus where possible, and be sure to provide enough staff and affidavit envelopes to allow students to avail themselves of the franchise proffered by the new portability law. This is an urgent issue that requires adequate, and perhaps dedicated, funding to redress.

Additionally, we urge the passage of a ballot-saving bill, which would mandate votes be counted if a student or any other voter votes at an incorrect ED (e poll books and on-demand ballot printers pose alleviation of this problem; however students usually have an additional layer of complication regarding their ED, due to moving within campus while at school). We also await the governor's signature on the substantial compliance bill already passed both by legislative chambers, which would prevent affidavit ballots from being rendered invalid due to small technical errors on the envelope.