Election 2016 Debrief

By all accounts, this was a well-run election.

For all the hype about the chaos that was going to happen on Election Day, with talk of “rigged” elections and Russian hacks, the process itself was orderly and without serious incident.

There were lines in some jurisdictions, as well as isolated reports of voting problems/intimidation issues - but election officials proved to be well-prepared to deal with the challenges that cropped up (i.e. keeping polls open longer in Durham County, NC).

As a result, we had a fairly smooth Election Day and the talk - for the most part – has been about who won more than what went wrong at the polls. Which is as it should be.

NOTABLE ISSUES FOR ELECTION OFFICIALS

Voter Registration and IDs

Problems with registration lists and confusion over ID requirements resulted in the filing of provisional ballots – we will want to study those numbers. Same day registration – especially where relatively new, caused lines and delays.

Equipment and Systems Issues

We heard about jurisdictions in some states with voting equipment malfunctions that likely resulted in longer lines and voter frustration. Some precincts also had problems with electronic poll books (Durham County extended the voting period to ensure voters got a chance to cast their ballot). This is new technology for many, and when it works correctly, it adds tremendous efficiencies to Election Day polling place administration.
The Colorado voter registration system went offline for 29 minutes, which temporarily halted voting, but since most of the state’s voters cast mail ballots, we’re told there were no real issues with the in-person voting that was happening there.

**Voter Intimidation**

Concerns about widespread voter intimidation did not turn out to be warranted. Reports of voter intimidation did increase in a few places (i.e. Philadelphia/Pennsylvania was common source), but these were isolated incidents and some reports could not be verified. This is why election officials urge people to report their issues to election officials immediately at the polls, so they can be documented and investigated, as necessary. Reported issues included: people arguing in line, electioneering issues and questions, poll workers asking about candidate preference or asking for voter ID when not required, etc.

**Voting Rights Act**

This was the first presidential election where jurisdictions formerly covered by the preclearance provisions of the Voting Rights Act were no longer under that federal mandate. There will likely be lots of study on that, including possibly how voter ID laws did or did not affect turnout for minority voters and lower income voters.

**Lines**

Lines were also long in some places, but no issues like 2012. Early indications that election officials put in place some measures recommended by Presidential Commission on Election Administration to better deal with lines. (i.e. Resource allocation tools, e-poll books, early voting option).

Ballot selfies did not become a big issue thanks to good info-sharing on rules before Election Day. A few famous names were chastised for
ballot selfies – Justin Timberlake and Eric Trump were two I heard, but it did not turn into a big issue.

We saw lots of positive feedback on social media about positive voting experiences and a recent survey by the Democracy Fund 85 percent of Americans who went to the polls on November 8th said they had a pleasant experience at the polls on Election Day.

**TURNOUT**

It’s still too early to provide actual numbers. Experts say it’s likely the overall turnout numbers will be down nationally compared to other more recent presidential cycles, but there were spikes of high turnout in some states.

According to Michael McDonald of the US Election Project, the top 10 states for turnout were:

1. Minnesota
2. New Hampshire
3. Colorado
4. Maine
5. Wisconsin
6. Iowa
7. Massachusetts
8. Oregon
9. Virginia
10. Washington

His turnout rates are calculated with the voting-eligible population as the denominator. The voting-eligible population (VEP) represents an estimate of persons eligible to vote regardless of voter registration status in an election and is constructed by modifying the voting-age population (VAP), by components like non-citizens,
inmates and other ineligible felons-based on state law. Many election officials prefer to use the number of registered voters as the denominator, as it obviously makes the turnout numbers higher. This is an argument state officials will continue to have with political scientists.

Other interesting numbers to review will be the national voter registration figures for eligible voters...registration records were set in a number of states, CA and GA to name two, this cycle.

Early voter turnout appeared set to break records in many states, with more than 46 million Americans casting ballots before Election Day itself. There was a lot of growth in early voting this year – 36 states plus DC had some form of early voting (37 if you count Oregon and its all-mail balloting system). It has transformed presidential politics and put a premium on state-level organization.

Some states far outpaced their early voting 2012 levels, such as Minnesota, which recently adopted no-excuse absentee voting. Will be important for us to follow those numbers.

We don’t know how voter ID laws impacted turnout, issue for study.

**International Observers**

Many states also welcomed international election observer delegations from the Organization for the Security and Cooperation in Europe (OSCE) and - for the first time - the Organization of American States. We were able to utilize NASS protocol developed for helping to facilitate such visits as a way to minimize confusion about state laws and promote better information-sharing between election officials and the U.S. Department of State. NCSL had commissioned a review of states laws and rules for election observers which was greatly appreciated and widely used.
Trust/Confidence

The Democracy Fund study I referenced earlier also told an unsettling story. Of the 85% of voters who had a positive experience on ED, an overwhelming number of those same voters also said they hand concerns on some level that the election was “very fairly” determined, which is to say that even the voters who are most trustful of the system after the election still have considerable concerns about specific threats to the process.

Starting after the DNC breach and leading up to Election Day there were many media stories about the likelihood of hacking, rigging, and voter fraud. The Secretaries of State, as well as NASS, spent a great deal of time working to correct misinformation – which spreads so quickly- and educating about the election and voting systems and the security protocols in place. Sadly, it seems that trust in government officials is lacking and it was a difficult to get accurate information out at times. Academics, advocacy organizations and cybersecurity firms were working as hard as we were to promote scenarios they believed to be valid.

In early August, DHS Secretary Johnson stated that “We should carefully consider whether our election system, our election process, is critical infrastructure like the financial sector, like the power grid. There is a vital national interest in our elections process, so I do think we need to consider whether it should be considered by my department and others critical infrastructure.”

We immediately reached out to his office to arrange a conference call with the Secretaries of State and other chief state election officials around the country. Any designation of that nature, right before the election, would mean nothing substantively and create a distraction that election officials couldn’t afford 90 days out from the election.
We were able to arrange a call with the Secretary and election officials discussed their concerns. We also formed a smaller working group of the leadership of NASS and federal agencies like DHS, FBI, EAC, NIST and NSC to have an efficient way between August and November to address concerns expressed by all participants.

We learned that DHS would provide assistance to the states, with or without a CI designation, and we began educating the states on what was available and how to access it. To be fair, many of the states already employed what DHS was making available, but participated anyway because media was casting a negative light on those who didn’t.

We spent a lot of time educating homeland security officials about how the elections process worked and the difficulties of hacking a decentralized process where equipment, practices and policies differed from state to state and county to county. We also worked with DHS to discuss where vulnerabilities did exist – in internet facing systems like online voter registration and election night reporting. We also were successful in getting DHS and the Administration to back away from any sort of designation before Election Day. However, that conversation looks like it is heating back up and may be coming before the end of this Administration.

There were no cybersecurity issues reported on ED. Great success story for all – local/state election officials and federal partners – DHS, U.S. Election Assistance Commission.

All 50 states spoke with DHS to review their cybersecurity efforts regarding state election systems, with many of them taking advantage of voluntary resources like cyber hygiene scans and risk assessments. After several months of review, assessment and monitoring, no additional state voter registration database breaches were discovered
(just the one in Illinois and the attempted state breach in Arizona). States take away a lot of important feedback from this cycle on securing their systems from very serious new threats that exist in the digital age, as well as the opportunity to engage lawmakers in a meaningful conversation about the need to invest in elections and replace aged voting equipment that is nearing its end of life/have well-documented technical vulnerabilities.

WHAT HAPPENS NOW?

Need to see what happens in state legislatures, in Congress, U.S. Election Assistance Commission, Department of Homeland Security. There will be questions on what worked, what didn’t. Need data and feedback from locals, polling places.

As in previous years, we would expect to see state legislation on online voter registration, different forms of automatic registration, move to more mail balloting, move to add or change early voting laws, voter id, recounts and election audits. You will also likely see requests for funding for new voting systems, enhanced cybersecurity efforts, improvements to military and overseas voting, and voter registration list maintenance.