

Marilyn R Marks

Subject: Secret Ballot Election
Attachments: Excel Strings.xls; Poll Book Page.pdf; TrueBallotScannerBatches.pdf

From: Millard Zimet <millard@sopris.net>
Date: October 13, 2009 10:56:11 AM MDT
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Subject: **Secret Ballot Election**

Jim -- I left the Election Commission meeting on Friday with the distinct impression that it would be some time (if ever) before the EC heard my complaint. Nonetheless, I've decided to present to you further information about the data I've collected to date, as I think it is important for you to have it and that it is important for the City to make sure these problems don't arise again in future elections.

At the meeting I stated that there were four ways one could find out how another person voted. Those ways are:

1. Find My String: As I stated in my complaint, if I can find my string then I can see how the people around me on the ballot log at my precinct voted. I've discussed this method already at length, so I'm not going to elaborate on it here.
2. The Edges: Because the strings and ballots weren't shuffled it is very likely that the strings of the voters who voted at the beginning and end of election day are at the edges of the strings. These strings are unlikely to have been impacted by any cuts in the deck, and there were few voters using the polls at the beginning and end of the day so there would likely have been no "faster voter" cutting ahead in line. So the order of the strings at the edges would likely match (in reverse order, last in/first out) the order of the poll books.

For example, please see the attached page from the Precinct 4 poll book. As you will read, the very first voter is Judge Gail Nichols. The very last string in Precinct 4 is on line 1503 of the attached copy of the strings (in Excel format). I think that string could be hers (she was the first voter in, so her string would be the last one out). While I only attach to this email the first page of the poll book from Precinct 4, naturally this method would also work for all the other Precincts.

3. Marked Voters: Another reason why I think string 1503 could be hers is because the poll book indicates that she entered Precinct 4 right before David Guthrie, who for purposes of this exercise I'm going to call a "marked voter". David is known in the community to have conservative political views, and he also worked for Derrick Johnson's campaign. String 1502 was voted only for Marilyn Marks for Mayor and only for Derrick for Council.

This "marked voter" method has broader implications. On this same page of the poll book we see Dwayne Romero listed as voter #35. There were five spoiled ballots before him, so really he was voter number 30.

Dwayne is listed right next to Kathy & Warren Klug (voters 31 and 32, respectively, on the attached poll book page). If we go about 30 lines into the strings up from the bottom of Precinct 4 we find lines 1472 and 1471, which could be the Klugs' strings (those strings were voted identically for Mayor, and both strings had a lodging guy, Behrendt, first for council). So I

think Dwayne's string could be on line 1473 (that string voted somewhat conservatively, befitting Dwayne's profile, and is 30 up from the bottom).

Dwayne was also very near another husband & wife pair, as Elyse Elliott and Jeremy Bernstein are listed 27th and 28th in the poll book, with Robert Schafer listed between them and Romero. Since spouses frequently discuss with each other how they are going to vote, and share common concerns, it is not uncommon for spouses to vote in a similar manner. So it is quite possible that the strings that appear on lines 1475 and 1476 are the Elliott/Bernstein pair as these strings have very similar voting patterns, with Schafer's string at 1474 and Romero's string at 1473.

Of course, husband & wife pairings appear throughout the strings, and can be used to mark a great many voters. Likewise, voters with known strongly held views are likely to bullet vote for only one or two candidates, and bullet votes appear throughout the strings. Any time one marks any given voter then the votes of all the people listed on the poll book around that person become knowable.

4. Process of Elimination: The fourth method involves deductive reasoning and process of elimination. In some respects this method is the most troubling of the four methods, because it allows one to learn how another person voted even if the strings and ballots were to have been thoroughly shuffled. Let's take Mick Ireland as our example for this method. We

can guess that he voted for Mick for mayor as his first choice, so that allows us to eliminate all strings in his precinct (Precinct 3) that did not have Mick as first choice. We also can guess that he voted for Jack Johnson as his #1 council choice, as Mick campaigned for Jack. So now we only have to look at the strings where Mick was first Mayor choice and Jack was first council choice. We can also guess that he voted for Jackie K as his #2 council choice, as he helped with her campaign. There were only 6 strings from Precinct 3 that had Mick for Mayor as #1, Jack J for council #1 and Jackie K as #2. But five of those strings had a vote for Torre as #3, and since Mick has bitterness towards Torre from the last election we can eliminate those strings. This leaves only one string in Precinct 3 that fits the profile.

Since 88% of the voters generated unique strings (that figure is higher if one factors in the Art Museum votes) this method works if we have some information about any given voter regardless of how well the ballots and/or strings are shuffled and regardless of where the voter appears in the poll books.

While I believe this method is certainly not as reliable as the other three methods listed above, I still believe it merits consideration.

Last, and undoubtedly not least, please see the email below that I received after the meeting from Marilyn Marks. It appears that the City, in response to one of her CORA requests, provided to her information regarding the size and order of the batches scanned from each precinct.

I believe I could use this data to figure out where the deck was cut, and to recreate the order of the deck as it originally appeared. If this were the case then I could figure out how the whole town voted (with some errors due to "faster voters" and due to some random mixing of ballots during handling).

I have now presented to you a good summary of the information that I have to date. I have no plans to investigate this matter further, as what I've learned to date is enough for me to conclude that there were significant problems with this election regarding ballot secrecy. I also have no plans to pursue this matter in court, as I believe that the Election Commission is the forum to deal with this matter. Likewise, while I have made public the assertion that there is a way to determine how other people voted (method #1 above), I have no plans to publicly state any of the other methods listed in this email (or any of the other information in this email), or otherwise pursue this matter further in the press, as I think I've sufficiently freaked out enough people.

I apologize deeply for the disclosure of information in this email regarding how any specific string was voted, and I request that you do not forward this email or otherwise disclose this information out of respect to the voters named herein. Rather, this information is presented solely so that you can understand the problems discussed herein. Finally, I make no representations or warranties that any of the information presented herein is accurate; indeed, as you have stated, it may in fact all be false as there is no way I can 100% prove any of this.

So now I'm done! Do with this information what you will, and sweep it under the rug if you like. But don't say you didn't know.

Thanks, MZ

PS: I had originally intended this email to go only to you, but Ms. Miliias stated that it was inappropriate for me to be communicating with you only and not the entire Election Commission. So I'm copying the Election Commissioners on this email. To all of them I also say do with this information what you will, but don't say you didn't know.

Attachments: Strings in Excel format; Page 1 from Precinct 4 poll book; batch data.