

# Our American States | An NCSL Podcast



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## The Security of American Elections | Episode 3 | 2/9/2017

### Podcast Transcription

Gene Rose: Welcome to Our American States, a podcast of meaningful conversations that tell the story of America’s state legislatures – the people in them, the politics that compel them, and the important work of democracy. For the National Conference of State Legislatures, I’m your host, Gene Rose.

For most Americans, we only pay attention to elections when we go vote, and for many, that only occurs during presidential election years or when there’s a controversial issue on the ballot. But for others, elections are something that is of concern all year long. Our guest today is one of those people. Doug Chapin is the Director of the Program for Excellence in Election Administration at the Humphrey School of Public Affairs at the University of Minnesota. He’s also Director for the University of Minnesota’s Election Academy.

Let me just start out with a basic question here. Most people probably think that voting laws are made by Congress and that the federal government regulates elections in this country, but isn’t the truth of the matter that the states are essentially in charge of this?

Doug: It’s true that the American election system really is a collection of different systems. The federal government has some role in how elections are conducted in this country, but that tends to be an oversight and enforcement role through the Department of Justice. Where the real work is done and where the real laws matter, are at the state and sometimes the local level.

Gene: Why should Americans be concerned about the voting infrastructure in America today?

Doug: I call myself an election geek and I care a lot about the election infrastructure in this country because it is, to me, a vital part of our system. The voting system and, in particular, Election Day, are the point at which all of our opinions and thoughts about the way our country should be run or the direction it should go are changed into actual decisions about what government will do at every level in our country.

I always refer to this delightful alchemy where that soup of opinions we all carry around is translated into actions through a ballot. And given that the election system is the means by which Americans have the opportunity to do that, it's incredibly important that we make sure it works well.

Gene: And what's your assessment of how elections are run in this country, Doug?

Doug: I think overall elections in this country are run remarkably well. Given that we have so many different systems and so many different laws in different communities, by and large I think Americans can be confident that if they register, they will be on the rolls, if they cast their ballot, it will be received, and that that ballot will be counted as it was cast.

Now, like any other endeavor in the public sphere, there's room for improvement, there are budgetary challenges and what-have-you, but by and large I think Americans can and should be confident the system works the way it's supposed to.

Gene: We've heard a lot of concern about voter fraud in this country. Do you support that there's a lot of that out there, or how would you assess voting fraud in America?

Doug: I think that the fight over voter fraud gets caught up too much in whether or not fraud actually exists. I think it's fair to say based on what I've seen across the country that there is some non-zero amount of people trying to gain the system by registering twice or trying to vote twice or what-have-you.

I don't think it's anywhere near at the level that people are concerned about. Certainly this talk of millions of votes in the most recent election I think vastly, vastly overstates the degree to which fraud exists.

So what I tell election officials and my students at the University of Minnesota is: we need to be on the lookout for fraud and other problems in the system, but you don't need to assume that it is rampant or widespread to care about it.

Gene: There's a federal report that was issued about Russian hackers who tried to get into two state voting registration systems. Is this a legitimate concern that foreign political hackers could change the outcome of elections here in America?

Doug: I don't worry so much about registration systems being a source of outcome changes. If you attack the registration systems we have in this country, there's still a long way to go before you're actually able to turn a registration into a ballot.

That said, I still think these attacks on state registration systems are incredibly concerning and something that states need to worry about for the simple reason that unlike a ballot, which is

anonymous, state registration lists contain reams and reams of personally identifiable information which could be used to compromise not just voters' voter records, but their entire livelihood, financial and otherwise.

As we have put more and more of this data online and made it accessible online, it's subject to the same pressures that we see other online databases come under. And so election officials have the same duty to their voters in protecting that information that companies do in protecting their customers' information.

So I don't worry so much about the impact on the election system writ large as much as I do the impact of individuals who have given their information to government as part of registering or updating their registration.

By and large, the actual voting machinery out there, the ballots that collect and count ballots, are not connected to the Internet. You do hear from some technologists who worry about whether or not the databases that are used to accumulate and then report that data are sufficiently what's called "air gapped" from the system, but by and large the machinery we use to cast and count ballots in this country is not connected to the Internet.

Gene: Let's talk a little bit more about those voting machines. Is there enough competition in America, the secretaries of states have options to get different systems? How would you assess what those options are for states right now?

Doug: The market has certainly shrunk over time. There used to be a pretty wide-ranging and free-wheeling market. That started to dwindle a little bit once states began to test and certify machines. We then saw another re-flowering of the industry, if you will, in the wake of the Help America Vote Act of 2002 – nearly 4 billion federal dollars will do that. But over time we've seen mergers and consolidations in the field such that there really aren't that many voting machine companies left.

Now, having said that, there seems to be a new push in the field for something that looks a little bit like plug-and-play that we've come to expect in computers, for example. You know, it used to be when you bought a personal computer from Acme Computer Company, you got an Acme box, an Acme keyboard, an Acme mouse, an Acme display. And nowadays you can buy the box from one company, the keyboard from another, the mouse from a third, and a display from someone else because they've got that common interface that all the computer companies build to.

I think you're starting to see more of that out there. For now, jurisdictions don't have much in the way of competition, but I think there's some hope down the line that they'll be able to replace different parts of their system with up-to-date equipment that will work with the equipment that they already have.

Gene: Do you have an opinion about how often these state machines should be updated, just given the security issues?

Doug: Part of the challenge that we see in the field is that because of the testing and certification requirements, that the pace of innovation always outstrips the pace of regulation. In some ways the regulations are always kind of fighting the last war, if you will, on technology.

I think that folks in the field are increasingly realizing that buying a whole bunch of equipment once a decade, we'll say, is probably not the best way to go and that they're going to want to find a way to update those parts of the system which become the most outdated or become the most vulnerable more frequently.

And the challenge is going to be to set up a technology market that allows companies to develop and market those machines at that kind of pace and, frankly, for legislatures across the country to be willing to pay for what is essentially constant equipment upgrades rather than these occasional, you know, once-in-a-decade moonshots.

Gene: The cost of these machines, I guess, is a concern for state governments.

Doug: Absolutely. I think that given the number of voters and the number of polling places involved, you start to see the totals add up pretty quickly, and given how tight state and local budgets have been really for as long as I can remember, those numbers are usually big numbers about which legislatures need to swallow hard.

Gene: We've talked a lot about the security. Are there other things like civility that state governments really need to pay attention to?

Doug: They do. I think as discussions about voting technology in this country continue to evolve, there is a greater understanding that we need to make sure that the machines are flexible enough to deal with voters in lots of different situations. The most obvious situations are things like disabilities, whether it's a physical disability or some kind of a cognitive disability, whether it's sip-and-puff or audio capability or what-have-you, but also language capability as more and more voters with limited English proficiency come to the polls, increasingly there's a need for the machinery to be flexible, to be able to provide them with the information they need in a language they can work with.

But I think there's also a greater need for flexibility in how voting machines fit into the election system overall. Lots of jurisdictions are looking at election equipment replacement as if they are going to simply replace all of the machines in each of their precincts with a newer machine. But as we've seen in states like Colorado and now in California, increasingly there is an interest in rethinking the election process overall, that rather than bringing voters to polling places on or before Election Day, we give voters choices in whether to mail their ballots, drop off their ballots, or bring them to a physical polling location. And I think states are going to want the kind of flexibility to decide how to structure their election systems without necessarily being tied to a specific technology to support it.

Gene: Let's talk a little bit about that. A lot of states have gone to the mail ballot route. Has that been successful, Doug? Is that something that you might see even more of a trend in this country?

Doug: I think we will. I think that for a while there were a handful of states, Washington and Oregon most notably, that switched away from polling places to an all vote-by-mail state. And they have

seen some benefits from that, not necessarily from a turnout standpoint; often you hear people talk about how vote-by-mail will increase turnout – the data doesn't support that, but I think states and localities are seeing that it both changes and makes it easier to manage the election process because you're not hiring poll workers and looking for polling places across the state.

The new wave is this so-called "Colorado model" where voters are all mailed a ballot and then have the choice of mailing it back, putting it into a drop box, or coming to a polling place on or before election and casting their ballot. And I think there is interest in that model just as there was in vote-by-mail not so much as a way to increase turnout, but to make the system work better for voters and election officials alike.

Gene: And Doug, if I read your bio correctly, you were helpful when you worked for the Pew Center on the States in helping to get legislation passed to help military and overseas voters to submit their ballots. We've seen on election night particularly on presidential elections here where some secretaries of state said well, we're going to have to wait until we see those ballots come in until we can give an official count. How does that process work in terms of the military and overseas ballots, and do you think there are some improvements that need to be made?

Doug: Oh, there are always improvements that need to be made. I mean, one of the things we found when I was at Pew was that voters abroad, whether they were military or overseas citizens, were being literally squeezed for time, that delivery of ballots both to and from wherever they were in the world took so long that even if they were to instantaneously open, cast and return their ballot, it wasn't going to arrive back in the States in time.

So we worked on a federal law which ensures that ballots and federal elections go out to military and overseas citizens no less than 45 days before Election Day, and many of those military and overseas Americans get their ballots delivered to them electronically so as to eliminate the physical delivery time at least on the outward leg.

We are still seeing some challenges in getting those ballots back in time, but I have seen at the state and local level across the country a greater understanding of the need to get those ballots out to folks abroad sooner so that they can come back.

Gene: Doug, you work with a lot of companies like Google, Microsoft and Facebook. Do you see more involvement from large companies like that to try to improve the voting systems in America today?

Doug: Yes and no. I think that those big companies are nervous about being more heavily involved in the actual machinery of elections I think because of the perception of being pulled into political disputes in this country. That said, I think companies like Google and Facebook and others are aware that because they have so many customers and so many people turning to them for information, they're looking for ways to make that information available to people. And so they have been huge investors of both resources and sweat equity in helping state and local election officials make voting information available to voters.

Your listeners and others will probably know that you could enter "vote" or "where to vote" into Google and get all kinds of information about where your polling place was and what the hours were and who was on your ballot. We saw similar abilities to do so on places like Facebook. And,

in fact, the availability of that data meant that it was almost literally ubiquitous in 2016. We had sites from campaign sites to Etsy and Weather Underground and even Four Square making voting information available to folks while they were there doing other business on their sites.

Gene: So if you had to boil down advice to state legislatures, Doug, on things that they should be doing or looking at, what would those be?

Doug: I think number one is you need to realize that elections are constant. You know, the political calendar is such that we tend to pay attention to elections in even-numbered years or in states like Virginia that have elections every year. But elections are really a 24/7, 365-day affair, and we need to think about funding streams and laws that meet that model.

I think that legislators need to think about what elections look like from the voters' point-of-view. I know that legislators all consider themselves experts on elections because they were elected under whatever the current system was, and that's an important perspective, but I think there's also a real need to think about what elections look like to the voter. You know, are the locations convenient to them? Are the times convenient to them? Do forms and other requirements make sense to them? And election officials can really be a helpful source of guidance on that score.

And then finally, I think that there really needs to be an understanding the elections are always changing, that the newest technology very quickly becomes everyday technology and obsolete technology, and that thinking about ways to protect the essence of the election system independent of whatever machinery we're using at the time is really important.

Gene: What have I missed here? What are kind of some of the bigger issues that maybe I haven't touched on?

Doug: A couple things at least worth noting going forward – obviously the courts have become incredibly important in election administration because of the kinds of partisan disputes we've seen. I think state legislators, especially those who serve on election committees, would be well served to take a hard look at whatever is in their election code and make sure that if and when a result is in doubt, either before or after Election Day, that the code is fairly clear on what the rules are, who is the ultimate authority at the state or local level, and what-have-you.

There's that great line that "few people think about their roof until it starts to rain." You need to work on your roof on a sunny day, and taking a good look at your election code is an important first step.

I do think that there are opportunities in every state to think about how to help election officials become more like a profession in the conduct of their work. Election officials are already professionals in that they do their jobs well and pay lots of attention to what works and what doesn't, but too often election administration becomes an on-the-job kind of learning process. And just like states think about how to ensure that lawyers or accountants or other professions are well qualified to do their jobs, we think that state legislatures ought to think about what kind of educational requirements and opportunities are available to election officials, make sure that they're available, and also make sure that they're being compensated for any additional training or education that they invest in.

I think that the system works better when we have a profession of people who can talk not only within a community, but to one another nationally, and if states can invest both money and a little forethought into what that looks like, I think that will be good for not just individual states, but for the nation in the long term.

Gene: Our thanks to Doug Chapin on his expertise in voting security laws in this country. A reminder that the NCSL elections and campaign staff tracks legislative action on a variety of issues including election laws, initiative and referendum, elections technology, and campaign finance. NCSL staff also provides customized assistance for state legislatures including briefings on elections, in-depth research, publications and other services.

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