
2004 Municipal Election Observations

December 23, 2004

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Introduction

At the request of the Office of the City Clerk (OCC), the Office of the City Auditor (OCA) participated in the 2004 Municipal Election. The role of the OCA in this and previous elections was to provide independent quality assurance reviews and advisory services to the OCC.

Objectives

The OCA's objective was to provide a reasonable measure of assurance that the election was prepared for and conducted with reasonable care and attention to the operational and security procedures that were established to ensure fair and transparent voting.

Scope and Methodology

A staff member from the OCA participated on the Election Planning Team and provided control and process-related input throughout the election planning process. The Election Planning Team was responsible for developing training materials for election workers, ensuring that the procedures to be followed at polling stations (advance, institutional, and regular polls) were in compliance with applicable legislation and were adequate to ensure security and accuracy of vote counts.

In addition to that involvement, the OCA participated in and observed and/or reviewed logic and accuracy testing of the ballot readers used in regular and institutional polling stations and the electronic voting machines used in advance polls. The purpose of this testing was to ensure that each machine accurately recorded and reported actual ballots cast. Logic and accuracy testing was also conducted on the systems used to collect and compile election results both at the ward level and the central accumulation site.

During Election Day, 12 auditors visited 99 of 206 regular voting stations (48%) and 12 of 44 institutional teams (27%) to observe the voting process and provide feedback to the Office of the City Clerk on the overall integrity of the election process. The auditors also visited each of the three advance polling stations for some of the advance voting dates.

Testing of the M100 ballot readers used on Election Day, memory cards, and the voting results program was under the control of the City of Toronto Election Support Team with some employees from IT Branch, Corporate Services Department assisting with the

logic and accuracy testing. All ballot readers and memory cards to be used for Election Day or as spares were tested using specially marked ballots against a Logic and Accuracy Checklist. The OCA reviewed a sample of the completed forms for completeness.

The Election Support Team tested the memory cards for logic and accuracy by reading the results from the memory cards into a voting results program. The results from each memory card tested on the ballot reader were compared to the results generated by the voting results program. All differences were reconciled. The memory card readers, computers, and modem lines to be used at the remote accumulation sites and City Hall were tested to ensure they would accept and transmit the data correctly and that Election Central could generate accurate and timely results.

All electronic voting machines used for Advance Voting Days or as spares were tested using a logic and accuracy test memory card and a Logic and Accuracy Checklist. The OCA observed this procedure.

Observations and Analysis

Innovations and Accomplishments

The electronic ballot touch screen machines that were used in the advance polls provided a new level of independence to visually impaired voters by providing the option to use audio-prompting technology. This new option was reportedly appreciated by those voters that used it.

The procedural changes implemented this year to facilitate timely collection and compilation of voting results worked very well. Almost all voting stations delivered their ballot readers to the remote accumulation sites within one hour after voting stations closed. The election results were completely reported by 9:30 PM on Election Day.

Ballot reading machine malfunctions were recognized promptly and resolved in a timely manner in every instance. Replacement of malfunctioning machines was managed in accordance with the City's established procedures.

The revised reconciliation forms and revised delegation of closing duties implemented in this year's voting station closing procedures resulted in significantly faster reconciliation of ballots and reporting of results.

The new procedures implemented for this election to enhance the process of overall reconciliation of ballots worked quite well and the new documents and instructions were clear and easy for the election workers to follow. No material discrepancies in ballot reconciliation were noted.

Voting Irregularities

Address list or voters list were not used in this election as was widely reported in the media. Although an address or voter list is not required under the election legislation relevant to the City of Edmonton¹, use of such a list is perceived to add credibility to the election process. Current legislation allows a voter to vote even if they are not on a voters list by completing and signing a voter registration form. No identification is necessary to do this.

Although the province and federal government maintain voter lists and use them to validate people's eligibility to vote, those lists do not ensure that only those persons eligible to vote can do so. As with municipal elections, individuals are allowed to vote whether they are on the voter list or not as long as they make the required declarations.

An incident was reported in the Edmonton press in which some high school students indicated that they had tested the system by signing voter registration documents and voting even though they were not legally eligible to do so. In so doing, those individuals committed an election offence. Election workers are not permitted to require photo or other ID to complete voter registration forms or to demonstrate eligibility to vote in a particular voting station. Under the terms of existing election legislation, election workers are not permitted to challenge an individual's right to vote.

In the 2001 election, the City used address lists and cross referenced this list to the voter registers. As the OCA noted in its report, voter lists do not prevent ineligible voters from voting. The OCA recommended that the process for verification of voter eligibility be reviewed and pursued with appropriate authorities in a timely manner. The Administration provided a report to City Council on December 5, 2001 that summarized the legislation related to voter eligibility, but changes to legislation were not pursued.

If the City decides to use voter lists in the next election, the City of Edmonton Election Bylaw needs to be amended. If the bylaw is changed to facilitate maintenance of a permanent electors' register, the City could enter into an agreement with the Provincial Chief Electoral Officer under the terms of the Alberta Election Act to receive and provide information that will assist in compiling and revising the permanent electors' register (Local Authorities Election Act, Section 49(2)). Otherwise, the City would need to complete an enumeration of the electors residing in each voting subdivision or ward where an election is required (Local Authorities Election Act, Section 50(1)(a)). In either case, a voter may still vote even if their name does not appear on the list of electors by making a statement in the prescribed form (Local Authorities Election Act, Section 53(1)) unless a further change is made to the legislation requiring appropriate identification. In order to authorize election workers to request identification, the Local Authorities Election Act that governs the elections in Alberta municipalities would need to be amended by the Province.

¹ Revised Statutes of Alberta (RSA) 2000, Local Authorities Election Act, Chapter L-21

The OCA believes that use of voter lists at each polling station would enhance the public perception that only legally eligible voters are permitted to vote. In reality, however, there is no legally available means of guaranteeing that only eligible voters cast ballots. Existing legislation has been written in a manner that errs on the side of not refusing an eligible voter opportunity to vote because of incomplete or outdated identifying documents.

Compliance Issues

The OCA believes that the observed compliance issues resulted largely from training deficiencies and procedural misunderstandings.

The Presiding Deputies (PD) and Assistant Presiding Deputies (APD) were to train the Address and Registration Clerks on Election Day morning prior to opening the voting stations. This training was not carried out successfully in all voting stations. Some PDs and APDs did not understand that their role included providing on the job, timely training to these election workers. As a result, in some cases the Address and Registration Clerks were unsure of their responsibilities and hence did not strictly comply with the established election procedures.

It is the OCA's opinion that these situations were relatively minor variations from procedure (e.g., using a ballpoint pen to mark the demonstration ballot) that did not compromise the overall integrity of the election process.

Training and other Issues

Knowledgeable and experienced Area Supervisors are an invaluable source of assistance to the Ward Coordinators and to the overall quality assurance processes. Every attempt should be made to retain the capable and experienced Area Supervisors for the next election while ensuring that all Area Supervisors receive in-depth training to help them understand the entire voting process. The role of the Area Supervisors as quality assurance agents needs to be stressed. Area Supervisors need to be equipped to observe the voting process at their assigned polling stations to ensure that established procedures are being consistently followed and to intervene as appropriate.

In order to maintain the secrecy of the ballot, procedures and/or materials need to be changed. In several instances, OCA observers noted that voters' selections could be observed from the back side of the ballots because the ink bled through the paper. Use of heavier weight of paper for the ballots or different types of ballot marking pens would reduce the amount of ink bleed and ensure that the markings are not visible from the back of the ballot as is the case with the current materials. The OCA also observed a few instances in which election workers did not ensure complete privacy of the ballot while dealing with spoiled and problem ballots.

Procedures or protocols need to be developed to minimize disruption of voting stations when agents or scrutineers refuse to follow procedures and rules. There were a few instances in which agents or scrutineers interfered with the election process, thereby necessitating the attendance of election officials at the voting stations. Although this

situation was not widespread, appropriate changes to the City's election procedures need to be made in the event that similar situations arise in the future.

Ballot reconciliations were conducted with a reasonably high degree of accuracy. The auditors that were not observing the remote accumulation site activities were directed to observe closing procedures in voting stations where problems were anticipated. In four of the five voting station closings observed by the OCA, the number of ballots accounted for differed from those supplied by only one ballot.

Recommendations

Electronic Voting

Although the electronic voting machines used in the advance polls were well-received, concerns have been raised about the security of voting records on some electronic voting machines. Security-related internet sites have reported that some electronic voting machines are susceptible to tampering. Those machines that have been the focus of discussion do not have any paper record of votes cast that would enable physical recounts to be conducted in some form.

The electronic voting machines used by the City of Edmonton in this election are capable of producing an audit log of all transactions performed on the machine and in cases of dispute, these logs could be reviewed.

Recommendation 1: The OCA recommends that if the City chooses to consider expanding its use of electronic voting machines, both security and auditability concerns need to be resolved before they are put in wider use.

Management Response: Accepted

Planned Implementation Date: 2007

Management Comments: Due to costs and practicality, the Office of the City Clerk does not predict that it will ever be practical to expand the use of electronic voting machines. The machines were introduced for the 2004 election in response to a requirement that blind and visually impaired people have the ability to vote independently. The OCC is of the opinion that the use of electronic voting machines is changing substantially in the United States. As a result, it is quite likely that the OCC may be using different electronic voting machines for the 2007 election.

Fraudulent Voting

The reported incident of fraudulent voting by minors needs to be evaluated in the context of the principles of transparency and accessible voting. Following the 2001 municipal election, the OCA recommended that the process for verification of voter eligibility be reviewed and pursued with appropriate authorities. The OCA's observations were considered by the Office of the City Clerk and in their report presented to Executive Committee on March 13, 2002 they indicated that any changes to the Local

Authorities Election Act would have to be done by the Province. Council received the report for information and no further action was taken.

Recommendation 2: The OCA recommends that the use of voter lists and/or authority to request voter identification for the 2007 municipal election be fully evaluated by the Office of the City Clerk and that all options be presented to Council as early as possible in 2005 for direction and to facilitate any required changes to bylaws or other legislation.

Management Response: Accepted

Planned Implementation Date: Report to Council in April 2005

Management Comments: The Office of the City Clerk is conducting thorough research on this issue and will be providing Council with a report in April 2005.

Quality Assurance

The role of the Area Supervisors was both expanded and refined this year, but further role definition and more in-depth training for new Area Supervisors is needed if they are to be significant contributors to the integrity of the election process.

Recommendation 3: Training for new and continuing Area Supervisors needs to be further enhanced to strengthen their ability to intervene as necessary to ensure that elections are carried out in full compliance with approved election procedures.

Management Response: Accepted

Planned Implementation Date: June 2007

Management Comments: The Office of the City Clerk will review the recruitment strategy for Area Supervisors and explore other options to recruit. The Office of the City Clerk will also explore providing training for and authority to Area Supervisors relative to intervention when issues arise in the polls.

Ballots

The marking pens and ballot paper combined this year in a manner that could have compromised the secrecy of the ballots. The OCA is not aware of any incidents in which secrecy was actually compromised, but the ink bled through the ballot paper. If an observer had learned the positions of candidates' names, the secrecy of the vote could have been compromised.

Recommendation 4: The OCA recommends that for future Municipal Elections, appropriate changes be made to the secrecy sleeves, ballot paper and/or pens used to ensure the secrecy of the ballot.

Management Response: Accepted

Planned Implementation Date: Report to Council in April 2005; Implementation date June 2007

Management Comments: The Office of the City Clerk is conducting research on this issue and will be providing recommendations to Council. One of the areas being researched is the use of a secrecy sleeve designed specifically for the City of Toronto. This particular secrecy sleeve would allow for the insertion of the ballot into the ballot reader without viewing the markings or jamming the machine. Another option that is being explored is an upgrade to the firmware in the ballot reader. The upgrade to the ballot reader would enable it to read markings made by a ball point pen or pencil. The markings made by a ball point pen or pencil should not bleed through the ballot.

Agents and Scrutineers

The disruptions of voting processes observed this year had also been observed in the previous election. Therefore, in this election more resources were devoted to this issue to ensure that election procedures were followed. Other than when direct supervision was applied by the legal and/or audit representative of the Election Team, the disruptive agents did not change their behaviour from that of the previous election. As a result, changes to election procedures (including sanctions against repeat offenders) and election worker training to address situations such as those that arose this year need to be developed.

Recommendation 5: The OCA recommends that the Office of the City Clerk and Law Branch review the disruptions and develop revisions to the election procedures and election worker training that will enable election workers to better respond to disruptions that could compromise individuals' rights to vote.

Management Response: Accepted

Planned Implementation Date: Report to Council in April 2005

Management Comments: The Office of the City Clerk is not in control of agents and would require legislative authority to remove them from the voting station. The Office of the City Clerk will be doing further research in this area as part of its review of the Local Authorities Election Act. The ability and willingness of the Police Service to enforce the legislation would also be required.

Conclusion

The OCA believes that the 2004 Municipal Election showed significant procedural improvements over the 2001 election. Those improvements resulted in substantially shortened time frames for reporting the entire vote. The OCA commends the Office of the City Clerk for the work that they undertook to develop and implement those enhancements.

The OCA appreciates the cooperation received from the Office of the City Clerk and the election workers in carrying out the work related to this review.