

0 Connecticut Citizen Election Audit Coalition

Districts in Drawing Study Report

Citizen Audit of a Critical Component of the November 2013
Connecticut Post-Election Audit

February 19, 2014

Executive Summary

Motivation

The credibility of our elections depends on the integrity of the Post-Election Audit random drawing. Post-Election Audits are a critical component of assessing election integrity and providing credibility. The random selection of voting districts to audit is a critical component of those audits. **The integrity of the audits depends on the integrity of the drawing.**

Based on concerns with the integrity of the random drawing in previous elections, the Coalition initiated a project to thoroughly check the integrity of the list of districts in the drawing for the November 2013 election.

Findings

- ▲ We noted fewer discrepancies in the random drawing list than were found in November 2012 and appreciate efforts by the Secretary of the State's Office to improve the accuracy of the list.
- ▼ We found sixteen (16) voting districts missing from the drawing list or recanvass list and two (2) non-existent districts in the drawing list. This resulted in the selection of two (2) fewer districts for audit than required by law.
- ▼ The audit law calling for the random selection and auditing of 10% of voting districts is not being faithfully executed, leaving the integrity and credibility of the audit and our election system open to question and expose it to the potential of manipulation
- ▼ The law intended to fix past problems is not being followed. Of one-hundred-sixty-five (165) municipalities required by Sec. 9-228a to report their districts prior to the election, the Secretary of the State's (SOTS) Office could only provide copies of fifty-five (55) -- A failure rate of 67%.
- ▼ Fully complying with the law is complicated by the loose definition of voting district in the law and the multiple, inconsistent use of the words *district*, *ward* etc.

Recommendations

- ▲ The Secretary of the State's Office be provided or apply the necessary resources to ensure the law is followed such that the municipal reports required (under Sec. 9-228a) are returned.
- ▲ The Post-Election Audit Law be modified to provide a clearer definition of voting districts.
- ▲ Provide automatic, effective remedies in the law for errors discovered in the random drawing lists.
- ▲ More effective, less redundant means of determining districts be considered by the SOTS Office and the Legislature, such as mandatory, accurate maintenance of districts by election type in the Centralized Voter Registration System (CVRS) or by completing the implementation of an effective, district by district, mandatory, election night reporting system.

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Background

The credibility of our elections depends on the integrity of the Post-Election Audit random drawing. Post-Election Audits are a critical component of assessing election integrity and providing credibility. The random selection of voting districts to audit is a critical component of those audits. **The integrity of the audits depends on the integrity of the drawing.**

Since 2007, the Coalition has been observing and independently reporting on the conduct and the results of those audits. Several times our reports noted chance discoveries of a small number of errors in the list of districts used for the random selection. In 2011, at the request of the Secretary of the State's Office (SOTS Office) the Legislature passed Public Act (PA) 11-46 (in statute as Sec. 9-228a), effective June 2011, designed to prevent such inaccuracies.

Based on concerns with the integrity of the random drawing in previous elections, the Coalition initiated a project to thoroughly check the integrity of the list of districts in the drawing for the November 2013 election. We notified the SOTS Office and the President of the Registrars Of Voters Association of Connecticut (ROVAC) of our project in advance.

Despite the law, without exhaustive research, the Coalition found a significant number of discrepancies in the November 2012 Post-Election Audit random drawing list -- Discrepancies significant enough to call into question the Post-Election Audit's ability to achieve its purpose of accessing the integrity and credibility of election results.

Any error in the list provides for election errors to go undetected and the opportunity for the covering up of fraud or known errors, and the possibility of less work, additional work, or redistribution of work for local election officials. As stated in the November 2012 Coalition report, pages 10-12:

<http://tinyurl.com/CTEANov2013>

For several years, we have noted concerns with inaccuracies in the list of districts used in the random selection process which is required by law to be based on all of the districts in use for the election or primary.

In this observation, we initially noted a dramatic difference in the number of districts drawn in the April Presidential Primary, August Primary, and November Election.

This directly impacts the integrity and credibility of the entire post-election audit:

- *Districts missing from the drawing are exempt from the audit and can result in less than 10% of the actual districts being selected.*
- *Districts ambiguously defined or the addition of nonexistent districts enable local election officials to select which districts to audit defeating the purpose of random selection. This can add costs and work if many extra districts are selected.*

An accurate, verifiable list of districts for selection is critical to the integrity of the audit. Missing or incorrectly specified districts can be the result of error or deliberate action on the part of election officials. If all discovered inaccuracies in the list are ignored or dismissed as errors, then the opportunity is opened for cover-ups, for fraud, or for steering the audit away from particular districts.

Methodology

The following activities were performed in the course of the data collection and analysis comparing the lists of voting districts for the election used for the Post-Election Audit random drawing, to the actual voting districts used in the election. They are in approximate time sequence.

- On October 18, 2013 the Coalition informed, via email, and priority mail, the SOTS Office and the President of ROVAC of our intention to audit the districts in the drawing. Noting the requirements of the law, Sec. 9-228a

Sec. 9-228a. Certification re location of polling place. Report to Secretary of the State identifying moderators. Removal of moderator by Secretary. (a) The registrars of voters of each municipality shall, not later than thirty-one days prior to each municipal, state or federal election or primary, certify to the Secretary of the State, in writing, the location of each polling place that will be used for such election or primary. Such certification shall detail the name, address, relevant contact information and corresponding federal, state and municipal districts associated with each polling place used for such election or primary.

See Appendix A for that letter.

- On November 7th 2013 we requested via email that the SOTS Office make copies of the reports submitted, as required by Sec. 228a, available to the Coalition sometime around the time of the random drawing.
- At the random drawing, November 18, 2013, Coalition volunteers attended and participated in the random drawing. The SOTS Office provided us with: A list of the voting districts in the drawing, a list of the additional voting districts in the election exempted from selection due to recanvasses, and a total of fifty-seven (57) pages of the municipal reports submitted in fulfillment of Sec. 9-228a.

Note: The Post-Election Audit law exempts voting districts with recanvasses from being audited, however, the count of such districts is included to determine the 10% of districts that are required to be selected and audited.

- We created a spreadsheet, listing every voting district in the two drawing lists provided by the SOTS Office, and an entry for each of Connecticut's one-hundred-sixty-nine (169) municipalities.
- The spreadsheet was updated to check-off all the voting districts on the Sec. 9-228a reports from fifty-five (55) municipalities and to add extra districts found in those reports. At this point the spreadsheet contained:
 - One-hundred-fourteen (114) municipalities without verified voting districts
 - Six (6) municipalities without voting districts in either list from the drawing
 - Two (2) municipalities that had submitted voting district lists, where the drawing lists were different
- We reviewed municipal ballots posted by the SOTS Office online, looking to verify that all municipalities not in the drawing lists, did not have ballots posted for the election. We also checked the posted ballots for indications of multiple districts.
- We reviewed election results posted online by the SOTS Office to check for results for any of the municipalities not on the drawing list. The result was one municipality in the election, without a district in the drawing lists, with reported results and a ballot.

- On December 14th, 2013, we mailed a FOI request for the list of districts to each of the Registrars of Voters, in municipalities in the election that were not included in the Sec. 9-228a reports from the SOTS Office. See Appendix B for that letter.
- On December 30th, 2013, we sent follow-up emails to sixty (60) registrars in thirty-nine (39) municipalities that had not responded to our FOI letter.
- We became aware that some municipalities call voting districts *wards*, and that other municipalities have multiple wards within a single voting district; that municipalities use different detailed definitions of what constitutes a voting district. There are also many different uses of the word *district* and alternate names for *voting districts*, in use in municipalities.

Reviewing the statutes we found the following definition of district applicable to the Post-Election Audit law. Within the bounds of a single polling place, it leaves the division into voting district up to the decisions of each municipality. We confirmed our understanding of the issue with Ted Bromley of the SOTS Office:

9-1 (v) "Voting district" means any municipality, or any political subdivision thereof, having not more than one polling place in a regular election;

- As of January 16th, we reviewed our list and found sixteen (16) towns that did not report. Via phone calls, checking local web sites, and experience, we resolved the remaining issues to our satisfaction. For all district discrepancies determined on the final spreadsheet and calculations for this report, we either reviewed Sec. 9-228a reports, letters from registrars, emails from registrars, or talked to registrars directly.
- Members of the Working Advisory Board checked and rechecked all data, to verify to the extent possible¹ the accuracy of all data.

¹ Consistent with our recent Post-Election Audit Reports, supporting data is posted online at <http://www.CTElectionAudit.org>.

Findings

- ▼ We found sixteen (16) voting districts missing from the drawing or recanvass list and two (2) non-existent districts in the drawing list. These differences resulted in the selection of two (2) fewer districts for audit than required by law.

Municipality	Districts in Drawing or Recanvass Lists	Coalition Determination of Districts	Difference
Torrington	5	8	-3
Montville	4	6	-2
Windham	3	5	-2
Colchester(*)	3	4	-1
Durham	0	1	-1
New Canaan	1	2	-1
Orange	2	3	-1
Plainfield	4	5	-1
Tolland	2	3	-1
East Haven	7	8	-1
East Windsor	2	3	-1
Granby	1	2	-1
Shelton	5	4	1
Somers	2	1	1
• Colchester was not in audit drawing, due to a recanvass			

Table 1 – Discrepancies in Drawing Lists

- ▲ We noted fewer discrepancies in the random drawing list than were found in the less exhaustive check of the drawing for November 2012. The discrepancies found in the November 2012 drawing can be seen on pages 10-12 of the November 2012 Post-Election Audit Report: <http://tinyurl.com/CTEANov2013>

In communications and conversations with the Secretary of the State's Office we saw and appreciate their efforts to improve the accuracy of the list.

- ▼ The law intended to fix past problems is not being followed. Of one-hundred-sixty-five (165) municipalities required by Sec. 9-228a to report their districts prior to the election, the Secretary of the State's (SOTS) Office could only provide copies of fifty-five (55) -- A failure rate of 67%..

Also given the low rate of return it is apparent that there is a lack of effective follow-up², if any, from the SOTS Office to obtain missing municipal reports, such that the reports can be used as intended to create an accurate list for the drawings.

² Several Registrars with missing Sec. 228a reports told us that they or their municipal clerk had sent the report as required to the SOTS Office. We think it is likely true, in at least some cases. When we did not receive or possibly misplaced responses from our FOI requests, we followed-up. Such follow-up is necessary.

Therefore;

- ▼ The audit law calling for the random selection and auditing of 10% of voting districts is not being faithfully executed, leaving the integrity and credibility of the audit and our election system open to question and expose it to the potential of manipulation.

This directly impacts the integrity and credibility of the entire post-election audit:

- Districts missing from the drawing are exempt from the audit and can result in less than 10% of the actual districts being selected. In this case actually resulting in two (2) fewer districts selected.
 - Having too many districts in the drawing can add unnecessary costs and work for municipal officials and budgets.
 - Districts ambiguously defined or the addition of nonexistent districts, have been used in past audits to enable local election officials to select which districts to audit, defeating the purpose of random selection.
 - An accurate, verifiable list of districts for selection is critical to the integrity of the audit. Missing or incorrectly specified districts can be the result of error or deliberate action on the part of election officials.
 - If all discovered inaccuracies in the list are ignored or dismissed as errors, then the opportunity is opened for cover-ups, for fraud, or for steering the audit away from particular districts.
- ▼ Fully complying with the law is complicated by the loose definition of voting district in the law and the multiple, inconsistent use of the words *district*, *ward* etc.

The law leaves the division into voting district up the decisions of each municipality.

9-1 (v) "Voting district" means any municipality, or any political subdivision thereof, having not more than one polling place in a regular election;

Some municipalities call voting districts *wards*, and other municipalities have multiple wards within a single voting district; municipalities use different detailed definitions of what constitutes a voting district. There are also many different uses of the word *district* and alternate names for *voting districts*, in use in municipalities.

Recommendations

Follow the District Reporting Law

- ▲ The Secretary of the State's Office should be provided or apply the necessary resources to ensure that the law is followed such that the local reports required under Sec. 9-228a are received. For instance, they could be made public, tracked, and pursued in a manner similar to the current methods of tracking and reporting of election results, Head Moderators Returns, and turn-out statistics.

From our experience, such follow-up and tracking took five to seven person days of work based on an existing response rate of 33%.

After every election, the SOTS Office collects reports from every municipality and posts election results on the Secretary of the State's web site. <http://tinyurl.com/SOTS2013Results> In addition, the Secretary reports turnout by town, and reports the information eight (8) days after the election:

<http://tinyurl.com/SOTS2013Turnout>

With a similar level of attention and tracking the district reports can be tracked and pursued by the SOTS Office in time for the drawing, which occurs about forty (40) days after the reports are legally required to be submitted.

Clarify the Definition of District

- ▲ The Post-Election Audit Law should be modified to provide a clearer definition of voting districts for its purposes.

For example, the voting districts listed in the required report under in Sec. 228a could be defined as those to be required to be used in the audit. (See the next item for a possible change in the text of the audit law).

Provide Automatic Effective Remedies

- ▲ Provide automatic, effective remedies in the law for errors discovered in the random drawing lists. Such that any discrepancy be resolved by increasing the audit to cover any ambiguous or missing information, for example, the law could be changed as follows:

³*Sec. 9-320f (a) Not earlier than the fifteenth day after any election or primary and not later than two business days before the canvass of votes by the Secretary of the State, Treasurer and Comptroller, for any federal or state election or primary, or by the town clerk for any municipal election or primary, the registrars of voters shall conduct a manual audit of the votes recorded in not less than ten per cent of the voting districts in the [~~state, district or municipality~~] **election or primary as defined by moderators returns required by section 9-314 (c) and certifications required by section 9-228a. Any errors, omissions, or ambiguities in such lists to be resolved by auditing all districts omitted from such lists and auditing of the largest set of ballots ambiguously identified.***

³ Here we use a convention similar to the Connecticut Legislature, where deletions are enclosed in brackets [] and additions are underlined. For easier reading we also strike out deletions and embolden additions.

With such a change in the law, election officials would presumably have a significant interest and incentive to do their part to contribute to an accurate list.

Consider More Effective Means of Creating Accurate Lists

- ▲ More effective, less redundant means of determining districts should be considered by the SOTS Office and the Legislature, such as mandatory, accurate maintenance of districts by election type in the Centralized Voter Registration System (CVRS) or by completing the implementation of an effective, district by district, mandatory, election night reporting system.

The current system of paper submission of lists of districts prior to each election and primary is largely redundant, since districts change only occasionally, except for the once-in-a-decade redistricting. In addition, the SOTS Office must check and redundantly enter the data each time, resulting in additional and unnecessary labor.

We can suggest two better ways that would be less work for everyone involved, less redundant, and likely more accurate:

1. Require that the CVRS be updated accurately, with polling places and districts for State and Local elections and primaries.

The CVRS provides for Registrars to designate polling places and districts within polling places for each type of election. The SOTS and Registrars advertise polling place lookup functions for voters to determine their polling places. Why not make the information accurate and use an extract to create equally accurate lists for the drawing!

This would eliminate the redundant reports and the checking/transcription by the SOTS Office. Any changes would be made once for each redistricting. Any errors would be corrected once. At any time, Registrars could check the accuracy of their data.

The law gives the SOTS the authority to specify the CVRS data and specify how data is maintained on the CVRS by election officials.

OR;

2. Fully implement an automated election night reporting system. Improved from the system currently being prototyped by the SOTS Office.

The system was recommended by the SOTS Election Performance Task Force, in 2012. Just recently a progress report was released: <http://tinyurl.com/SOTS2014ENRS>

As covered in the SOTS progress report, the system needs some work. Registrars and the SOTS Office need to work together to make the system workable in the real world environment. This is just one more reason to get the job done, and get it done well, with additional savings in work of election night reporting, along with increased transparency and accuracy of election results..

About

The Connecticut Citizen Election Audit Coalition

The purpose of the Connecticut Citizen Election Audit Coalition is to increase integrity and confidence in elections, for the benefit of the voters of Connecticut. We provide independent audit observations, independent audits, and independent reports focusing on the integrity of elections and election administration. We are non-partisan and strive for objectivity and integrity in our work. Organized in 2007, the Coalition's primary activity has been observing and reporting on post-election audits.

CURRENT MEMBER ORGANIZATIONS



EXECUTIVE DIRECTOR/EXECUTIVE BOARD/WORKING ADVISORY BOARD

Significant decisions and reports are approved by consensus of the *Executive Board* which consists of one individual representing each Coalition Member.

The *Executive Director* chairs a *Working Advisory Board* who contribute to Coalition projects. Members of the Advisory Board are experienced Coalition volunteers, with diverse skills, political affiliation, and geographic representation. Current members of the Working Advisory Board:

- Luther Weeks, CTVotersCount, Executive Director
- Kimberly Hynes, Connecticut Common Cause, Executive Board
- R. Sam Chaney, CCAG, Executive Board
- Aaron Goode, Douglas Lary, Jerri MacMillan, Tessa Marquis, Victoria Usher

Acknowledgements

Research, coordination, and editing for this project were conducted primarily by Douglas Lary and Luther Weeks with contributions from R. Sam Chaney, Jerri MacMillan, Tessa Marquis.

We appreciate the responsive and cordial replies to our requests for information from the SOTS Office and from Registrars of Voters across the State.

Contact/Additional Information

Luther Weeks, Executive Director, Luther@CTElectionAudit.org, 860-918-2115

All Coalition reports and additional supporting data are available at <http://www.CTElectionAudit.org>

Appendix A - SOTS/ROVAC Notification Letter

The Coalition sent the following notification letter to the SOTS Office and ROVAC President, via email and priority mail.

0 Connecticut Citizen Election Audit Coalition

334 Hollister Way West, Glastonbury, CT 06033

9/28/2013

To: Connecticut Secretary of the State, Denise Merrill

Registrars of Voters Association Connecticut
c/o Melissa J. Russell, President

Re: New Citizen Election Audit Starting November 2013

We want you to know that the Coalition is planning a new citizen election audit for the November 2013 election. This audit is to determine and report on the accuracy of the districts listed in the random drawing for the post-election audits.

By providing this prior notice, we would hope to encourage and find a high level of integrity in the list for the drawing and be able to report those findings to the public.

As you may know, we have over the last few years found small errors in the drawing, with no improvement over time. After our November 2012 audit we investigated and found significant errors in the drawing list, calling into question the integrity of that post-election audit on that basis alone.

Our interpretation of the audit law is that the integrity of the drawing is the joint responsibility of the Secretary of the State and each registrar. To facilitate creating integrity in the drawing the legislature, passed the following, effective June 2011:

Sec. 9-228a. Certification re location of polling place. Report to Secretary of the State identifying moderators. Removal of moderator by Secretary. (a) The registrars of voters of each municipality shall, not later than thirty-one days prior to each municipal, state or federal election or primary, certify to the Secretary of the State, in writing, the location of each polling place that will be used for such election or primary. Such certification shall detail the name, address, relevant contact information and corresponding federal, state and municipal districts associated with each polling place used for such election or primary.

We also recognize that there may be some confusion as to what constitutes a 'district'. From our research in 2012 it seems that some municipalities may have a local definition of the term that differs from the State's. At minimum we would expect that districts in the drawing represent a partition of the universe of polling place cast ballots in a municipality and that what is counted for a selected district corresponds to a clearly pre-defined, unambiguous subset of ballots associated with the district in the drawing.

We would be pleased to address any questions, for any officials.

Sincerely,

Luther Weeks, Executive Director
Luther@CTelectionAudit.org
860-918-2115

2/19/14

Appendix B - Registrars FOI Request Letter

The Coalition sent the following letter to the registrars with reports missing in those received from the SOTS. We followed-up with an email in cases where the letter did not elicit a response.

0 Connecticut Citizen Election Audit Coalition

334 Hollister Way West, Glastonbury, CT 06033

12/14/2013

To: Registrars of Voters [Municipality]
[Address]

Re: Request for Official Report or Equivalent Information

The Connecticut Citizen Election Audit Coalition is conducting an audit of the districts in the random drawing for the November 2013 post-election audit. Under the Connecticut Freedom of Information law we request copies of a report related to the November 2013 Election or an alternative:

1. A copy of the Certifications required under Sec 9-228a, to have been sent to the Secretary of the State prior to the November 2013 election

Sec. 9-228a. Certification re location of polling place. Report to Secretary of the State identifying moderators. Removal of moderator by Secretary. (a) The registrars of voters of each municipality shall, not later than thirty-one days prior to each municipal, state or federal election or primary, certify to the Secretary of the State, in writing, the location of each polling place that will be used for such election or primary. Such certification shall detail the name, address, relevant contact information and corresponding federal, state and municipal districts associated with each polling place used for such election or primary.

According to documents requested by the Coalition, the Secretary of the State's Office does not have a copy of the above report for your municipality. If you created and submitted such a report, please send us a copy,

2. OR, if you did not submit such a report, please send us a list of your municipalities polling places and the districts within those polling places for the November 2013 election.

You can respond with this information by email to Audit@CTElectionAudit.org or by mail to.

Connecticut Citizen Election Audit Coalition
c/o Douglas Lary
[Address]

Please call or email with any questions, Thank you,

Luther Weeks, Executive Director
Luther@CTElectionAudit.org
860-918-2115