



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0135

Commission Meeting 09/30/2020
Agenda Item #5

To: Commission
From: Michael Dunn, Esq., Political Committee Registrar
Date: September 22, 2020
Re: Complaint against Public Opinion Research

On September 15, 2020, the Commission received a complaint from the Lincoln County Democratic Committee (the "LCDC") alleging that unknown persons acting under the name of Public Opinion Research have engaged in a "push poll" to influence the general election for State Senate, District #13. ETH 1-8. Voters have received phone calls from live callers asking questions that are likely designed to influence their vote and text messages linking to an online survey conducted through the SurveyMonkey.com containing similar questions. According to the LCDC, the organizers of the telephone campaign have violated three disclosure requirements in Maine Election Law:

- the callers have not provided any "disclaimer statement" identifying who paid for the calls,
- the calls do not meet special disclosure requirements applicable to push polls in Maine, and
- no independent expenditure report has been filed relating to the calls, text messages, and online survey.

The LCDC requests that the Commission initiate an investigation into these activities. The Commission staff has been unable to make contact with Public Opinion Research as part of our preliminary investigation. We cannot find an online presence for a polling or political consulting firm with that name.

A "push poll" is a paid influence campaign conducted in the guise of a telephone survey. The telephone calls are designed to "push" the listener away from one candidate and towards another candidate. Push polls are not truly polls, and the "pollsters" have no interest in collecting and tabulating people's opinions. Push polling is a legal form of political communication, but in 2001 the Maine Legislature enacted special disclosure and registration requirements for persons sponsoring or conducting push polls including a

requirement for firms conducting a push poll to register a designated agent with the Commission. Since 2001, no such registration has been filed.

A push poll may also need to be reported as an independent expenditure if it is conducted with no cooperation or consultation with a candidate and the cost of conducting the poll exceeds \$250. To date, no independent expenditure report has been filed indicating that Public Opinion Research has been engaged to conduct a telephone campaign.¹

Public Opinion Research is engaged in two types of activities: (1) making direct phone calls through live callers; and (2) sending text messages that include a link to an online survey. In the complaint, the specific content of the telephone calls is described in an email by “H.J. McGinness” who received the calls. ETH-4. In your materials, the Commission staff has inserted snippets of the questions and multiple-choice responses copied directly from SurveyMonkey.com (ETH 5-8), because the images provided by the LCDC were not legible when photocopied. Only the direct phone calls are subject to the push polling requirements but both the text messages and SurveyMonkey.com communication may be subject to the disclaimer requirements and independent expenditure reporting requirements. Lastly, all expenditures by Public Opinion Research could potentially count towards the requirement for the organization to register as a political action committee in Maine.

The communications from Public Opinion Research are focused on the two candidates competing in Senate District #13, the incumbent State Senator Dana L. Dow and State Rep. Chloe S. Maxmin. Two of the eight questions posed by the online survey are:

1. Would you be more or less likely to vote for Dana L. Dow if you knew that he is a small business owner known for his ability to bring consensus and a pragmatic approach to problem solving and that he’s led Maine’s response to COVID-19 ensuring that our businesses stay afloat, and families remain safe and healthy?
(ETH-6)

¹ For ease of reference in this memo, the Commission staff will be referring to the persons sponsoring or conducting the survey in Senate District #13 as Public Opinion Research, even though we are not convinced that is the authentic name for the persons who are sponsoring or conducting the survey. Also, although we refer to the communications as a “survey” or “poll,” we are using those terms loosely and do not intend to convey that the survey is actually researching people’s opinions.

2. Would you be more or less likely to vote for Chloe Maxmin if you knew that she in lock step with radical liberals who want to bring burdensome California and New York policies to Maine that would be devastating for Maine businesses and families? (ETH 7-8)

It is not known what costs were associated with this activity, but potentially they could include compensation paid to callers (if they are not volunteers), voters lists, an automated text messaging service, and a paid account with SurveyMonkey.com.

LEGAL REQUIREMENTS

Standard for Opening a Requested Investigation

The Election Law authorizes the Commission to receive requests for investigation and to conduct an investigation “if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred”:

A person may apply in writing to the commission requesting an investigation as described in subsection 1. The commission shall review the application and shall make the investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.

21-A M.R.S. § 1003(2).

Telephone call disclaimer statements (ETH 45-46)

Scripted live telephone calls that name a clearly identified candidate from Labor Day to the general election must clearly state the name of the person who financed the expenditure for the communication and whether the communication was authorized by a candidate, unless they meet the generally accepted standards for polling research and are not conducted for the purpose of influencing the voting position of call recipients. 21-A M.R.S. § 1014(5). ETH-45-46. The disclosure requirements in § 1014 do not rely on any spending threshold. Even low-cost communications that meet the statutory criteria must state who made or financed the expenditure for the communication.

Disclaimer statements for other communications (ETH-43)

Whenever a person makes an expenditure to finance a communication that names or depicts a clearly identified candidate that is disseminated from Labor Day to the general election, the communication must state the name and address of the person who made or financed the communication and a statement whether the communication was or was not authorized by a candidate. § 1014(2-A). This requirement covers websites on the internet and potentially text messages.

Special Disclosure Requirements for Push Polls (ETH 47-49)

In the push poll disclosure statute (21-A M.R.S. § 1014-B(1)), a “push poll” is defined to mean a paid telephone survey that meets the following five criteria:

1. A list or directory is used, exclusively or in part, to select respondents belonging to a particular subset or combination of subsets of the population, based on demographic or political characteristics such as race, sex, age, ethnicity, party affiliation or like characteristics;
2. The survey fails to make demographic inquiries on factors such as age, household income or status as a likely voter sufficient to allow for the tabulation of results based on a relevant subset of the population consistent with standard polling industry practices;
3. The pollster or polling organization does not collect or tabulate survey results;
4. The survey prefaces a question regarding support for a candidate on the basis of an untrue statement; and
5. The survey is primarily for the purpose of suppressing or changing the voting position of the call recipient.

Information to be included in the calls. A push poll must identify the person(s) *sponsoring* the call by stating “this is a paid political advertisement by [name].” The push poll must also identify the organization *making* the call by stating “This call is conducted by [name].” If the persons sponsoring the call are not registered with the Commission (*e.g.*, as a PAC or party committee), the calls must include a telephone number and address for the sponsor. If the organization is affiliated with a candidate,

then the candidate's name and office sought must be disclosed. Each call, if it qualifies as an independent expenditure, is subject to those requirements as well. Id. at 2.

Registration of a designated agent. Persons conducting push polling in Maine must continuously maintain an individual or corporation in Maine to be a designated agent. The person must file a registration statement with the Commission. Id. at 3.

Independent Expenditure Reporting (ETH 49-50)

Any communication that expressly advocates for or against a clearly identified candidate made without cooperation, coordination, or in consultation with a candidate or candidate's committee is an independent expenditure. 21-A M.R.S. 1019-B. A person who makes an independent expenditure in excess of \$250 during any one candidate's election shall file a report within two calendar days of making the expenditure if the expenditure is made less than 60 days before an election and more than two weeks before an election. Id.; 94-270 C.M.R. Ch. 1, § 10(3). Communications that depict a clearly identified candidate that are disseminated from Labor Day to the general election shall be presumed to be independent expenditures.

PAC Registration (ETH 51-52)

Any person, including any corporation or association, other than an individual, that has as its major purpose initiating or influencing a campaign and that receives contributors or makes expenditures aggregating more than \$1,500 in a calendar year for that purpose must register within seven days of meeting that threshold. 21-A M.R.S. §§ 1052(5)(A)(4), 1052-A(1). Additionally, any person, other than an individual, that does not have as its major purpose influencing candidate elections but that receives contributions or makes expenditures aggregating more than \$5,000 in a calendar year for the purpose of influencing the nomination or election of any candidate to political office must also register within seven days of meeting that threshold. 21-A M.R.S. §§ 1052(5)(A)(5), 1052-A(1).

PRELIMINARY INVESTIGATION BY COMMISSION STAFF

Pursuant to 94-270 C.M.R. Ch. 1, §4(2)(C), the Commission staff conducted a preliminary investigation into the complaint. The staff first attempted to contact Public Opinion Research by calling (207) 280-8543, the number provided at the end of the online survey. This number reaches an automated system with no option to reach a live person or gain any additional information.

Commission staff conducted internet searches for similar tactics used by “Public Opinion Research” in other jurisdictions. We found a purported push poll by Public Opinion Research in an August 6, 2020 Republican primary election for a State Senate district located in Clarksville, Tennessee, which also featured surveys conducted by phone and online through Survey Monkey.com. ETH 10-23. Three questions in the survey seemed to favor the incumbent State Senator among Republican voters and disfavor his challenger. The phone number provided at the end of the survey led to an automated system with no opportunity to contact a real person. Staff reached out to the Tennessee news reporter and the Tennessee Ethics Commission for more information. No complaint was ever filed against Public Opinion Research and no investigation is being done. Commission staff has contacted SurveyMonkey directly but has not yet received a reply.

The staff ran numerous searches for the Public Opinion Research and “Shirley MIsme.” The Commission staff found a Facebook page for the Public Opinion Research Group, which was started on August 7, 2020 and has spent over \$100,000 on the Presidential election. This group’s ads link to a survey, also on SurveyMonkey.com. That survey included a policies and disclaimers section for a United Research Group. Commission staff emailed both the Public Opinion Research Group and United Research Group. To date no response has been received and there is no publicly listed phone number. At this time it is unknown if the Public Opinion Research Group or United Research Group have any relationship with Public Opinion Research that is involved in surveys in Maine Senate District #13.

ANALYSIS

The Commission staff believes that the LCDC has provided sufficient evidence to demonstrate that a violation may have occurred. We recommend that you authorize an investigation by the Commission staff.

I. The live telephone calls do not contain a disclaimer statement.

Scripted live telephone calls that name a clearly identified candidate from Labor Day to the general election must state the name of the person who financed the expenditure and whether it was authorized by the candidate. 21-A M.R.S. § 1014(5). According to one source, whose email was included in the complaint, the calls included a statement that “it was a poll conducted by a generic sounding polling group,” but that was apparently the extent of the identifying disclosure in the call. ETH-4. We do not know whether this statement accurately disclosed the name of the person who made or financed the expenditure(s) for the communication. The calls apparently did not state whether the call was authorized by any candidate. The incomplete disclosure likely violates 21-A M.R.S. § 1014, but more investigation would be required before making such a finding.

II. The online survey does not contain a disclaimer statement.

Under 21-A M.R.S. § 1014(2-A), a paid communication that names or depicts a clearly identified candidate that is disseminated between Labor Day to the general election on a publicly accessible site on the internet or through direct mails or other similar types of general public political advertising must include the name and address of the person who made the expenditure and state whether the communication was authorized by a candidate or candidate’s committee. Here, the digital version of the survey is being distributed via direct text message² and the survey is available on a public website. ETH 5-9. It can be reasonably assumed that there is some cost associated with the distribution of the text messages and the hosting of the survey online. Neither the text messages nor the website contains the required disclaimer statement and these communications are currently being disseminated. The one mode of contact for the persons conducting the

² While not explicitly referenced by statute, staff would suggest that direct text messages to cellphones is an “other similar type of general public political advertising” to direct mail. It is unknown if the text messages name a clearly identified candidate, or not.

call is a telephone number at the end of the survey, which does not connect the caller to a live person or provide any way to contact the organization. Accordingly, the survey sponsors may be in violation of 21-A M.R.S. § 1014, but more investigation into the costs associated with this activity would be required before making such a finding.

III. Because the statutory definition of push poll is so narrow, it is uncertain whether the Senate District #13 survey meets the definition.

Maine’s push poll disclosure statement contains a definition of “push poll” that is very narrow. All five of the following criterial must be included:

1. A list or directory is used, exclusively or in part, to select respondents belonging to a particular subset or combination of subsets of the population, based on demographic or political characteristics such as race, sex, age, ethnicity, party affiliation or like characteristics;
2. The survey fails to make demographic inquiries on factors such as age, household income or status as a likely voter sufficient to allow for the tabulation of results based on a relevant subset of the population consistent with standard polling industry practices;
3. The pollster or polling organization does not collect or tabulate survey results;
4. The survey prefaces a question regarding support for a candidate on the basis of an untrue statement; and
5. The survey is primarily for the purpose of suppressing or changing the voting position of the call recipient.

In the view of the Commission staff, the LCDC has provided evidence that the survey may meet criteria 1, 2, and 5. The voters were likely selected for the calls and text messages due to their geographic region. Based on our research of polling industry practices from Gallup, Pew Research, and the New York Times, Commission staff suggests that the Senate District #13 survey fails to make demographic inquiries consistent with standard polling industry practices. (Information from the Pew Research Center and the American Association for Public Opinion Research is attached on pages

ETH 21-42.) Lastly, based on the two operative questions³ staff agrees with the LCDC that the primary purpose of the poll may be to influence the voting position of the call recipients.

Commission staff believes that more information is needed regarding criteria 3. It is not known whether the callers who conducted the poll collected any responses from the recipients. If survey results are collected or tabulated, then criteria 3 would not be satisfied.

The 4th criteria requires that a question be prefaced on the basis of an untrue statement. Two questions appear designed to cast a positive light on Dana Dow and a negative light on Chloe Maxmin. However, there is a distinction between stating positive or negative opinions and “untrue statements” as required by statute.

When first introduced, L.D. 1055 (120th Legis. 2001) (An Act to Regulate Push Polling), this criterion requiring that the poll contain false statements was not included. ETH – 56. Adam Thompson, the Executive Director of the Maine Democratic Party, testified that the bill should be consistent with the definition provided by the American Association of Political Consultants (“AAPOR”) and that it must “include lies and untruths about candidates or referenda.” (Selected documents from the legislative history for L.D. 1055 are attached as ETH 55-71.) The AAPOR’s position on push polls is that push polls must disseminate false or misleading attacks on candidates. ETH – 62. After the public hearing on the bill, this criterion of “untrue statement” was added through an amendment. Based on our preliminary research, we are inclined toward the view that the Maine Legislature purposefully limited the applicability of this section to statements that can be demonstrated to be untrue. While the statements in the poll are certainly intended to cast

³ (1) Would you be more or less likely to vote for Dana Dow if you knew that he is a small business owner known for his ability to bring consensus and a pragmatic approach to problem solving and that he’s led Maine’s response to COVID-19 ensuring that our businesses stay afloat, and families remain safe and healthy? ETH-6.

(2) Would you be more or less likely to vote for Chloe Maxmin if you knew that she is in lock step with radical liberals who want to bring burdensome California and New York policies to Maine that would be devastating for Maine businesses and families? ETH-7.

positive and negative light, they are matters of opinion. For these reasons, staff is unsure that the Senate District #13 survey meets the definition of conducting a “push poll.”

If the Commission concluded that the survey is a “push poll,” multiple violations of 21-A M.R.S. § 1014-B may be present. The poll did not indicate that it was a paid political advertisement. *Id.* at 2. The organization does not have a valid, current, publicly listed telephone number and address that is disclosed during each call. *Id.* Finally, the calls do not disclose if they are affiliated with a candidate. *Id.* The Commission may assess a \$500 fine for each violation. *Id.* at 2 & 3. The organization did not register with the Commission as a push polling organization.

IV. The sponsors of the Senate District #13 survey may have been required to file independent expenditure reports.

A person who finances a communication that exceeds \$250 and that expressly advocates for or against a clearly identified candidate must file an independent expenditure report with the Commission. A communication that depicts a clearly identified candidate from Labor Day to the General Election is presumed to be an independent expenditure. 21-A M.R.S. § 1019-B. The person who makes that expenditure must file a report with the Commission within two calendar days⁴ of making the expenditure. 94-270 C.M.R. Ch. 1, §10(3)(B)(2).

The Commission does not have any information regarding the financing of the polls, but it seems likely that the cost exceeded \$250. In the 2018 election, there were seventy-six (76) polls reported and only twelve⁵ polling expenditures (12) were below that threshold. The average poll cost in 2018 was approximately \$9,500. More information is needed before making a final decision, but Commission staff would suggest that there is a significant possibility that survey sponsors failed to file multiple independent expenditure reports.

⁴ If the expenditure is made from the 60th days before the election and 14th day before the election the report deadline is two calendar days; if the expenditure is less than fourteen days before the election, then the report is due within one calendar day. 94-270 CMR Ch. 1 § 10(3)(B).

⁵ These transactions were primarily for the purchase of call lists rather than the true costs of conducting a poll; although about three (3) of those transactions were to perform robocalls.

V. The sponsors of the Senate District #13 survey may be required to register as a political action committee.

An organization can be required to register as a political action committee (“PAC”) if its major purpose is to influence a Maine election and it raises or spends more than \$1,500 for that purpose. If the organization has another major purpose, the monetary threshold is raising or spending more than \$5,000 to influence a Maine candidate election.

In reviewing the 2018 polling transactions, 55/76 (72%) of all reported polls fell below \$5,000. The polls that exceeded that threshold appear to have been state-wide polls for the gubernatorial election. It is unknown whether Public Opinion Research exceeded the \$1,500 or \$5,000 thresholds, but the Commission staff recommends including this compliance issue in any investigation.

STAFF RECOMMENDATION

Maine’s political disclosure laws are designed to serve a number of governmental and public interest objectives, including providing the recipients of political communications the tools to evaluate the reliability of the messages they are receiving. The Commission staff recommends that the Commission authorize the staff to conduct an investigation, because the LCDC has provided sufficient evidence to believe that violations of Maine campaign finance law may have occurred. In particular, the lack of a Section 1014 disclaimer statement in the telephone calls and independent expenditure report appear to be the most likely violations, but we would also recommend that a violation of the PAC registration and reporting statutes be included in the scope of any investigation. A violation of the push poll disclosure statute should not be ruled out, but the Commission staff would view this as of secondary priority given that the likelihood of a violation is reduced by the narrow applicability of the statute.

If the Commission directs the staff to conduct an investigation, the largest challenge will be identifying the people responsible for the communications – particularly if they have taken care to remain concealed. We will pursue the investigation to the best of our abilities but would discourage the expectation that the investigation will be completed before the November 3 general election. The sponsors of the communications have chosen a generic-sounding name that sounds like it could be an opinion survey firm or

non-profit organization, but it seems to have no significant online presence. The phone number is a dead end. The use of a similar poll in a Tennessee State Senate Republican primary election is suggestive of participants who that are active in more than one state (*e.g.*, the sponsor or a political consulting firm). It is possible that the sponsor is an interest group or partisan organization based outside of Maine.

The Commission staff is still considering what avenues it might pursue if an investigation is authorized. If an investigation is directed by the Commission, we would confer internally and with counsel. Staff might contact political committees (party committees, PACs, others) that have a demonstrated or expected interest in the District #13 race to inquire if they have knowledge of the survey or who conducted it. We also would research whether a subpoena to SurveyMonkey.com would have utility, although some technology customer information is highly protected by federal law.

Thank you for your consideration of this item.



**Lincoln County Democratic Committee
Campaign Office 2020**

521 Main St. Damariscotta
office@lincolncountydemocrats.com
https://lincolncountydemocrats.com

14th September 2020

Jonathan Wayne
Executive Director, Maine Ethics Commission
135 State House Station
Augusta, Maine 04333

Dear Mr. Wayne,

I am writing to file a complaint about illegal advocacy calls, also known as “push polls,” taking place in Senate District 13 – in violation of Maine Title 21-A Chapter 13 §1014-B, Maine Title 21-A Chapter 13 §1014, and Maine Title 21-A Chapter 13 §1019-B. This fraudulent intervention into the SD13 election process is a fake poll that explicitly aims to influence voters with biased opinion and misinformation extolling the Republican candidate, Dana Dow, and attacking the Democratic candidate, Chloe Maxmin. Our country has learned a great deal over the past four years about how dangerous these illegitimate misinformation efforts are and how effective they can be.

There is widespread agreement that these kinds of illegal campaign tactics threaten democracy and undermine election integrity. It is deeply disturbing to see this kind of political corruption find its way to Maine and a State Senate campaign. With only weeks until Election Day, and record absentee voting expected by early October, I urge the Commission to undertake a swift investigation that rules on this, identifies these bad actors, and holds them accountable to the full sanctions of Maine Law. It needs to happen while there is time remaining to inform voters, to counter the illegal influence, and mitigate harm done to candidates and the electoral process.

I have read and heard multiple accounts (beginning September 8th and ongoing) from voters who have received calls and/or texts asking them to participate in a poll. The “poll” is presented as an impartial political survey, but goes on to ask questions clearly designed to influence the voting position of the call recipient by casting one candidate in a positive light and the other in a negative light on the basis of statements that are presented as facts but are actually biased opinion statements. Here is a [link](#) to the push poll in Survey Monkey form.

The American Association for Public Opinion Research (AAPOR) [defines](#) a “push poll”

as “a form of negative campaigning that is disguised as a political poll.” The AAPOR has released the following statement on the issue:

“‘Push polls’ are not surveys at all, but rather unethical political telemarketing -- telephone calls disguised as research that aim to persuade large numbers of voters and affect election outcomes, rather than measure opinions. This misuse of the survey method exploits the trust people have in research organizations and violates the AAPOR Code of Professional Ethics and Practices.”

The organization conducting this push poll in District 13 only provides a phony name, “Public Opinion Research” (not to be confused with the AAPOR), another hallmark of illegal push polling [according](#) to the AAPOR. The telephone number given for the organization (207-280-8543) dead-ends in a generic pre-recorded message with no option to reach a real person. The fact that there is no avenue by which to contact the opaque operation behind these surveys is further evidence that this is a push poll.

Finally, these surveys demonstrate another characteristic of push polling by failing to make sufficient inquiries of demographic variables to allow for the tabulation of results based on a relevant subset of the population consistent with current standard polling industry practices. All legitimate political polling relies on statistical adjustment called “weighting” to make sure that samples align with the broader population on key characteristics. Pew Research Center [writes](#) that “weighting a poll on just a few variables like age, race and sex is insufficient for getting accurate results.” Standard polling industry practice is to account for at least eight to twelve variables. For example, the [Gallup](#) and [New York Times/Siena College](#) polls adjust on eight and ten variables, respectively. Pew Research Center polls adjust on [twelve variables](#). The push polling taking place in District 13 accounts for only four variables, and therefore is clearly not in line with standard polling industry practices. Most glaringly, it fails to ask about household income, race, and education. The omission of the education variable in particular is a revealing characteristic of a push poll [according to Pew Research](#).

Push polling is permitted in Maine but must comply with a number of requirements around transparency and disclosure. This push poll violates multiple Maine campaign law statutes.

Maine Title 21-A Chapter 13 §1014-B dictates that push polls must include the following disclosure: “This is a paid political advertisement by (name of persons or organizations).” Neither the phone calls nor text surveys include this disclosure. Furthermore, neither the independent expenditure disclosure nor the address for the

person or organization sponsoring the call is disclosed as required by §1014-B.

The documented calls are also in violation of Maine Title 21-A Chapter 13 §1014 subsection 5, in particular: “Prerecorded automated telephone calls and scripted live telephone communications that name a clearly identified candidate during the 28 days, including election day, before a primary election, during the 35 days, including election day, before a special election or during the period of time from Labor Day to the general election day for a general election must clearly state the name of the person who made or financed the expenditure for the communication and whether the communication was authorized by a candidate, except for prerecorded automated telephone calls paid for by the candidate that use the candidate's voice in the telephone call and that are made in support of that candidate. Telephone surveys that meet generally accepted standards for polling research and that are not conducted for the purpose of influencing the voting position of call recipients are not required to include the disclosure.”

Lastly, the documented activities are almost certainly in violation of independent expenditure reporting requirements detailed in Maine Title 21-A Chapter 13 1019-b. Costs incurred for these activities, including conducting telephone calls with a live agent as documented, using the SurveyMonkey.com platform, and utilizing texting software to distribute the communication as documented, were surely in excess of the \$250 reporting requirement.

Attached is a PDF of the survey and other accounts of the push poll in phone based form.

I urge the Commission to pursue this case of illegal election interference with the full force and authority of the great state of Maine. With Election Day drawing close, there is an imperative to alert the public, expose bad actors, and hold them to account. Irrespective of candidate, party, or platform, this kind of corrupt attack should become the highest priority of good government’s oversight responsibilities, through investigative efforts and sanctions. The forces behind such illegal incursions need to know that Mainers will not tolerate interference in our free and fair elections.

Sincerely,



Christopher K. Johnson
Chair, Lincoln County Democratic Committee

Documentation of Push Polling in Maine Senate District 13



H. J. McGinness

to me ▾

10:36 AM (4 hours ago)



Got the phone number (assuming it wasn't spoofed): 207-843-9721

The woman who conducted the "poll" asked in general terms:

1. What is my party affiliation Dem, Rep, or Independent?
2. Was I going to vote for or was I leaning toward voting for Dana Dow or Chloe Maxim?
3. Would i be more likely to vote for Senator Dow if I knew he was a successful businessman followed by a list of other positive characteristics?
4. Would I be less likely to vote for Representative Maxmin if I knew she supported radical ideas from California and other obviously negative characteristics (to the "pollster").
5. What is the most important issue for me in the upcoming election. Health Care, COVID-19, the Economy, Immigration, and one or two others I can't recall just now.

The call ended with a statement that it was a poll conducted by a generic sounding polling group (can't recall the name exactly). There were no disclaimers or other qualifying statements.

Sent from my iPad



[REDACTED]

to me ▾

Thu, Sep 10, 7:56 PM (19 hours ago)



I have gotten one and took it for a few questions and then it became obvious what its intentions were and I hung up. [REDACTED]

Another voter, Martha, received the poll as well by both phone and text and provided the following link to the survey which was sent to her in a text:

<https://www.surveymonkey.com/r/ZFFCQJR?UID=277765bc>

Another voter, who wished to remain anonymous, reported responding to a push poll of the same description on September 10th from "SHIRLEY MLSME" after having received calls on September 9th and 8th displaying the same name but different numbers (2072808543 and 2072808009). This person also reported a live person on the other end asking the questions.

NOTE: Due to heavy pixilation in the original the survey is reproduced here by Commission staff directly from the online survey. Question 1 is omitted in the original.

Maine Senate District 13 General Election Survey

1. Hello, we are conducting a new brief survey on behalf of Public Opinion Research. Thank you in advance for your time. What is the likelihood that you will vote in the General Election in Maine this coming November?

- Certain to Vote
- Very Likely
- Somewhat Likely
- Somewhat Unlikely
- Extremely Unlikely

2. Are you male or female?

- Male
- Female

3. Which age range do you fit under?

- 18-35
- 36-50
- 51-65
- 66+

4. Are you a Republican, Democrat, or Independent?

- Republican
- Democrat
- Independent

5. If the General Election for State Senate were held today, would you vote for Dana Dow or Chloe Maxmin?

- Dana Dow
- Chloe Maxmin
- Undecided

6. Would you be more or less likely to vote for Dana Dow if you knew that he is a small business owner known for his ability to bring consensus and a pragmatic approach to problem solving and that he's led Maine's response to COVID-19 ensuring that our businesses stay afloat and families remain safe and healthy?

- Much More Likely
- Somewhat More Likely
- Somewhat Less Likely
- Much Less Likely
- It makes no difference

7. Would you be more or less likely to vote for Chloe Maxmin if you knew that she is in lock step with radical liberals who want to bring burdensome California and New York policies to Maine that would be devastating for Maine businesses and families?

- Much More Likely
- Somewhat More Likely

- Somewhat Less Likely
- Much Less Likely
- It makes no difference

8. Which issue is most important to you?

- Jobs and the Economy
- COVID-19
- Healthcare Costs
- Public Education
- Immigration
- Foreign Affairs

Thank you for your time. This survey was conducted by Public Opinion Research. To reach Public Opinion Research, please call (207) 280-8543

OK

From: [Casey Williams](#)
To: [Dunn, Michael](#)
Subject: RE: Doug Englen calls push-poll question 'disrespectful to veterans,' Bill Powers responds
Date: Tuesday, September 15, 2020 1:09:15 PM
Attachments: [29F6D76AA6964DCBAB281BD2BA48BC7E.png](#)

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Michael,

Here is a link to the survey in question: <https://www.surveymonkey.com/r/DSVMR3C?UID=a7c49906>.

The survey says that it was conducted by Public Opinion Research and includes a phone number, but I was unable to contact anyone from the organization directly.

I am unaware of any other investigations. If possible, I would love to know how yours turns out though?

Thanks,

Casey Williams
Clarksville Now: Content Editor
931.980.7972
1640 Old Russellville Pike
Clarksville, TN 37043

From: Dunn, Michael <Michael.Dunn@maine.gov>
Sent: Tuesday, September 15, 2020 10:09:56 AM
To: Casey Williams <cwilliams@clarksvillenow.com>
Subject: Doug Englen calls push-poll question 'disrespectful to veterans,' Bill Powers responds

CAUTION: This email originated from outside of Saga Communications. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Mr. Williams:

I am writing because I found your article relating to push polling by the "Public Opinion Research." I have received a complaint for similar activity by a group of the same name using push polling to influence a state senate race in Maine. I'm wondering if you have a link to the survey on the Englen / Powers race or if you know if any investigation has been done into this group? Any insight would be greatly appreciated.

Sincerely,

Michael J. Dunn, Esq.
Political Committee and Lobbyist Registrar
Maine Ethics Commission
135 State House Station
Augusta, Maine 04333
Phone: (207) 287-4179 Fax: (207) 287-6775

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From: [Dunn, Michael](#)
To: ["info@unitedresearchgroup.co"](mailto:info@unitedresearchgroup.co)
Subject: Complaint Received Regarding Maxmin / Dow Race
Date: Monday, September 14, 2020 12:09:01 PM
Importance: High

To Whom It May Concern:

My office has received a complaint against the Public Opinion Research Group for conducting a poll into the Maxmin/Dow Race in Maine. Several of the complained of group's Facebook ads link to surveys associated with your organization. Please contact me as soon as possible so that we may discuss the complaint.

Sincerely,

Michael J. Dunn, Esq.
Political Committee and Lobbyist Registrar
Maine Ethics Commission
135 State House Station
Augusta, Maine 04333
Phone: (207) 287-4179 Fax: (207) 287-6775

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From: [Lauren Topping](#)
To: [Dunn, Michael](#)
Cc: [William Young](#); [Lance Frizzell](#); [Janet Williams](#)
Subject: RE: Doug Englen / Bill Powers Race Push Polling Organization
Date: Tuesday, September 15, 2020 1:58:37 PM

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Dunn,

You requested any information we might have relating to an organization called “Public Opinion Research”, and asked if any complaint had been filed relating to a push-poll conducted by this organization. Unfortunately, I am not familiar with the group Public Opinion Research, and our office is not currently investigating them. No complaint regarding the article you provided or a similar matter has been filed with the Tennessee Registry of Election Finance. Unfortunately, we cannot confirm or deny whether a complaint regarding any matter has been filed with the Tennessee Ethics Commission, as all ethics complaints are confidential pursuant to statute. I’m sorry I couldn’t be more helpful.

Sincerely,

Lauren Topping
General Counsel and Compliance Officer, Bureau of Ethics and Campaign Finance
404 James Robertson Pkwy., Suite 104
Nashville, TN 37243
Lauren.Topping@tn.gov
615-253-5370
629-221-1909

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[ClarksvilleNOW](#) / [Local](#) / [Elections](#) / Doug Englen calls push-poll question 'disrespectful to veterans,' Bill Powers responds

Doug Englen calls push-poll question 'disrespectful to veterans,' Bill Powers responds

By [Casey Williams](#) July 30, 2020 11:19 am



Clarksville Now(Contributed)Bill Powers, left, and Doug Englen

CLARKSVILLE, Tenn. (CLARKSVILLENOW) – A push poll this week attempted to tie Republican state Senate primary candidate Doug Englen to a vocal critic of President Donald Trump, prompting condemnation of the poll from Englen.

Primary races in Tennessee have grown increasingly heated in recent weeks, with candidates competing for endorsements and publicly criticizing one another. In the Tennessee Senate, District 22, primary, Englen has likened his campaign to a David and Goliath story against the incumbent Sen. Bill Powers.

And along the way, Englen has come under fire from an opponent whose identity isn't clear.

What did the survey say?

The survey, administered by phone call and online via the website Survey Monkey, is being conducted by a group called "Public Opinion Research" and purports to be gauging opinions on the two candidates.

But after several questions, it gets to the "push" side of this push-polling tactic.

"Bill Powers' opponent has received praise from Admiral McRaven, an anti-Trump former commander who said, 'Our republic is under attack from the president,'" reads the question, asking the participants if knowing this would make them more likely to vote for Powers.

The now-retired Admiral William H. McRaven served as the commander of US Special Operations Command. In 2011, he oversaw Operation Neptune Spear, the Navy Seal operation that killed Osama bin Laden. And he has made national headlines for his criticism of President Donald Trump.

McRaven praised Englen in February 2020 while speaking at Murray State University. "Without a doubt, (Englen is) the finest Army aviator of our generation," said McRaven, citing Englen's two Silver Star awards, his three Distinguished Flying Crosses as well as his pending induction into the Army Aviation Hall of Fame.

Candidates respond to push poll

A statement from Englen's campaign called the question "disrespectful to all of our veterans and service members."

"The unpatriotic nature of the remarks in support of one who never served a day in uniform is alarming," the campaign said, referring to Powers.

Powers said he was unfamiliar with the survey.

When asked how McRaven's political statements relate to his and Englen's military service, Powers said they were separate matters.

“I will not now, or ever, be a part of anything that discredits our military. I think anyone who serves our country and protects the Constitution has the right to say or believe whatever they want. They’ve earned it,” Powers said.

Both candidates have made military matters a key element of their campaigns. In a recent interview with the Montgomery County Veterans’ Coalition, Powers stressed his position on the Senate Veteran’s Caucus and said he hopes to make Women’s Veterans Day an annual state holiday.

Englen has called for workforce reform for transitioning military, working with local industry to help transitioning soldiers to more effectively reenter the civilian workforce through training and apprenticeship programs.

Where do we go from here?

Despite the political tension, both Powers and Englen expressed the need for cooperation leading up to November.

“I’ve always run a positive campaign, and this one is no different,” Powers said. “I respect the process, my opponent and those who have the guts to offer themselves to public office.”

“We are not enemies, we are just opponents,” Englen said. “It’s just the environment we are into now.”

Election day for the U.S. Senate race is Aug. 6. Early voting concludes on Saturday, Aug. 1, at 4 p.m.

For more on the election, including sample ballots, go to <https://mcgtn.org/election/current-election> or call 931-648-5707.

Casey Williams

Casey Williams is a reporter and content editor at ClarksvilleNow.com. Reach him by email at cwilliams@clarksvillenow.com

Tennessee Senate District 22 Republican Primary Survey

Question Title

1. Hello, this is a brief Public Opinion Research survey about politics in your area. Thank you in advance for your time and participation.

Most people don't vote in primary elections. How likely are you to vote next month's August Republican primary election for United States Senate and other local offices?

- I will definitely vote
- I will probably vote
- There is a fifty-fifty chance I'll vote
- I will probably not be voting
- I will definitely not be voting

Question Title

2. Continuing to think about next month's Republican primary election, how do you plan to vote? Will you vote in-person on Election Day, will you vote at an early voting location, or will you vote using an absentee or vote-by-mail ballot?

- I've already voted early or by mail
- Vote in-person on Election Day
- Vote in-person at an early voting location
- Vote by absentee/vote-by-mail ballot
- I don't know
- I'm not voting

Question Title

3. What is your gender?

- Male
- Female

Question Title

4. To which age group do you belong?

- I'm 18 - 35
- I'm 36 - 50

- I'm 51 – 65
- I'm 66 or older

Question Title

5. Regardless of which party's primary you will vote in, with which political party do you most closely affiliate?

- I'm a Republican
- I'm a Democrat
- I'm an Independent or Third Party

Question Title

6. Would you say that you're a conservative, moderate or a liberal in your political beliefs?

- I'm very conservative
- I'm somewhat conservative
- I'm moderate
- I'm liberal

Question Title

7. Do you have a favorable or unfavorable opinion of Doug Englen?

- Favorable
- Unfavorable
- I have no opinion

Question Title

8. Do you have a favorable or unfavorable opinion of Bill Powers?

- Favorable
- Unfavorable
- I have no opinion

Question Title

9. If the Republican Primary Election for State Representative were held today, which of the following candidates would you vote for?

- Doug Englen
- Bill Powers
- Undecided

Question Title

10. Have you recently seen, read or heard any information about Doug Englen?

- Yes
- No
- Unsure

Question Title

11. Have you recently seen, read or heard any information about Bill Powers?

- Yes
- No
- Unsure

Question Title

12. And now here are some things people have said about Bill Powers. Please indicate whether these make you more or less likely to vote for him.

Bill Powers supported funding to put a school resource officer in every public school in Tennessee and will fight radical calls to defund the police.

- Much more likely
- Somewhat more likely
- Much less likely
- Somewhat more likely
- It makes no difference

Question Title

13. Bill Powers supports President Trump's plan to reopen schools quickly and safely so our students can learn and parents can return to work.

- Much more likely
- Somewhat more likely
- Much less likely
- Somewhat more likely
- It makes no difference

Question Title

14. Bill Powers' opponent has received praise from Admiral McRaven, an anti-Trump former commander who said, "Our republic is under attack from the President."

- Much more likely
- Somewhat more likely
- Much less likely
- Somewhat more likely
- It makes no difference

Thank you for your time; have a great evening. This survey was conducted by Public Opinion Research: (615) 488-4559

OK

PREV COMPLETE SURVEY

AUGUST 18, 2020

A Resource for State Preelection Polling

The Current Population Survey provides high-quality data that can mitigate overrepresentation of college graduates in polls

BY **NICK HATLEY** AND **COURTNEY KENNEDY**



A voter arrives to cast her ballot at a polling center located in a high school gymnasium. (John Moore/Getty Images)

How we did this

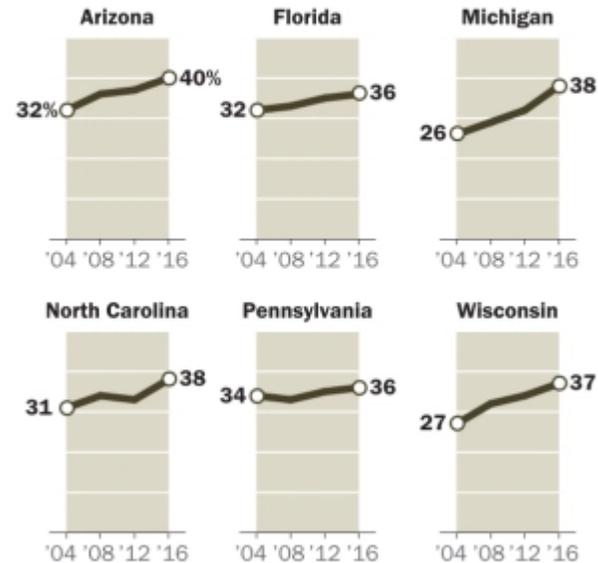
Post-mortem [analysis](#) of the 2016 election found that a failure to adjust for overrepresentation of college graduates was among the reasons many state-level polls underestimated support for Donald Trump. Voters who graduated from a four-year college are more likely to answer surveys than other adults and, in recent years, they are also more likely to support a Democrat for president. If a battleground state poll does not adjust for

ETH - 21

having too many college graduates, it is at risk of overstating support for a Democratic presidential candidate (in this case, Joe Biden).

CPS shows the share of voters who are college grads is roughly 40% or less in battleground states

% of voters in each state who are college graduates



Source: Current Population Survey Voting and Registration Supplement.

"A Resource for State Preelection Polling"

PEW RESEARCH CENTER

Since 2016, many pollsters heeded this lesson and added an education adjustment to their work. Additionally, most national pollsters as well as some state pollsters had been making the adjustment for many election cycles and continue to do so. But not all have fixed this issue. For example, a June poll appeared to show Biden with a massive 18-percentage-point lead in Michigan. But a look at the sample shows why: More than two-thirds (69%) of those interviewed were college graduates – nearly double the rate among Michigan voters in recent elections. Regardless, a high-profile polling aggregator fed this poll into its average for the state, demonstrating how readily problems from 2016 can repeat.

One challenge in adjusting for education is identifying the proper benchmark. Using the June poll example, a rate of 69% college graduates is clearly too high. But what is the “right” number? Technically, no one knows, because the goal is to align the survey with the education profile of those who will vote in an election that has not yet happened. While the precise number is unknown, historical data from a large, high-quality federal study ably fills this need. In the month or so following each presidential and midterm election, the U.S. Census Bureau conducts the [Current Population Study \(CPS\) Voting and Registration](https://www.census.gov/data/tables/2019/othercurrent/tables/2019-01-01/cps-voting.html)

[Supplement](#). The study does not ask *who* people voted for, but it does ask *whether* they voted. With more than 90,000 interviews nationally, more than a third of which are done in-person, the CPS supplement is among the nation's best measurements of the demographics of voters and nonvoters.

The state-by-state results are freely available to the public, but for many they are difficult to access as they require software and servers that can process large data files. This report provides the CPS data on the education profile of voters in all 50 states and the District of Columbia for the past four presidential elections. State pollsters can use this data to inform their weighting adjustments. Poll observers can use this data to determine whether the share of college graduates in a battleground state poll is reasonable.

There are several critical factors to keep in mind:

Polls should be judged based on their *weighted* sample. The issue is not whether raw poll samples have too many college graduates. It is almost a given that they do. The issue is whether the pollster has adjusted for the issue – weighting down college graduates proportional to their plausible share of voters in the upcoming election. If a poll's methodology states that education was included as an adjustment variable, often that is enough to safely assume this issue was addressed. If a poll did not adjust for education, observers curious about quality can ask the pollster what share of the weighted sample were college graduates. Reputable pollsters will recognize why this information would be of interest and provide it. If a pollster is unwilling to provide this information, that is a strong sign that the poll may not be trustworthy.

The expectation should be plausibility, not perfection. The CPS data gives a reality check for the typical proportion of a state's voters who are college graduates. But the proportion in an upcoming election could always be somewhat higher or lower than in the CPS data. One takeaway from the data compiled here is that large election-to-election changes (for example, more than 8 percentage points) in the college graduate rate are highly unlikely – in other words, implausible. Changes on the order of several percentage points, however, are to be expected. Observers should not expect that a poll exactly mimics prior elections' education profile; they should only expect that it comes reasonably close. For example, the CPS shows that the share of presidential election voters in Florida who are college graduates has recently been in about the mid-30% range. A 2020 Florida preelection poll should, therefore, have a college graduate rate in its weighted sample of between about 30% and 45%. If the rate is well above 45%, the poll runs the risk of overestimating support for Biden and underestimating support for Trump.¹

A plausible education profile is important, but other factors matter too. A poll's education profile is far from the *only* factor that observers should consider when evaluating quality. For example, ideally a poll draws its participants from a source that includes nearly everyone in the state (or in the country for national polls). Examples of such sources are registered voter files, telephone random-digit dialing and the U.S. Postal Service residential address database. Other factors that are important to a [poll's trustworthiness](#) include the sponsor, sample size, question wording and adjustments on other variables such as age, sex, race and geography. In other words, a plausible education profile should be on the checklist for trustworthiness in battleground state polls – but there are other items on the list as well.

Ideally, an education adjustment accounts for multiple levels and variation between race groups. For clarity, this analysis focuses on whether college graduates are overrepresented in poll estimates. But for practitioners, additional layers of detail can be important. A college vs. non-college adjustment is good, but a more detailed adjustment aimed at achieving proper representation of more fine-grained levels can be even better. For example, a pollster can use the CPS data to adjust for the share with a high school education or less, the share with some college experience (which typically includes trade schools and two-year college degrees), the share with a four-year college degree, and the share with a graduate degree.

Similarly, in geographies with relatively large shares of Hispanic, Black or Asian American populations, a pollster may further improve accuracy by adjusting the education profile *within* the largest race and ethnicity groups. For example, Pew Research Center's national polls are adjusted to ensure that education groups (high school or less, some college, college graduate) are represented properly among Hispanic, Black, White and Asian Americans.

The CPS trend lines generally are fairly stable and slowly increasing. The stability of the state-level CPS trends dispels the notion that a pollster cannot anticipate roughly what the college graduate rate among a state's voters will be. While other voter demographics (for example, the share who live in rural areas) may shift noticeably, the share who graduated from a four-year college simply do not tend to fluctuate wildly, according to the CPS. Furthermore, to the extent that there is movement, it is somewhat predictable: the college graduate rate has tended to increase by about 2 to 3 percentage points in the last four elections in battleground states. State pollsters could reasonably factor in such a modest increase when adjusting polls this cycle.

While this report focuses on the CPS, there are other useful sources of information that can be used to improve or assess the representativeness of a poll. For example, pollsters

sampling from registered voter files can use race, age, sex, political party and other variables on file to adjust their samples. While voter file data on those characteristics can be quite accurate, appended data about voters’ education level tends to be less so. A [2018 Pew Research Center study of five national voter files](#) found that individuals’ education level was either missing or inaccurate 49% of the time, on average, across the files.

Some polls – particularly those releasing estimates for all U.S. adults – do not need weighting targets that are specific to likely or registered voters. An alternative source that works well for such polling is the American Community Survey (ACS). Unlike the CPS, the ACS does not provide data on those who voted in an election. It does, however, provide authoritative data on the shares of all adults with various levels of education at the state level and much lower.

Finally, it is worth reiterating that education is just *one of several* dimensions that tend to require adjustment in polls. A poll also needs to be representative with respect to geography, age, race, ethnicity, urbanicity, sex and potentially more. Adjustments for political partisanship and urbanicity are increasingly common in polling. As the polling field enters the heat of the 2020 election, it’s imperative that public polls are strong on all the fundamentals, since it may be difficult to predict what new challenge may arise.

Voter’s education distribution has remained relatively stable since in recent presidential elections

Among voters in each state in each general election...

State	2004 HS or less	2004 Some college	2004 College grad	2008 HS or less	2008 Some college	2008 College grad	2012 HS or less	2012 Some college	2012 College grad	2016 HS or less	2016 Some college	2016 College grad
AK	32	38	30	29	38	33	31	38	32	30	34	36
AL	42	31	28	44	31	24	39	32	29	35	34	32
AR	44	30	26	44	29	26	41	27	32	37	29	34
AZ	32	36	32	28	35	36	26	38	37	23	36	40
CA	28	35	37	27	35	38	25	34	42	25	32	43
CO	26	30	44	25	31	43	23	34	44	22	30	48
CT	34	25	41	31	29	40	28	27	45	29	25	46
DC	25	19	56	25	21	53	24	16	59	18	16	66
DE	39	29	31	41	28	31	35	28	36	36	26	38
FL	37	31	32	34	33	33	34	31	35	31	32	36

State	2004 HS or less	2004 Some college	2004 College grad	2008 HS or less	2008 Some college	2008 College grad	2012 HS or less	2012 Some college	2012 College grad	2016 HS or less	2016 Some college	2016 College grad
GA	36	32	32	35	31	34	36	30	34	33	31	36
HI	28	35	37	32	30	38	30	31	39	26	31	43
IA	38	37	26	33	33	34	34	35	32	30	35	35
ID	35	37	28	34	33	33	30	36	35	28	37	35
IL	35	31	34	34	31	36	30	29	41	28	30	42
IN	45	29	26	44	29	27	36	30	34	36	29	35
KS	33	32	35	28	34	38	28	31	41	25	35	40
KY	45	30	25	38	36	26	40	34	26	36	33	31
LA	46	28	26	44	27	29	44	30	26	40	30	31
MA	34	24	42	29	24	46	28	24	48	25	25	50
MD	34	28	38	31	28	41	29	27	44	26	28	46
ME	44	29	27	40	30	30	36	29	36	34	31	35
MI	41	33	26	36	35	29	35	34	32	30	32	38
MN	30	36	35	28	36	36	27	35	38	24	34	41
MO	40	30	30	39	34	27	35	34	31	36	33	31
MS	50	29	21	46	30	24	41	33	26	43	31	26
MT	35	37	28	37	32	31	31	36	33	30	34	36
NC	40	29	31	33	33	34	33	34	33	29	33	38
ND	31	41	28	32	37	31	28	35	37	29	34	36
NE	35	33	32	30	35	36	30	33	37	27	36	38
NH	36	27	37	31	31	38	29	30	40	30	28	42
NJ	39	25	36	35	25	41	29	27	43	29	24	47
NM	35	37	28	31	30	40	30	28	42	30	35	36
NV	38	35	27	35	35	30	35	35	31	30	40	31
NY	38	27	35	34	29	37	32	28	41	28	27	45
OH	43	30	26	41	30	29	42	30	28	37	29	34
OK	42	29	29	37	32	30	32	32	35	33	28	39
OR	31	39	30	28	38	34	29	34	37	26	31	43

PA	2004 HS or less	25 2004 Some college	34 2004 College grad	2008 HS or less	27 2008 Some college	33 2008 College grad	2012 HS or less	28 2012 Some college	35 2012 College grad	2016 HS or less	28 2016 Some college	36 2016 College grad
State [▲]	[◆]	[◆]	[◆]									
RI	38	25	37	34	29	37	34	28	39	33	29	37
SC	37	36	26	43	30	27	34	33	33	34	30	35
SD	39	35	27	35	34	31	33	36	31	28	37	35
TN	41	31	28	42	28	31	36	29	35	33	29	38
TX	35	32	33	34	34	32	32	34	34	27	33	41
US	37	31	32	34	32	34	32	31	37	30	31	40
UT	30	37	33	26	44	30	24	41	35	20	37	43
VA	33	27	40	34	25	41	30	28	42	28	30	42
VT	36	26	38	34	27	39	31	26	43	27	27	45
WA	28	37	35	24	37	38	26	33	41	24	31	45
WI	41	32	27	36	33	32	33	33	34	31	32	37
WV	50	26	23	49	30	21	46	26	29	43	27	30
WY	37	39	23	36	38	27	37	36	27	28	40	32

Source: Current Population Survey Voting and Registration Supplement 2004-2016

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1. While, on average, polls that severely overrepresent college graduates risk overestimating support for Biden, other factors may lead to a different outcome. For example, if such a poll was conducted by robocalling landline numbers – an approach that tends to reach proportionately too many older White voters – then the use of robocalling may affect the poll's accuracy more than the proportion of college graduates. ↩



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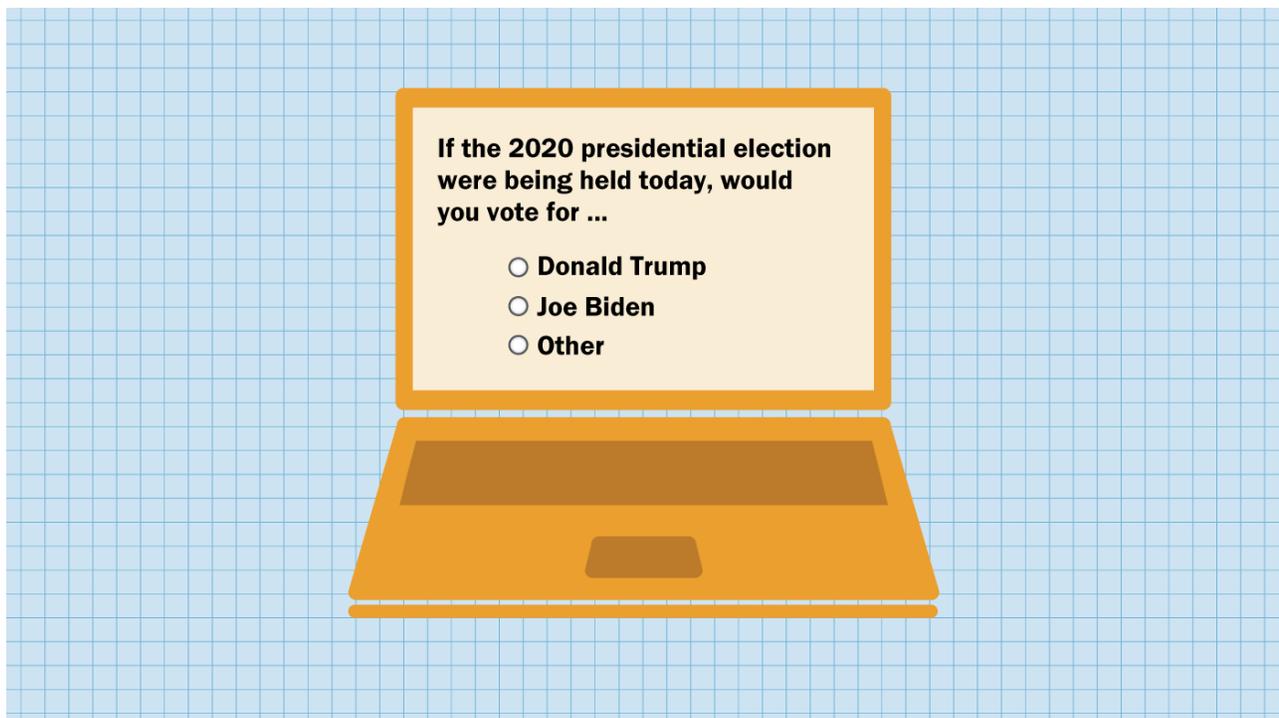
NEWS IN THE NUMBERS

AUGUST 5, 2020

 Trust, Facts and Democracy

Key things to know about election polling in the United States

BY COURTNEY KENNEDY



A robust public polling industry is a marker of a free society. It's a testament to the ability of organizations outside the government to gather and publish information about the well-being of the public and citizens' views on major issues. In nations without robust polling, the head of government can simply *decree* citizens' wants and needs instead.

After the 2016 presidential election, some observers understandably questioned whether polling in the United States is still up to the task of producing accurate information. Errors in 2016 laid bare some real limitations of polling, even as clear-eyed reviews of national polls in both [2016](#) and [2018](#) found that polls still perform well when done carefully.

One way to help avoid a repeat of the skepticism about surveys that followed the last presidential election is to narrow the gap between perception and reality when it comes to how polling works. People have many notions about polling – often based on an introductory statistics class, but sometimes even less – that are frequently false. The real environment in which polls are conducted bears little resemblance to the idealized settings presented in textbooks.

With that in mind, here are some key points the public should know about polling heading into this year’s presidential election.

The real environment in which polls are conducted bears little resemblance to the idealized settings presented in textbooks.

Different polling organizations conduct their surveys in quite different ways.

Survey methodology is undergoing a period of creative ferment. Currently, CNN and Fox News conduct polls by telephone using live interviewers, CBS News and Politico field their polls online using opt-in panels, and The Associated Press and Pew Research Center conduct polls online using a panel of respondents recruited offline. There is even a fourth group of pollsters that combine methods like robocalls and online surveying with opt-in samples. These different approaches have consequences for [data quality](#), as well as [accuracy in elections](#).

The barriers to entry in the polling field have disappeared. Technology has disrupted polling in ways similar to its impact on journalism: by making it possible for anyone with a few thousand dollars to enter the field and conduct a national poll. As with journalism, there are pluses and minuses to this democratization. There has been a wave of experimentation with new approaches, but there has also been a proliferation of polls from firms with little to no survey credentials or track record. In 2016, this contributed to a state polling landscape overrun with fast and cheap polls, most of which made a preventable mistake: failing to correct for an overrepresentation of [college-educated voters](#), who leaned heavily toward Hillary Clinton. Some newcomer polls might provide good data, but poll watchers should not take that on faith.

A poll may label itself “nationally representative,” but that’s not a guarantee that its methodology is solid. When applied to surveys, the phrase “nationally representative” sounds like a promise of a poll’s trustworthiness. But the term doesn’t convey any specific technical information or come with any guarantees. Surveys can be

sampled and adjusted to represent the country on certain dimensions, so any person can make this claim about any poll, regardless of its quality. Unfortunately, this is part of a broader trend in which the lingo used to promote surveys (“organic sampling,” “next-gen sampling” or “global marketplace,” for example) can on some occasions obscure flawed methodologies that [lead to bias](#). Poll watchers would do well to focus on key questions for vetting polls, such as those included in [this guide for reporters](#) published by the American Association for the Advancement of Science’s SciLine, or Pew Research Center’s own [field guide to polling](#).

The real margin of error is often about double the one reported. The notion that a typical margin of error is plus or minus 3 percentage points leads people to think that polls are more precise than they really are. Why is that? For starters, the margin of error addresses only *one* source of potential error: the fact that random samples are likely to differ a little from the population just by chance. But there are three other, equally important sources of error in polling: [nonresponse](#), [coverage error](#) (where not all the target population has a chance of being sampled) and [mismeasurement](#). Not only does the margin of error fail to account for those other sources of potential error, it implies to the public that they do not exist, which is not true.

[Several](#) recent [studies show](#) that the [average error](#) in a poll estimate may be closer to 6 percentage points, not the 3 points implied by a typical margin of error. While polls remain useful in showing whether the public tends to favor or oppose key policies, this hidden error underscores the fact that polls are not precise enough to call the winner in a close election.

Huge sample sizes sound impressive, but sometimes they don’t mean much. Students learning about surveys are generally taught that a very large sample size is a sign of quality because it means that the results are more precise. While that principle remains true in theory, the reality of modern polling is different. As [Nate Cohn of The New York Times has explained](#), “Often, the polls with huge samples are actually just using cheap and problematic sampling methods.”

Students learning about surveys are generally taught that a very large sample size is a sign of quality because it means that the results are more precise. While that principle remains true in theory, the reality of modern polling is different.

Adding more and more interviews from a biased source does not improve estimates. For example, online opt-in polls are based on convenience samples that [tend to overrepresent](#) adults who self-identify as Democrats, live alone, do not have children and have lower incomes. While an online opt-in survey with 8,000 interviews may sound more impressive than one with 2,000 interviews, a [2018 study by the Center](#) found virtually no difference in accuracy.

There is evidence that when the public is told that a candidate is extremely likely to win, some people may be less likely to vote. Following the 2016 election, many wondered whether the pervasive forecasts all but guaranteeing a Clinton victory – two modelers put her chances at 99% – led some would-be voters to conclude that the race was effectively over and their vote would not make a difference. Now there is scientific research to back up that logic. A team of researchers [found experimental evidence](#) that when people have high confidence that one candidate will win, they are less likely to vote. This helps explain why [some analysts of polls say](#) elections should be covered using traditional polling estimates and margins of error rather than [speculative win probabilities](#) (also known as probabilistic forecasts).

Estimates of the public’s views of candidates and major policies are generally trustworthy, but estimates of who will win the “horse race” are less so. Taking 2016 as an example, both Donald Trump and Clinton had historically poor favorability ratings. That turned out to be a signal that many Americans were struggling to decide whom to support and whether to vote at all. By contrast, a [raft of state polls in the Upper Midwest](#) showing Clinton with a lead in the horse race proved to be a mirage.

Leaving aside the fact that the national popular vote for president doesn’t directly determine who wins the election, there are several reasons why the final vote margin is harder to accurately gauge, starting with the fact that it is notoriously difficult to figure out which survey respondents [will actually turn out to vote](#) and which will not. This year, there will be added uncertainty in horse race estimates stemming from possible pandemic-related barriers to voting. Far more people will vote by mail – or try to do so – than in the past, and if fewer polling places than usual are available, lines may be very long. All of this is to remind us that the real value in election polling is to help us understand *why* people are voting – or not voting – as they are.

All good polling relies on statistical adjustment called “weighting” to make sure that samples align with the broader population on key characteristics. Historically, public opinion researchers have relied on the ability to adjust their datasets using a core set of demographics to correct imbalances between the survey sample and the population. There is a growing realization among survey researchers that weighting a poll

on just a few variables like age, race and sex is insufficient for getting accurate results. Some groups of people – such as older adults and college graduates – are more likely to take surveys, which can lead to errors that are too sizable for a simple three- or four-variable adjustment to work well. Pew Research Center studies in [2016](#) and [2018](#) found that adjusting on more variables produces more accurate results.

A number of pollsters take this lesson to heart. The high-caliber [Gallup](#) and [New York Times/Siena College](#) polls adjust on eight and 10 variables, respectively. Pew Research Center polls adjust on [12 variables](#). In a perfect world, it wouldn't be necessary to have that much intervention by the pollster – but the real world of survey research is not perfect.

Failing to adjust for survey respondents' education level is a disqualifying shortfall in present-day battleground and national polls. For a long time in U.S. politics, education level was not consistently correlated with [partisan choice](#), but [that is changing](#), especially among white voters. As a result, it's increasingly important for poll samples to accurately reflect the composition of the electorate when it comes to educational attainment. Since people with higher levels of formal education are more likely to participate in surveys and to self-identify as Democrats, the potential exists for polls to overrepresent Democrats. But this problem can easily be corrected through adjustment, or weighting, so the sample matches the population. The need for battleground state polls to adjust for education was among the most important [takeaways](#) from the polling misses in 2016.

Transparency in how a poll was conducted is associated with better accuracy.

The polling industry has several platforms and initiatives aimed at promoting transparency in how polls are conducted, including the American Association for Public Opinion Research's [Transparency Initiative](#) and the [Roper Center archive](#). FiveThirtyEight's [Nate Silver found](#) that polling firms participating in these organizations have less error on average than those that don't. Participation in these transparency efforts does not guarantee that a poll is rigorous, but it is undoubtedly a positive signal. Transparency in polling means disclosing essential information including the poll's sponsor, data collection firm, where and how participants were selected and the mode of interview, field dates, sample size, question wording and weighting procedures.

The problems with state polls in 2016 do not mean that polling overall is broken. Yes, polls in the Upper Midwest systematically underestimated support for Trump, but experts [figured out why](#): Undecided voters ultimately broke heavily for Trump; most state polls overrepresented college graduates; and turnout was higher than expected in many rural counties but lower in urban ones. Lost in the shuffle, meanwhile, was that *national* polls in 2016 were quite [accurate by historical standards](#). Clinton's advantage in

the national popular vote ended up being 2 percentage points, compared with 3 points in the final polling average.

The 2018 midterms brought further evidence that polling still works well when done carefully. The Democratic Party's advantage nationally in the U.S. House of Representatives ended up being 9 points in the final vote, versus an average of 7 points in the final polls.

Evidence for “shy Trump” voters who don’t tell pollsters their true intentions is much thinner than some people think. Do people sometimes lie to pollsters? Sure. But the notion that Trump supporters were unwilling to express their support to pollsters was overblown, given the scant evidence to support it. A committee of polling experts evaluated five different tests of the “shy Trump” theory and [turned up little to no evidence](#) for each one. Later, a [researcher from Yale](#) and Pew Research Center [conducted separate tests](#) that also found little to no evidence in support of the claim. The “shy Trump” theory might account for a small amount of the error in 2016 polls, but it was not among the main reasons.

A systematic miss in election polls is more likely than people think. A legendary quote from House Speaker Tip O’Neill said that “all politics is local.” But that has become [less and less true](#) in the U.S. over time. State-level outcomes are highly correlated with one another, so polling errors in one state are likely to repeat in other, similar states.

As [Nate Silver has explained](#), if Clinton was going to fall short of her standing in the polls in Pennsylvania, she was also likely to underperform in demographically similar states such as Wisconsin and Michigan. In 2016, most of the forecasters trying to predict the election outcome underestimated the extent to which [polling errors were correlated](#) from one state to another. Forecasters are more aware of this issue than they were four years ago, but they do not have a foolproof way to overcome it.

National polls are better at giving Americans equal voice than predicting the Electoral College. The 2000 and 2016 presidential elections demonstrated a difficult truth: National polls can be accurate in identifying Americans’ preferred candidate and yet fail to identify the winner. This happens when the national popular vote winner (e.g., Al Gore, Hillary Clinton) differs from the Electoral College winner (e.g., George W. Bush, Donald Trump).

National polls can be accurate in identifying Americans' preferred candidate and yet fail to identify the winner.

For some, this raises the question: What is the use of national polls if they don't tell us who is likely to win the presidency? In fact, national polls try to gauge the opinions of *all* Americans, regardless of whether they live in a battleground state like Pennsylvania, a reliably red state like Idaho, or a reliably blue state like Rhode Island. In short, national polls tell us what the *entire* citizenry is thinking. If pollsters only focused on the Electoral College, the vast majority of Americans (about 80%) who live in uncompetitive states would essentially be ignored, with their needs and views deemed too unimportant to warrant polling.

Fortunately, this is not [how most pollsters view the world](#). As the noted political scientist Sidney Verba explained, "Surveys produce just what democracy is supposed to produce – equal representation of all citizens."

Topics [Polling](#), [Trust, Facts and Democracy](#), [Election 2020](#), [Research Methods](#)



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AAPOR Statements on "Push" Polls

The problem of so-called “push polls”

When advocacy calls are made under the guise of research

This statement from AAPOR explains how to tell the difference between fraudulent political polls—commonly referred to as “push polls”—and legitimate polling, including message testing. AAPOR condemns political telemarketing under the guise of research and is committed to providing information that explains what this unethical campaign practice is and what you can do about it.

A “Push Poll” is Not a Legitimate Poll

A so-called "push poll" is an insidious form of negative campaigning, disguised as a political poll. “Push polls” are not surveys at all, but rather unethical political telemarketing -- telephone calls disguised as research that aim to persuade large numbers of voters and affect election outcomes, rather than measure opinions. This misuse of the survey method exploits the trust people have in research organizations and violates the AAPOR Code of Professional Ethics and Practices.

Identifying Advocacy Calls Made Under the Guise of Research

Political telemarketing calls, when disguised as research, may sometimes be difficult to differentiate from a legitimate survey. Here are characteristics that will *usually* indicate to a respondent that the call is *not* a legitimate survey.

- One or only a few questions are asked, all about a single candidate or a single issue.
- The questions are uniformly strongly negative (or sometimes uniformly positive) descriptions of the candidate or issue.
- The organization conducting the calls is not named, or a phony name is used.
- Evasive answers are given in response to requests for more information about the survey.

In addition, the following characteristics will indicate to journalists, reporters, and survey professionals that a telephone call is not a legitimate survey.

- The number of people called is very large, sometimes many thousands.
- The calls are not based on a random sample.
- It is difficult to find out which organization conducted the interviews.

Fraudulent Polls vs. Message Testing

The fact that a poll contains negative information about one or more candidates does NOT in and of itself make it a 'push poll.' Political campaigns routinely sponsor legitimate "message-testing" surveys that are used by campaign consultants to test out the effectiveness of various possible campaign messages or campaign ad content, often including negative messages. Political message-testing surveys may sometimes be confused with fake polling, but they are very different. One way to tell is that message-testing surveys exhibit the characteristics of a legitimate survey, such as:

- At the beginning of the call, the interviewer clearly identifies the call center actually making the calls. (However, legitimate political polling firms will often choose not to identify the client who is sponsoring the research, be it a candidate or a political party, since that could bias the survey results.)
- The interview contains more than a few questions.
- The questions usually ask about more than one candidate or mention both sides of an issue.
- Questions, usually near the end of the interview, ask respondents to report demographic characteristics such as age, education level, and party identification.
- The survey is based on a random sample of voters.
- The number of respondents falls within the range of legitimate surveys, typically between 400 and 1500 interviews.

AAPOR stresses that these criteria apply most of the time, but exceptions will arise. Journalists and members of the public are encouraged to investigate allegations of "push polling" to ascertain whether or not the calling activity was carried out for legitimate research purposes.

The Threats of Fraudulent Political Calls (Political Telemarketing Under the Guise of Research)

Political advocacy calls made under the guise of a survey abuse the public's trust. They gain the attention of respondents under false pretenses by taking advantage of the good will people have toward legitimate research.

When disguised as research, these calls create negative images of legitimate surveys, especially when they distort issues or candidate characteristics in order to influence opinion.

They go beyond the ethical boundaries of political polling by bombarding voters with distorted or even false statements in an effort to manufacture negative attitudes.

The hostility created in this way affects legitimate surveys by reducing the public's willingness to cooperate with future survey requests.

AAPOR Position on So-Called "Push Polls"

- AAPOR Councils have repeatedly warned members and the public about the harm done by unethical political telemarketing that is conducted under the guise of research.
- The **AAPOR Code** identifies fraudulent political polling as unethical conduct. The Code states: "We will not misrepresent our research or conduct other activities (such as sales, fundraising, or political campaigning) under the guise of conducting research" [section I.A.2.].
- AAPOR has reacted to complaints about suspected "push polls" and conducted investigations.
- AAPOR urges its members and the media to uncover instances of political telemarketing under the guise of research and help us alert the public promptly when these fraudulent political polls occur.

Issues in Message Testing

Despite their legitimacy of purpose, message-testing surveys occasionally generate vigorous complaint. They are sometimes the subject of public controversy in political campaigns, and may appear in press stories about dubious campaign practices. AAPOR recognizes that message tests may need to communicate positive or negative information in strongly political terms, in a tone similar to campaign advertisements. Still, these surveys should be judged by the same ethical standards as any other poll of the public: Do they include any false or misleading statements? Do they treat the respondent with fairness and respect?

Issues with Automated Calling

Automated telephone calling technologies, including pre-recorded political messages, automated touch-tone polls, and interactive voice response technology, also offer possibilities for abuse through fraudulent "push polling." The issues are the same whether a live telephone caller or an automated system makes the call. Advocacy or canvassing calls should never be misrepresented to voters as research calls, whatever the mechanism of communication.

How Can You Help Combat Fraudulent Political Polling -- So-Called "Push" Polls?

AAPOR urges its members and the media to uncover unethical political telemarketing and help alert the public.

If you suspect you have received a political telemarketing call disguised as a survey, try to get as much information as possible from the caller, particularly the name and location of the organization doing the "interviewing." Take notes on the specific

questions that you were asked.

Also ask what organization is conducting the calls, the number of people called, the questions that will be included, and how the information from the call will be used.

If you are a reporter who receives information on a purported “push poll”, seek to discern if the call in question was part of a legitimate message-testing survey or was indeed political telemarketing under the guise of research. Solicit the opinions of experts who can evaluate it accordingly.

For more information contact: Standards@aapor.org.

AAPOR Statement Released on June 2007. Updated October 2015.

Title 21-A Maine Revised Statutes

Current with the Second Regular Session of the 129th Maine Legislature.

§ 1012. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Clearly identified.** “Clearly identified,” with respect to a candidate, means that:
 - A. The name of the candidate appears;
 - B. A photograph or drawing of the candidate appears; or
 - C. The identity of the candidate is apparent by unambiguous reference.

...

§ 1014. Publication or distribution of political communications

...

2. Not authorized by candidate. If the communication described in subsection 1 is not authorized by a candidate, a candidate’s authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication, except that a communication broadcast by radio is only required to state the city and state of the address of the person that financed the communication. If the communication is in written form, the communication must contain at the bottom of the communication in print that is no smaller in size than 12-point bold print, Times New Roman font, the words “NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE.”

2-A. Other communications. Whenever a person makes an expenditure to finance a communication that names or depicts a clearly identified candidate and that is disseminated during the 28 days, including election day, before a primary election, during the 35 days, including election day, before a special election or during the period of time from Labor Day to the election day for a general election through the media described in subsection 1, the communication must state the name and address of the person who made or financed the communication and a statement that the communication was or was not authorized by the candidate, except that a communication broadcast by radio is only required to state the city and state of the address of the person that financed the communication. The disclosure is not required if the communication was not made for the purpose of influencing the candidate’s nomination for election or election.

2–B. Top 3 funders; independent expenditures. A communication that is funded by an entity making an independent expenditure as defined in section 1019-B, subsection 1 must conspicuously include the following statement:

“The top 3 funders of (name of entity that made the independent expenditure) are (names of top 3 funders).”

The information required by this subsection may appear simultaneously with any statement required by subsection 2 or 2-A. A communication that contains a visual aspect must include the statement in written text. A communication that does not contain a visual aspect must include an audible statement. This statement is required only for communications made through broadcast or cable television, broadcast radio, Internet audio programming, direct mail or newspaper or other periodical publications.

A cable television or broadcast television communication must include both an audible and a written statement. For a cable television or broadcast television communication 30 seconds or less in duration, the audible statement may be modified to include only the single top funder.

The top funders named in the required statement consist of the funders providing the highest dollar amount of funding to the entity making the independent expenditure since the day following the most recent general election day.

A. For purposes of this subsection, “funder” includes:

(1). Any entity that has made a contribution as defined in section 1052, subsection 3 to the entity making the independent expenditure since the day following the most recent general election day; and

(2) Any entity that has given a gift, subscription, loan, advance or deposit of money or anything of value, including a promise or agreement to provide money or anything of value whether or not legally enforceable, except for transactions in which a fair value is given in return, since the day following the most recent general election day.

B. If funders have given equal amounts, creating a tie in the ranking of the top 3 funders, the tie must be broken by naming the tying funders in chronological order of the receipt of funding until 3 funders are included in the statement. If the chronological order cannot be discerned, the entity making the independent expenditure may choose which of the tying funders to include in the statement. In no case may a communication be required to include the names of more than 3 funders.

C. The statement required under this subsection is not required to include the name of any funder who has provided less than \$1,000 to the entity making the independent expenditure since the day following the most recent general election day.

D. If only one or 2 funders must be included pursuant to this subsection, the communication must identify the number of funders as "top funder" or "top 2 funders" as appropriate. If there are no funders required to be included under this subsection, no statement is required.

E. When compiling the list of top funders, an entity making an independent expenditure may disregard any funds that the entity can show were used for purposes unrelated to the candidate mentioned in the communication on the basis that funds were either spent in the order received or were strictly segregated in other accounts.

F. In any communication consisting of an audio broadcast of 30 seconds or less or a print communication of 20 square inches or less, the requirements of this subsection are satisfied by including the name of the single highest funder only.

G. If the list of funders changes during the period in which a recurring communication is aired or published, the statement appearing in the communication must be updated at the time that any additional payments are made for that communication.

H. The commission may establish by routine technical rule, adopted in accordance with Title 5, chapter 375, subchapter 2-A, forms and procedures for ensuring compliance with this subsection. Rules adopted pursuant to this paragraph must ensure that the information required by this subsection is effectively conveyed for a sufficient duration and in a sufficient font size or screen size where applicable without undue burden on the ability of the entity to make the communication. The rules must also provide an exemption for types of communications for which the required statement would be impossible or impose an unusual hardship due to the unique format or medium of the communication.

...

4. Enforcement. A violation of this section may result in a civil penalty of no more than 100% of the amount of the expenditure in violation, except that an expenditure for yard signs lacking the required information may result in a maximum civil penalty of \$ 200. In assessing a civil penalty, the commission shall consider, among other things, how widely the communication was disseminated, whether the violation was intentional, whether the violation occurred as the result of an error by a printer or other paid vendor and whether the communication conceals or misrepresents the identity of the person who financed it. If the person who financed the communication or who committed the violation corrects the violation within 10 days after receiving notification of the violation from the commission by adding the missing information to the communication, the commission may decide to assess no civil penalty.

5. Telephone calls. Prerecorded automated telephone calls and scripted live telephone communications that name a clearly identified candidate during the 28 days, including election day, before a primary election, during the 35 days, including election day, before

a special election or during the period of time from Labor Day to the general election day for a general election must clearly state the name of the person who made or financed the expenditure for the communication and whether the communication was authorized by a candidate, except for prerecorded automated telephone calls paid for by the candidate that use the candidate's voice in the telephone call and that are made in support of that candidate. Telephone surveys that meet generally accepted standards for polling research and that are not conducted for the purpose of influencing the voting position of call recipients are not required to include the disclosure.

6. Exclusions. The requirements of this section do not apply to:

A. Handbills or other literature produced and distributed at a cost not exceeding \$ 100 and prepared by one or more individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee;

B. Campaign signs produced and distributed at a cost not exceeding \$ 100, paid for by one or more individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee;

C. Internet and e-mail activities costing less than \$ 100, as excluded by rule of the commission, paid for by one or more individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee;

D. Communications in which the name or address of the person who made or authorized the expenditure for the communication would be so small as to be illegible or infeasible, including communications on items such as ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, tickets to fund-raisers and similar items determined by the commission to be too small and unnecessary for the disclosures required by this section and in electronic media advertisements where compliance with this section would be impractical due to size or character limitations; and

E. Campaign signs that are financed by the candidate or candidate's authorized committee and that clearly identify the name of the candidate and are lettered or printed individually by hand.

§ 1014-B. Push polling

1. Push poll defined. For purposes of this section, "push poll" means any paid telephone survey or series of telephone surveys that are similar in nature that reference a candidate or group of candidates other than in a basic preference question, and when:

- A. A list or directory is used, exclusively or in part, to select respondents belonging to a particular subset or combination of subsets of the population, based on demographic or political characteristics such as race, sex, age, ethnicity, party affiliation or like characteristics;
- B. The survey fails to make demographic inquiries on factors such as age, household income or status as a likely voter sufficient to allow for the tabulation of results based on a relevant subset of the population consistent with standard polling industry practices;
- C. The pollster or polling organization does not collect or tabulate survey results;
- D. The survey prefaces a question regarding support for a candidate on the basis of an untrue statement; and
- E. The survey is primarily for the purpose of suppressing or changing the voting position of the call recipient.

"Push poll" does not include any survey supporting a particular candidate that fails to reference another candidate or candidates other than in a basic preference question.

2. Push polls; political telephone solicitations; requirements. Push polling must be conducted in accordance with this subsection.

- A. A person may not authorize, commission, conduct or administer a push poll by telephone or telephonic device unless, during each call, the caller identifies the person or organization sponsoring or authorizing the call by stating "This is a paid political advertisement by (name of persons or organizations)," and identifies the organization making the call, if different from the sponsor, by stating "This call is conducted by (name of organization)."
- B. If any person identified as either sponsoring or authorizing the call is not required to file any document with election officials pursuant to this Title, a valid, current, publicly listed telephone number and address for the person or organization must be disclosed during each call.

C. If any person sponsoring or authorizing the call is affiliated with a candidate, the candidate's name and the office sought by that candidate must be disclosed during each call.

D. If the call is an independent expenditure, as defined in section 1019-B, that a candidate has not approved the call must be disclosed during each call.

It is not a violation of this subsection if the respondent voluntarily terminates the call or asks to be called back before the required disclosures are made, unless the respondent is in any way encouraged to do so by the person initiating the call.

A person may not state or imply false or fictitious names or telephone numbers when providing the disclosures required under this subsection.

All oral disclosures required by this subsection must be made in a clear and intelligible manner and must be repeated in that fashion upon request of the call respondent. Disclosures made by any telephonic device must offer respondents a procedure to have the disclosures repeated.

This subsection does not apply to a push poll or political telephone solicitation or contact if the individuals participating in the call know each other prior to the call.

A person who violates this subsection may be assessed a forfeiture of \$ 500 by the commission.

3. Registered agents; requirements; registration. Persons conducting push polling shall register and comply with the requirements of this subsection.

A. A person who conducts a paid push poll or political telephone solicitation or contact, prior to conducting that poll, solicitation or contact, must have and continuously maintain for at least 180 days following the cessation of business activities in this State a designated agent for the purpose of service of process, notice or demand required or permitted by law, and shall file with the commission identification of that designated agent. Conducting business in this State includes both placing telephone calls from a location in this State and calls from other states or nations to individuals located within this State. The designated agent must be an individual resident of this State, a domestic corporation or a foreign corporation authorized to do business in this State. This paragraph does not apply to any entity already lawfully registered to conduct business in this State.

B. The commission shall create and maintain forms for the designation of agents required pursuant to paragraph A and require, at a minimum, the following information:

(1) The name, address and telephone number of the designated agent; and

(2) The name, address and telephone number of the person conducting business in this State.

C. The person conducting push polling shall notify the commission of any changes in the designated agent and the information required by paragraph B.

D. A person who violates this subsection may be assessed a forfeiture of \$ 500 by the commission.

4. Permitted practices. This section does not prohibit legitimate election practices, including but not limited to:

A. Voter identification;

B. Voter facilitation activities; or

C. Generally accepted scientific polling research.

§ 1019-B. Reports of independent expenditures

1. Independent expenditures; definition. For the purposes of this section, an “independent expenditure”:

A. Is any expenditure made by a person, party committee or political action committee, other than by contribution to a candidate or a candidate’s authorized political committee, for any communication that expressly advocates the election or defeat of a clearly identified candidate; and

B. Is presumed to be any expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the 28 days, including election day, before a primary election; during the 35 days, including election day, before a special election; or from Labor Day to a general election day.

2. Rebutting presumption. A person presumed under this section to have made an independent expenditure may rebut the presumption by filing a signed written statement with the commission within 48 hours of disseminating the communication stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate, supported by any additional evidence the person chooses to submit. The commission may gather any additional evidence it deems relevant and material and shall determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election or defeat of a candidate.

3. Report required; content; rules. [2009, c. 524, § 6 (RPR); MRSAT. 21-A, § 1019-B, sub—§ 3 (RP).]

4. Report required; content; rules. A person, party committee or political action committee that makes any independent expenditure in excess of \$250 during any one candidate’s election shall file a report with the commission. In the case of a municipal election, the report must be filed with the municipal clerk.

A. A report required by this subsection must be filed with the commission according to a reporting schedule that the commission shall establish by rule that takes into consideration existing campaign finance reporting requirements. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

B. A report required by this subsection must contain an itemized account of each expenditure in excess of \$250 in any one candidate's election, the date and purpose of each expenditure and the name of each payee or creditor. The report must state whether the expenditure is in support of or in opposition to the candidate and must include, under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath or affirmation whether the expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate.

C. A report required by this subsection must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form. The commission may adopt procedures requiring the electronic filing of an independent expenditure report, as long as the commission receives the statement made under oath or affirmation set out in paragraph B by the filing deadline and the commission adopts an exception for persons who lack access to the required technology or the technological ability to file reports electronically. The commission may adopt procedures allowing for the signed statement to be provisionally filed by facsimile or electronic mail, as long as the report is not considered complete without the filing of the original signed statement.

5. Exclusions. An independent expenditure does not include:

A. An expenditure made by a person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents;

B. A telephone survey that meets generally accepted standards for polling research and that is not conducted for the purpose of changing the voting position of the call recipients or discouraging them from voting;

C. A telephone call naming a clearly identified candidate that identifies an individual's position on a candidate, ballot question or political party for the purpose of encouraging the individual to vote, as long as the call contains no advocacy for or against any candidate; and

D. A voter guide that consists primarily of candidates' responses to surveys and questionnaires and that contains no advocacy for or against any candidate.

§ 1052. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

...

5. Political action committee. The term “political action committee:”

A. Includes:

- (1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor or other organization whose purpose is to initiate or influence a campaign;
- (4) Any person, including any corporation or association, other than an individual, that has as its major purpose initiating or influencing a campaign and that receives contributions or makes expenditures aggregating more than \$1,500 in a calendar year for that purpose; and
- (5) Any person, other than an individual, that does not have as its major purpose influencing candidate elections but that receives contributions or makes expenditures aggregating more than \$5,000 in a calendar year for the purpose of influencing the nomination or election of any candidate to political office; and

B. Does not include:

- (1) A candidate or a candidate’s treasurer under section 1013-A, subsection 1;
- (2) A candidate’s authorized political committee under section 1013-A, subsection 1, paragraph B;
- (3) A party committee under section 1013-A, subsection 3; or
- (4) An organization whose only payments of money in the prior 2 years for the purpose of influencing a campaign in this State are contributions to candidates, party committees, political action committees or ballot question committees registered with the commission or a municipality and that has not raised and accepted any contributions during the calendar year for the purpose of influencing a campaign in this State.

§ 1052-A. Registration

A political action committee shall register with the commission and amend its registration as required by this section. A registration is not timely filed unless it contains all the information required in this section.

1. Deadlines to file and amend registrations. A political action committee shall register and file amendments with the commission according to the following schedule.

A. A political action committee as defined under section 1052, subsection 5, paragraph A, subparagraph (1) or (4) that receives contributions or makes expenditures in the aggregate in excess of \$1,500 and a political action committee as defined under section 1052, subsection 5, paragraph A, subparagraph (5) that receives contributions or makes expenditures in the aggregate in excess of \$5,000 for the purpose of influencing the nomination or election of any candidate to political office shall register with the commission within 7 days of exceeding the applicable amount.

B. A political action committee shall amend the registration within 10 days of a change in the information that political action committees are required to disclose under this section.

C. A political action committee shall file an updated registration form between January 1st and March 1st of each year in which a general election is held. The commission may waive the updated registration requirement for a newly registered political action committee or other registered political action committee if the commission determines that the requirement would cause an administrative burden disproportionate to the public benefit of the updated information.

MAINE STATE LEGISLATURE

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ACTIVITY SHEET

COMMITTEE: LEGAL AND VETERANS' AFFAIRS

LD #: 1055

TITLE: An Act to Regulate Push Polling

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HEARING DATE: 4/13/01

WORK SESSION DATES: 4/26/01

5/4/01

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REPORTED OUT DATE: 5/14/01

COMMITTEE REPORT: Ought Not to Pass/Ought to Pass

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# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

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Legislative Document

No. 1055

S.P. 308

In Senate, February 22, 2001

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**An Act to Regulate Push Polling.**

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Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by President Pro Tem BENNETT of Oxford.

Be it enacted by the People of the State of Maine as follows:

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Sec. 1. 21-A MRSA §1001, sub-§4 is enacted to read:

4. Push poll. "Push poll" is defined as follows.

A. "Push poll" means telephone surveys that interview voters and are designed to influence a voter's decision with questions that:

(1) Intentionally purport to be part of an objective opinion poll concerning an issue or issues but that are worded to suggest answers that support a certain position concerning the issue or issues;

(2) Do not request demographic information but are targeted to a particular demographic group or groups;

(3) Result in encouraging a voter to support or not support a candidate or candidates, a political party or issues; or

(4) Result in subsequent telephone calls that encourage a voter to support or not support a candidate or candidates, a political party or issues.

B. "Push poll" does not include generally accepted scientific polling research, including, but not limited to, surveys that:

(1) Measure the public's opinion about or reaction to an issue, fact or theme;

(2) Are at least 5 minutes in length if completed; and

(3) Request demographic information for data collection.

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Sec. 2. 21-A MRSA §1014-B is enacted to read:

§1014-B. Push polling; disclosure; violation

Any person conducting a push poll on the telephone for any candidate for office shall disclose the name and address of the organization or company conducting the poll, the name and address of the person or organization who financed the expenditure for the poll and, if the poll is authorized by the candidate, the name of the candidate and the office for which the candidate is running. A person who violates this section commits a Class E crime.

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## SUMMARY

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This bill defines "push poll" and requires anyone conducting push polling by telephone to disclose who financed the poll and, if the poll is authorized by a candidate, that candidate's name and the office sought by the candidate. A violation of this provision is a Class E crime.

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STATE OF MAINE  
120TH LEGISLATURE

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LEGISLATIVE NOTICES

JOINT STANDING COMMITTEE ON LEGAL AND VETERANS AFFAIRS

Sen. Neria R. Douglass, Senate Chair  
Rep. John L. Tuttle, Jr., House Chair

PUBLIC HEARING: Friday, April 13, 2001, 9:00 am, Room 436, State House

- (L.D. 1058) Bill "RESOLUTION, Proposing an Amendment to the Constitution of Maine to Revoke Voting Rights of Convicted Felons while in Prison" (S.P.0311) (Presented by Senator BENNETT of Oxford) (Cosponsored by Representative ANDREWS of York, Representative LOVETT of Scarborough, Representative CRESSEY, JR. of Baldwin)
- (L.D. 1055) Bill "An Act to Regulate Push Polling" (S.P.0308) (Presented by Senator BENNETT of Oxford)
- (L.D. 1042) Bill "An Act to Amend the Election Laws" (H.P.0798) (Presented by Representative TUTTLE, JR. of Sanford) (Cosponsored by Senator DOUGLASS of Androscoggin, Senator WOODCOCK of Franklin, Representative CHIZMAR of Lisbon, Representative COTE of Lewiston, Representative HEIDRICH of Oxford, Representative O'BRIEN of Lewiston, Representative PATRICK of Rumford)
- (L.D. 1034) Bill "An Act to Establish Uniform Election Filing Deadlines for Legislative and Gubernatorial Candidates" (H.P.0790) (Presented by Representative SIMPSON of Auburn) (Cosponsored by Senator DOUGLASS of Androscoggin, Representative BOUCHER of Biddeford, Representative CANAVAN of Waterville, Representative COLWELL of Gardiner, Representative DUDLEY of Portland, Representative GOODWIN of Pembroke, Representative MAYO III of Bath, Representative O'NEIL of Saco, Representative TUTTLE, JR. of Sanford)
- (L.D. 1460) Bill "An Act to Establish a Deadline for New Voter Registrations" (H.P.1091) (Presented by Representative CLOUGH of Scarborough) (Cosponsored by Senator WOODCOCK of Franklin, Representative DAVIS of Falmouth, Representative HEIDRICH of Oxford, Representative LABRECQUE of Gorham, Representative LOVETT of Scarborough, Representative MUSE of Fryeburg, Representative SCHNEIDER of Durham, Representative WATERHOUSE of Bridgton)
- (L.D. 1273) Bill "An Act to Repeal the Presidential Preference Primary Elections" (H.P.0960) (Presented by Representative GOODWIN of Pembroke) (Cosponsored by Senator WOODCOCK of Franklin, Representative CHIZMAR of Lisbon, Representative DUGAY of Cherryfield, Representative DUNCAN of Presque Isle, Representative HEIDRICH of Oxford, Representative LABRECQUE of Gorham, Representative O'BRIEN of Lewiston, Representative PATRICK of Rumford, Representative TUTTLE, JR. of Sanford)

(L.D. 1526) Bill "An Act to Institute a Citizens' Guide to Elections" (H.P.1129)  
(Presented by Representative NORBERT of Portland) (Cosponsored by  
Representative BULL of Freeport, Representative DUNLAP of Old  
Town, Representative PATRICK of Rumford, Representative TUTTLE,  
JR. of Sanford)

CONTACT PERSON:

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Elaine Doak  
100 State House Station  
Augusta, ME 04333-0100  
287-1310





*Senator Richard A. Bennett*  
*President Pro Tempore of the Senate*

*3 State House Station*  
*Augusta, Maine 04333-0003*  
*(207) 287-9905*

## LD 1055 – AN ACT TO REGULATE PUSH POLLING

presented by

*President Pro Tempore Richard A Bennett*

Senator Douglass, Representative Tuttle and members of the Joint Standing Committee on Legal and Veterans Affairs, it is my honor to present LD 1055 for your consideration.

Push polling, I believe, is a sorry development. The need for this legislation, which I also introduced last session, again was brought to the forefront in the last election cycle where push polling became more prevalent on both state and national levels. Push polling is now widely used as tactical weapon of negative campaigning. I am presenting this bill to address this increase and to correctly identify push polls as the form of advertising that they are.

Push polls are not polls. They have nothing to do with polling. Push polls are just an insidious form of negative campaigning disguised as polls. The callers have no interest in soliciting people's opinions; they just want to move or "push" the listener away from one candidate and toward another. A push poll is a telemarketing technique used to canvass potential voters and feed them false or misleading information about a candidate under the pretense of taking a poll. These "pseudo polls" defame selected candidates by spreading campaign propaganda under the guise of conducting a legitimate public opinion poll.

Push polls violate acceptable ethical standards by intentionally lying to or misleading respondents. They corrupt the electoral process by disseminating false or misleading attacks on candidates. Push polling is bad for democracy because it creates distrust and cynicism about the political system, something that we can ill afford when turnout in the last presidential election dipped below 50%. Legitimate pollsters abhor "push polling" because it creates a false image of what pollsters do. This, in turn, results in declining public participation in real surveys.

This legislation specifically defines a push poll and requires anyone conducting push polling by telephone to disclose the same information the law requires of other political advertising.

I thank the Committee for considering LD 1055, and I am happy to answer any questions.

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**AAPOR**

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## 2000 Statement on Push Polls

LD 1053

PRESS RELEASE: February 12, 2000 FOR IMMEDIATE RELEASE

"The disclosure of 'push polling' in the South Carolina Republican primary campaign is a sorry development in the 2000 campaign," according to Michael Traugott, president of the American Association for Public Opinion Research (AAPOR). This is especially the case as AAPOR, the American Association of Political Consultants (AAPC), and the National Council on Public Polls all opposed the use of the technique in the 1996 campaign.

"Push polls" are not polls. They have nothing to do with polling. Push polls are just an invidious form of negative campaigning disguised as polls. The callers have no interest in soliciting people's opinions; they just want to move or "push" the listener away from one candidate and toward another. A "push poll" is a telemarketing technique used to canvass potential voters and feed them false or misleading information about a candidate under the pretense of taking a poll. These "pseudo polls" defame selected candidates by spreading campaign propaganda under the guise of conducting a legitimate public opinion poll.

AAPOR is asking all presidential candidates to take a pledge that they will not use the technique in their campaigns and they will dissociate themselves from independent organizations that employ the technique in support of their campaigns. It is important that the presidential candidates disavow the use of "push polls."

Push polls violate the AAPOR Code of Ethics by intentionally lying to or misleading respondents. They corrupt the electoral process by disseminating false or misleading attacks on candidates. "Push polling" is bad for democracy because it creates distrust and cynicism about the political system, something that we can ill afford when turnout in the last presidential election dipped below 50%. Legitimate pollsters abhor "push polling" because it creates a false image of what pollsters do. This in turn results in declining public participation in real surveys.

"Widespread public disclosure of every incident possible is the best way to eliminate the practice," according to Traugott. "Citizens should contact news organizations in their area or professional associations like AAPOR, and the media should broadly disseminate instances of the use of 'push polls'."

Michael Traugott, President of the American Association for Public Opinion Research, can be reached by email at [mtrau@umich.edu](mailto:mtrau@umich.edu) or by phone at 734 763-4702 (work) or 734 665-3197 (home). The original AAPOR press release on push polls from 1996 can be found on their Web site, at [www.aapor.org](http://www.aapor.org).



MAINE CIVIL LIBERTIES UNION

April 13, 2001

LD 1055 - An Act to Regulate Push Polling

The Maine Civil Liberties Union is opposed to LD 1055 - An Act to Regulate Push Polling because the regulations proposed in this bill constitute a violation of the First Amendment. Polling is a necessary tool of running campaigns. It is a measure of people's positions, a measure of which arguments may influence a voter, and a means to convince voters to support a particular candidate or issue.

Just as the First Amendment protects a person's ability to express their opinions, it also protects a person from being forced to say things against their wishes. The requirement that the individual conducting the poll must identify the initiator of the poll will have a detrimental effect on the outcome and purpose of the poll. It is inappropriate government interference in the political process. It is also unnecessary. The person on the receiving end of the phone call has total control over whether or not to participate in the poll because he or she has not only the ability to terminate the phone conversation at any time, but also not to engage in the conversation from the outset of the call. And indeed many people exercise this right. Government intrusion into a phone conversation between two people who have the ability to end the call at any time is Big Brother at its worst.

The Maine Civil Liberties Union urges a Unanimous Ought Not to Pass report on this bill.

Sally Sutton

MCLU Executive Director

**Respectfully Submitted to the Committee on Legal and Veterans Affairs**

**Testimony of Adam Thompson  
Executive Director, Maine Democratic Party  
April 13, 2001**

LD 1055: An Act to Regulate Push Polling

The Maine Democratic Party opposes LD 1055 – An Act to Regulate Push Polling. While we agree with the message of the bill and its sponsor, that push polling is an unethical campaign activity, we are concerned with the far-reaching implications of the bill and its regulations on the most common and benign campaign activities. The Maine Democratic Party does not and has never conducted or authorized a push poll. Push polling is a negative, unethical, and desperate campaign trick.

The American Association of Political Consultants defines a “push poll” with a two-pronged approach. First, the Association says that for a poll to be classified as a “push poll” it must include lies and untruths about candidates or referenda. Second, the poll must have a large sample, or contacts with more than approximately 1,000 respondents. The reason for this is that a “push poll” is not a scientific activity to gauge public opinion on a candidate or an issue. It is designed solely to influence an election or to change public opinion. This is done through spreading lies and reaching a large number of people.

Scientific polls, however, many of which are used by state legislative candidates in developing their message, may include questions of hypothetical situations, that although may not have occurred are useful and innocent means to determine public opinion. Often times, these polls raise hypothetical questions about the candidate or committee that authorized the poll.

Furthermore, these scientific polls most often only have approximately 500 respondents. With such a small sample, the only real use would be to gauge public opinion. Trying to influence public opinion with such a small sample would be unproductive.

In LD 1055, the definition used to define a push poll is much too broad. It gives the bill a reach far beyond push polls and polls in general. The definition does not coincide with the American Association of Political Consultants' definition of a push poll, and it could be used to regulate even the most common and benign campaign activities, such as Voter ID drives and Get Out the Vote efforts.

The Maine Democratic Party urges a Unanimous Ought Not to Pass report on this bill.

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Senate   
Congress

LD 1055

**Push Polling and Persuasive Poll Regulations**

**LD 1257**

| State         | Definition                                                                                                                                                                                                                                                                                                                                                                                                                           | Prohibition                                                                                                                                                                                                                                                            | Requirements                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Penalty                                                                                                                     |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|
| Nevada        | <p>"Persuasive Poll": canvassing of persons by means other than an established method of scientific sampling, by asking questions or offering information concerning a candidate which is designed to provide information that is negative or derogatory about the candidate or his family. The term does not include a poll that is conducted only to measure the public's opinion about or reaction to an issue, fact or them.</p> | <p>Causing publication* of certain false statements of fact concerning candidates or ballot questions during a campaign is prohibited; civil penalty imposed by Commission on Ethics.</p> <p>*Publication includes the act of speaking or otherwise disseminating.</p> | <p>When conducting a persuasive poll by telephone concerning a candidate; or when producing automated or computerized messages by telephone in the form of a persuasive poll concerning a candidate, the person conducting the poll shall, at the end of the poll, disclose the name and telephone number of the candidate, political party, committee sponsored by a political party or committee for political action that requested or compensated the person for the poll.</p> | <p>A civil penalty of not more than \$5,000 for failing to identify person or entity requesting or paying for the poll.</p> |
| New Hampshire | <p>Push-polling" means: Calling voters on behalf of, in support of, or in opposition to, any candidate for public office by telephone; and asking questions related to opposing candidates for public office which state, imply, or convey information about the candidates character, status, or political stance or record; and</p>                                                                                                |                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p>Guilty of a misdemeanor, if a natural person or shall be guilty of a felony if any other person.</p>                     |

| State                | Definition                                                                                                                                                                                                                                                     | Prohibition                                                                                                                                                                                                                                                                                                                                                             | Requirements                                                                                                                                                                                             | Penalty |
|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
|                      | conducting such calling in a manner which is likely to be construed by the voter to be a survey or poll to gather statistical data for entities or organizations which are acting independent of any particular political party, candidate, or interest group. |                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                          |         |
| <b>West Virginia</b> | Public opinion polls shall mean and be limited to the gathering, collection, collation and evaluation of information reflecting public opinion, needs and preferences as to any candidate, group of candidates, party, issue or issues.                        | No such poll shall be deceptively designed or intentionally conducted in a manner calculated to advocate the election or defeat of any candidate or group of candidates or calculated to influence any person or persons so polled to vote for or against any candidate, group of candidates, proposition or other matter to be voted on by the public at any election. |                                                                                                                                                                                                          |         |
| <b>Idaho</b>         | Telephone Communication or message advocating the election, approval or defeat of a candidate.                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                         | Requires the clear disclosure of the person financing the political statement.                                                                                                                           |         |
| <b>Florida</b>       | Telephone solicitation supporting or opposing candidates.                                                                                                                                                                                                      | No telephone call shall state or imply the caller represents a nonexistent person or organization, nor shall any telephone call state or imply the caller represents any person or organization unless                                                                                                                                                                  | Any telephone call supporting or opposing a candidate, elected public official, or ballot proposal must identify the persons or organizations sponsoring the call by stating either: "paid for by _____" |         |

| State | Definition | Prohibition                                                                                                   | Requirements                                                                                                                                              | Penalty |
|-------|------------|---------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
|       |            | the person or organization so represented has given specific approval in writing to make such a presentation. | (insert name of persons or organizations sponsoring the call) or "paid for on behalf of ____" (insert name of persons or organizations authorizing call). |         |

**OFFICE OF POLICY AND LEGAL ANALYSIS**

Date: April 26, 2001  
To: Legal and Veterans' Affairs  
From: Danielle Fox, Legislative Analyst

**LD 1055 An Act to Regulate Push Polling (Bennett)**

**SUMMARY**

This bill defines "push poll" and requires anyone conducting push polling by telephone to disclose who financed the poll and, if the poll is authorized by a candidate, that candidate's name and the office sought by the candidate. A push poll, under this bill, is designed to influence a voter's decision.

Under this bill, push polling does not include generally accepted scientific polling research that measure public opinion, are at least 5 minutes in length and request demographic information.

A violation of this provision is a Class E crime. A Class E crime is punishable by jail-time imposed by the court not to exceed 6 months and a fine not to exceed \$1,000.

**POTENTIAL ISSUES/ ADDITIONAL INFORMATION:**

Committee may want to consider the following questions?

How would this bill be enforced?

Who would be responsible for this enforcement?

How would authorization be verified if it were provided to the person called?

**FISCAL IMPACT: minor costs**

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GRANT T. PENNOYER  
Interim Director

Date: 04/23/01 ORIGINAL  
Hearing Date: 04/13/01  
Committee: Legal and Veterans Affairs

Maine State Legislature  
**OFFICE OF FISCAL AND PROGRAM REVIEW**  
Augusta, Maine 04333

TO: Senate Chair - Sen. N. Douglass  
House Chair - Rep. J. Tuttle  
Sponsor - Sen. Bennett of Oxford

FROM: <sup>MCy</sup> Marc A. Cyr, Principal Analyst

SUBJECT: FISCAL NOTE INFORMATION FOR **LD 1055**

**An Act to Regulate Push Polling**

**Comments:**

This bill may increase prosecutions for Class E crimes. If a jail sentence is imposed, the additional costs to the counties are estimated to be \$83.36 per day per prisoner. The number of prosecutions that may result in a jail sentence and the resulting costs to the county jail system are expected to be insignificant.

The additional workload and administrative costs associated with the minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department. The collection of additional fines may increase General Fund revenue by minor amounts.