

>----- Forwarded by Edgardo Cortes/EAC/GOV on 04/27/2007 10:44 AM

>-----

>

>Margaret Sims/EAC/GOV

>02/15/2006 11:09 AM

>

>To

>"Tova Wang" <wang@tcf.org>@GSAEXTERNAL

>

>

>cc

>serebrov@sbcglobal.net, Edgardo Cortes/EAC/GOV@EAC

>

>

>Subject

>RE: Interview

>

>

>Tova:

>I am not permitted to authorize subcontractors or additional

>personnel not identified in the personal services contract.

>(Counsel's Office reminded me of that the other day.) It concerns me

>that if Edgardo or I call Alex into the teleconferences, we will be

>out of line. --- Peggy

>

>

> "Tova Wang" <wang@tcf.org>

>

>

>"Tova Wang" <wang@tcf.org>

>02/15/2006 10:31 AM

>

>To

>psims@eac.gov

>

>

>cc

>serebrov@sbcglobal.net

>

>

>Subject

>RE: Interview

>

>

>

>He works with me, and Job and I have both agreed that it would be

>useful to have another set of ears and another person taking notes.

>

>-----Original Message-----

>From: psims@eac.gov [mailto:psims@eac.gov]

>Sent: Wednesday, February 15, 2006 10:29 AM

>To: wang@tcf.org

>Subject: RE: Interview

>

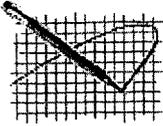
>

>Tova:

006163

>  
>Please refresh my memory. (Sorry about my pea brain.) Who is Alex  
>and why is he or she to be included? -- Peggy  
>  
>  
>"Tova Wang" <wang@tcf.org>  
>02/10/2006 09:45 AM To"Job Serebrov" ,  
>psims@eac.gov  
>ccbaker@tcf.org  
>SubjectRE: Interview  
>  
>  
>  
>  
>  
>  
>  
>Can Alex Baker also be included in these calls please? He is at  
>212-452-7705. Thanks.  
>  
>-----Original Message-----  
>From: Job Serebrov [mailto:serebrov@sbcglobal.net]  
>Sent: Thursday, February 09, 2006 6:01 PM  
>To: psims@eac.gov; wang@tcf.org  
>Subject: Interview  
>  
>  
>Peggy & Tova:  
>  
>We have an telephone interview with Douglas Webber  
>from the Indiana Attorney General's Office on Feb 15  
>at 2 pm EST.  
>  
>Job  
[attachment "Schedule of Interviews.xls" removed by Edgardo Cortes/EAC/GOV]

006164



Edgardo Cortes /EAC/GOV  
05/04/2007 02:09 PM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Fw: Peggy Sims more emails

Edgardo Cortés  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave. NW, Ste. 1100  
Washington, DC 20005  
866-747-1471 toll free  
202-566-3126 direct  
202-566-3127 fax  
[ecortes@eac.gov](mailto:ecortes@eac.gov)

-----Forwarded by Edgardo Cortes/EAC/GOV on 05/04/2007 02:09PM -----

>To: [eacon@eac.gov](mailto:eacon@eac.gov)  
>From: Edgardo Cortes/EAC/GOV  
>Date: 04/27/2007 10:47AM  
>cc: Jeannie Layson/EAC/GOV  
>Subject: Peggy Sims more emails  
>  
>Edgardo Cortés  
>Election Research Specialist  
>U.S. Election Assistance Commission  
>1225 New York Ave. NW, Ste. 1100  
>Washington, DC 20005  
>866-747-1471 toll free  
>202-566-3126 direct  
>202-566-3127 fax  
>[ecortes@eac.gov](mailto:ecortes@eac.gov)  
>----- Forwarded by Edgardo Cortes/EAC/GOV on 04/27/2007 10:46 AM  
>-----  
>  
>Margaret Sims/EAC/GOV  
>03/24/2006 05:05 PM  
>  
>To  
>Edgardo Cortes/EAC/GOV@EAC  
>  
>  
>cc  
>  
>  
>  
>Subject  
>Assignments for Devon  
>  
>  
>I've notified Diana that Devon should report to you after she gets  
>through the GSA process. See attached re assignments and priorities

006165

>for next week. Let me know if you have any questions. --- Peggy  
>  
>  
>----- Forwarded by Edgardo Cortes/EAC/GOV on 04/27/2007 10:46 AM  
>-----  
>  
>Margaret Sims/EAC/GOV  
>03/28/2006 06:41 PM  
>  
>To  
>wang@tcf.org, serebrov@sbcglobal.net  
>  
>  
>cc  
>Nicole Mortellito/CONTRACTOR/EAC/GOV@EAC, Edgardo Cortes/EAC/GOV@EAC,  
>Devon E. Romig/CONTRACTOR/EAC/GOV@EAC  
>  
>  
>Subject  
>DOJ Training Materials  
>  
>  
>Dear Tova and Job:  
>  
>Devon has speedily reproduced the four DOJ training manuals provided  
>by Craig Donsanto, and has sent them to you via Federal Express.  
>Please remember that these internal working documents were provided  
>for our project in the spirit of interagency cooperation. They  
>cannot be reproduced or provided to others, except to you as EAC  
>consultants or EAC staff working on the Voting Fraud/Voter  
>Intimidation project, without prior written permission from DOJ.  
>Thanks.  
>  
>Peggy Sims  
>Election Research Specialist  
>U.S. Election Assistance Commission  
>1225 New York Ave, NW - Ste 1100  
>Washington, DC 20005  
>Phone: 866-747-1471 (toll free) or 202-566-3120 (direct)  
>Fax: 202-566-3127  
>email: psims@eac.gov ----- Forwarded by Edgardo Cortes/EAC/GOV on  
>04/27/2007 10:46 AM -----  
>  
>Margaret Sims/EAC/GOV  
>02/15/2006 10:19 AM  
>  
>To  
>wang@tcf.org, serebrov@sbcglobal.net  
>  
>  
>cc  
>Edgardo Cortes/EAC/GOV@EAC  
>  
>  
>Subject  
>Interview Schedule

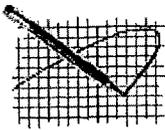
006166

>  
>  
>Here is the latest schedule. --- Peggy  
>  
>----- Forwarded by Edgardo Cortes/EAC/GOV on 04/27/2007 10:46 AM  
>-----  
>  
>Margaret Sims/EAC/GOV  
>02/15/2006 11:09 AM  
>  
>To  
>"Tova Wang" <wang@tcf.org>@GSAEXTERNAL  
>  
>  
>cc  
>serebrov@sbcglobal.net, Edgardo Cortes/EAC/GOV@EAC  
>  
>  
>Subject  
>RE: Interview  
>  
>  
>Tova:  
>I am not permitted to authorize subcontractors or additional  
>personnel not identified in the personal services contract.  
>(Counsel's Office reminded me of that the other day.) It concerns me  
>that if Edgardo or I call Alex into the teleconferences, we will be  
>out of line. --- Peggy  
>  
>  
> "Tova Wang" <wang@tcf.org>  
>  
>  
>"Tova Wang" <wang@tcf.org>  
>02/15/2006 10:31 AM  
>  
>To  
>psims@eac.gov  
>  
>  
>cc  
>serebrov@sbcglobal.net  
>  
>  
>Subject  
>RE: Interview  
>  
>  
>  
>He works with me, and Job and I have both agreed that it would be  
>useful to have another set of ears and another person taking notes.  
>  
>-----Original Message-----  
>From: psims@eac.gov [mailto:psims@eac.gov]  
>Sent: Wednesday, February 15, 2006 10:29 AM  
>To: wang@tcf.org

006167

>Subject: RE: Interview  
>  
>  
>Tova:  
>  
>Please refresh my memory. (Sorry about my pea brain.) Who is Alex  
>and why is he or she to be included? --- Peggy  
>  
>  
>"Tova Wang" <wang@tcf.org>  
>02/10/2006 09:45 AM To:"Job Serebrov" ,  
>psims@eac.gov  
>ccbaker@tcf.org  
>SubjectRE: Interview  
>  
>  
>  
>  
>  
>  
>Can Alex Baker also be included in these calls please? He is at  
>212-452-7705. Thanks.  
>  
>-----Original Message-----  
>From: Job Serebrov [mailto:serebrov@sbcglobal.net]  
>Sent: Thursday, February 09, 2006 6:01 PM  
>To: psims@eac.gov; wang@tcf.org  
>Subject: Interview  
>  
>  
>Peggy & Tova:  
>  
>We have an telephone interview with Douglas Webber  
>from the Indiana Attorney General's Office on Feb 15  
>at 2 pm EST.  
>  
>Job  
[attachment "Assignments for Devon 3-24-06.doc" removed by Edgardo Cortes/EAC/GOV]  
[attachment "Schedule of Interviews.xls" removed by Edgardo Cortes/EAC/GOV]

006168



Edgardo Cortes /EAC/GOV  
05/04/2007 02:09 PM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Fw: email sent to Peggy Sims

Edgardo Cortés  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave. NW, Ste. 1100  
Washington, DC 20005  
866-747-1471 toll free  
202-566-3126 direct  
202-566-3127 fax  
[ecortes@eac.gov](mailto:ecortes@eac.gov)

-----Forwarded by Edgardo Cortes/EAC/GOV on 05/04/2007 02:09PM -----

>To: [eacon@eac.gov](mailto:eacon@eac.gov)  
>From: Edgardo Cortes/EAC/GOV  
>Date: 04/27/2007 10:50AM  
>cc: Jeannie Layson/EAC/GOV  
>Subject: email sent to Peggy Sims

>

>Edgardo Cortés  
>Election Research Specialist  
>U.S. Election Assistance Commission  
>1225 New York Ave. NW, Ste. 1100  
>Washington, DC 20005  
>866-747-1471 toll free  
>202-566-3126 direct  
>202-566-3127 fax  
>[ecortes@eac.gov](mailto:ecortes@eac.gov)

>----- Forwarded by Edgardo Cortes/EAC/GOV on 04/27/2007 10:49 AM

>-----

>

>Edgardo Cortes/EAC/GOV  
>02/24/2006 10:38 AM

>

>To  
>Margaret Sims/EAC/GOV

>

>

>cc

>

>

>

>Subject

>Fw: new interview scheduled

>

>

>Has this conference call been set up? If not, I can ask Nicole to set  
>it up. I have another conference call scheduled for the same time

006169

>with my contractors.  
>  
>Edgardo Cortés  
>Election Research Specialist  
>U.S. Election Assistance Commission  
>1225 New York Ave. NW, Ste. 1100  
>Washington, DC 20005  
>866-747-1471 toll free  
>202-566-3126 direct  
>202-566-3127 fax  
>ecortes@eac.gov  
>----- Forwarded by Edgardo Cortes/EAC/GOV on 02/24/2006 10:35 AM  
>-----  
>  
>"Tova Wang" <wang@tcf.org>  
>02/21/2006 05:19 PM  
>  
>To  
>psims@eac.gov, "Job Serebrov" <serebrov@sbcglobal.net>  
>  
>  
>cc  
>ecortes@eac.gov  
>  
>  
>Subject  
>new interview scheduled  
>  
>  
>  
>Harry VanSickle, Director of Elections for PA, Wednesday, March 1 at  
>11 AM EST.  
>  
>Should I just tell him the usual call in number and pass code?  
>  
>Thanks  
>  
>Tova Andrea Wang  
>Senior Program Officer and Democracy Fellow  
>The Century Foundation  
>41 East 70th Street - New York, NY 10021  
>phone: 212-452-7704 fax: 212-535-7534  
>Visit our Web site, [www.tcf.org](http://www.tcf.org) , for the latest news, analysis,  
>opinions, and events.  
>  
>  
>Click here to receive our weekly e-mail updates.  
>

006170



Edgardo Cortes /EAC/GOV  
05/04/2007 02:10 PM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Fw: additional Peggy Sims email

Edgardo Cortés  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave. NW, Ste. 1100  
Washington, DC 20005  
866-747-1471 toll free  
202-566-3126 direct  
202-566-3127 fax  
[ecortes@eac.gov](mailto:ecortes@eac.gov)

-----Forwarded by Edgardo Cortes/EAC/GOV on 05/04/2007 02:09PM -----

>To: [eacon@eac.gov](mailto:eacon@eac.gov)  
>From: Edgardo Cortes/EAC/GOV  
>Date: 04/27/2007 10:54AM  
>cc: Jeannie Layson/EAC/GOV  
>Subject: additional Peggy Sims email  
>  
>Edgardo Cortés  
>Election Research Specialist  
>U.S. Election Assistance Commission  
>1225 New York Ave. NW, Ste. 1100  
>Washington, DC 20005  
>866-747-1471 toll free  
>202-566-3126 direct  
>202-566-3127 fax  
>[ecortes@eac.gov](mailto:ecortes@eac.gov)  
>----- Forwarded by Edgardo Cortes/EAC/GOV on 04/27/2007 10:53 AM  
>-----  
>  
>Edgardo Cortes/EAC/GOV  
>04/18/2006 10:13 AM  
>  
>To  
>Margaret Sims/EAC/GOV, Diana Scott/EAC/GOV, Bola Olu/EAC/GOV  
>  
>  
>cc  
>[Devon E. Romig/EAC/GOV@EAC](mailto:Devon.E.Romig@EAC/GOV@EAC)  
>  
>  
>Subject  
>Re: Voting Fraud-Voter Intimidation Teleconference 4-19-06  
>  
>  
>What is the contact info for our conference call provider in case we  
>run into trouble at the start of the call? Nicole used to handle

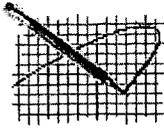
006171

>conference calls and I am not sure who I would speak to in that  
>instance. Please let me know. Thanks.  
>  
>Edgardo Cortés  
>Election Research Specialist  
>U.S. Election Assistance Commission  
>1225 New York Ave. NW, Ste. 1100  
>Washington, DC 20005  
>866-747-1471 toll free  
>202-566-3126 direct  
>202-566-3127 fax  
>ecortes@eac.gov  
> Margaret Sims/EAC/GOV  
>  
>  
>Margaret Sims/EAC/GOV  
>04/17/2006 04:33 PM  
>  
>To  
>sarahball.johnson@ky.gov  
>  
>  
>cc  
>serebrov@sbcglobal.net, wang@tcf.org, ecortes@eac.gov  
>  
>  
>Subject  
>Voting Fraud-Voter Intimidation Teleconference 4-19-06  
>  
>  
>  
>Hi, Sarah:  
>  
>Thank you for agreeing to be interviewed on Wednesday, April 19, by  
>the consultants for EAC's initial research on voting fraud and voter  
>intimidation, Job Serebrov and Tova Wang . Our consultants are  
>conducting interviews as part of preliminary research to determine  
>how EAC may best meet the requirements of Section 241(b)6 and 7 of  
>the Help America Vote Act of 2002. As you may recall, Section 241  
>requires EAC to conduct research on election administration issues,  
>including the development of:  
>nationwide statistics and methods of identifying, deterring, and  
>investigating voting fraud in elections for Federal office; and  
>methods of identifying, deterring, and investigating methods of voter  
>intimidation.  
>  
>This is what I need you (and the Secretary, if he is available) to  
>do:  
>At approximately 11 AM EST on April 19 , call 1-866-222-9044 .  
>At the prompt for the pass code, enter 62209 .  
>  
>Tova and Job will join you on the line. We have arranged for the  
>line to be open for an hour, with 10 minutes extra on the front end  
>(for folks who have not synchronized their watches).  
>

006172

>You mentioned that Secretary Grayson may be using a cell phone. Our  
>teleconference provider has given us the following information  
>regarding the use of cell phones during the teleconference:  
>Signals are often in and out and the audio bridging equipment cannot  
>compensate fast enough by adjusting the signal. This affects all  
>participants connected. If participants must use a cell phone - they  
>should be stationary in a location where they can pick up the other  
>participants , moving while using a cell phone causes the signal to  
>go in and out and often will pick up extraneous electrical signals  
>that will cause heavy static on the call.  
>The cell phone should be well charged and muted, if possible, until  
>the individual is ready to speak .  
>If there is a problem , anybody who dials into a conference can  
>contact the operator/technicians by simply pressing \*0 (star zero) .  
>This information is part of the recording when individuals are  
>dialing in.  
>  
>If you have any problems accessing the teleconference, please call  
>Edgardo Cort é s. You can reach him at 1-866-747-1471 (toll-free) or  
>202-566-3126. He can contact our service provider to correct any  
>problems. (I will be on my way to Seattle and unable to help.)  
>  
>Thanks, again!  
>  
>Peggy Sims  
>Election Research Specialist  
>U.S. Election Assistance Commission  
>1225 New York Ave, NW - Ste 1100  
>Washington, DC 20005  
>Phone: 866-747-1471 (toll free) or 202-566-3120 (direct)  
>Fax: 202-566-3127  
>email: psims@eac.gov

006173



Edgardo Cortes /EAC/GOV  
05/04/2007 02:10 PM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Fw: Peggy Sims email - 1 more

Edgardo Cortés  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave. NW, Ste. 1100  
Washington, DC 20005  
866-747-1471 toll free  
202-566-3126 direct  
202-566-3127 fax  
[ecortes@eac.gov](mailto:ecortes@eac.gov)

-----Forwarded by Edgardo Cortes/EAC/GOV on 05/04/2007 02:10PM -----

>To: [eacon@eac.gov](mailto:eacon@eac.gov)  
>From: Edgardo Cortes/EAC/GOV  
>Date: 04/27/2007 10:56AM  
>cc: Jeannie Layson/EAC/GOV  
>Subject: Peggy Sims email - 1 more  
>  
>Edgardo Cortés  
>Election Research Specialist  
>U.S. Election Assistance Commission  
>1225 New York Ave. NW, Ste. 1100  
>Washington, DC 20005  
>866-747-1471 toll free  
>202-566-3126 direct  
>202-566-3127 fax  
>[ecortes@eac.gov](mailto:ecortes@eac.gov)  
>----- Forwarded by Edgardo Cortes/EAC/GOV on 04/27/2007 10:56 AM  
>-----  
>  
>Margaret Sims/EAC/GOV  
>04/06/2006 03:33 PM  
>  
>To  
>[ecortes@eac.gov](mailto:ecortes@eac.gov)  
>  
>  
>cc  
>  
>  
>  
>Subject  
>Interview for Voting Fraud/Voter Intimidation Project  
>  
>  
>  
>

006174

>I've been trying to schedule an interview (by teleconference) among  
>our two consultants, Tova Wang and Job Serebrov. and an election  
>attorney, Colleen McAndrews (310/458-1405). I had to leave your  
>name with her assistant, today, just in case she calls back when I am  
>out of the office.

>

>The EAC consultants are available for interviews next week before  
>4:30 AM EST on Monday (4/10) and in the afternoon on Wednesday  
>(4/12). Email info on any teleconferences scheduled to Job  
>(serebrov@sbcglobal.net ) and Tova (wang@tcf.org). Job operates on  
>CST; Tova on EST.

>

>Thanks! --- Peggy

006175

Jeannie Layson/EAC/GOV  
11/28/2006 10:27 AM

To EAC Personnel  
cc  
bcc  
Subject FOIA Request

Hello everyone,

I need each of you to respond affirmatively or negatively to the FOIA request below. If you have no documents in your possession related to this request, please reply to me with the words "no records." If you have records, please identify them in an e-mail reply and attach them to the e-mail. If the document is not electronic, hand deliver them to me. Also, if you believe any of these related documents should be withheld, please provide a brief memo stating the reason for your position.

I need this information and/or a response by COB December 5, 2006. If you cannot comply by this date, please provide notification and an estimated time when you will provide the information and the reason why you cannot comply by the original deadline. Thanks for your cooperation. See request below:

Wendy Weiser of the Brennan Center for Justice has submitted a FOIA request for the voting fraud report prepared by our consultants and the voter ID report, as well as the following information:

"In the event that the EAC denies my renewed request for the voter ID and voting fraud reports or delays another week in providing those materials, we respectfully request copies of (1) all requests for proposals and contracts relating to the voter ID and voting fraud reports; and (2) all written and electronic communications concerning the voter ID and voting fraud reports between the EAC and (a) the Eagleton Institute of Politics, (b) the Moritz College of Law, (c) Tova Wang, (d) Job Serebrov, and (e) any other individuals or entities, including but not limited to outside reviewers."

Please let me know if you would like a copy of the FOIA request.

Jeannie Layson  
U.S. Election Assistance Commission  
1225 New York Ave., NW  
Suite 1100  
Washington, DC 20005  
Phone: 202-566-3100  
www.eac.gov

006176

Jeannie Layson/EAC/GOV

04/27/2007 04:54 PM

To EAC Personnel

cc

bcc

Subject Voter ID and Vote Fraud and Voter Intimidation IG Review Update

Hello everyone,

The chair wanted to distribute the attached memo from the IG, which contains guidance about how we proceed during the review of the voter ID and the vote fraud and voter intimidation research projects. She will continue to keep staff informed as this review moves forward, and she thanks everyone for their continued cooperation and hard work.



IG Memo to Chair on Review of Studies ( 4-27-07 ).pdf

Jeannie Layson  
U.S. Election Assistance Commission  
1225 New York Ave., NW  
Suite 1100  
Washington, DC 20005  
Phone: 202-566-3100  
[www.eac.gov](http://www.eac.gov)

006177



U.S. ELECTION ASSISTANCE COMMISSION  
OFFICE OF INSPECTOR GENERAL  
1225 New York Ave. NW - Suite 1100  
Washington, DC 20005

April 27, 2007

Memorandum

To: Donetta Davidson  
Chair, U.S. Elections Commission

From: Curtis Crider *Curtis Crider*  
Inspector General

Subject: U.S. Election Assistance Commission Activities Pending the Office of Inspector  
General Investigation of the Voting Fraud and Voter Intimidation Report

In your letter of April 23, 2007, you requested my comments concerning several activities that the Election Assistance Commission (EAC) was considering to undertake pending our review of the Voting Fraud and Voter Intimidation Study and on related questions. My responses to your proposed activities and questions follow:

1. The EAC would like to prepare a summary of the differences between the draft report prepared by the consultants and the final report adopted by the EAC.

Answer: We believe that such a summary will be helpful to our investigation. Please provide us with a copy of the summary of differences upon it is completion.

2. Would there be any prohibition against the Director of Communications speaking with EAC employees, consultants or working group members when questions arise from members of the press or under the Freedom of Information Act?

Answer: We are not aware of any prohibition. However, we suggest that EAC not comment or limit its comments on this matter because of the ongoing investigation. Any FOIA requests should be promptly responded to stating that the matter is under investigation. Once the investigation is completed, appropriate information should be made available to the FOIA requester.

3. Would there be any prohibition against EAC briefing members of the EAC Standards Board and the EAC Board of Advisors.

Answer: We are not aware of any prohibition. Our preference, however, would be that EAC allow the investigation to be completed before conducting any briefings.

4. Would there be any prohibition against gathering information related to this project in order to respond to inquiries that have been made by members of Congress?

006178

Answer: We are not aware of any prohibition. As previously stated, our preference is that there are no public comments while the investigation is in process or that comments be limited. However, we appreciate the sensitivity of Congressional requests, EAC must decide how best to proceed in this matter. We ask that you share any proposed responses with us prior to their release and that you provide us with a copy of final responses and any attachments.

5. Would there be any prohibition against responding to an inquiry that the Commission has received from an attorney engaged by one of the consultants?

Answer: It is the EAC's decision whether to respond to the attorney for the consultant. We prefer that the consultants not be released from the confidentiality clause of their contracts until the OIG has completed its investigations.

We understand that EAC will want to respond to criticism of its handling of the Voter Fraud and Intimidation Study, and that management must ultimately decide how best to proceed. Our preference would be that you attempt to defer commenting until we have finished our investigation.

I appreciate you raising these matters to me before acting. Please feel free to contact me if you have any questions about this memorandum.

006179



**LAWYERS' COMMITTEE FOR  
CIVIL RIGHTS  
UNDER LAW**

1401 New York Avenue, NW Tel: 202.662.8600  
Suite 400 Fax: 202.783.0857  
Washington, DC 20005-2124 www.lawyerscommittee.org

VIA FACSIMILE

October 6, 2006

Chairman Paul S. DeGregorio  
Commissioner Donetta L. Davidson  
Commissioner Gracia M. Hillman  
United States Election Assistance Commission  
1225 New York Avenue N.W., Suite - 1100  
Washington, DC 20005  
FAX: (202) 566-3127

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Jonathan L. Greenblatt  
Kim Keenan

Dear Commissioners,

As a member of the Election Assistance Commission (EAC) Board of Advisors and a member of the EAC's Working Group on Voter Fraud and Voter Intimidation, I write requesting the release of the EAC's Voter Fraud and Voter Intimidation Report. This report was commissioned over a year ago and has yet to be released. In May, 2006 the Working Group met to discuss the project and was told that the final report would be released shortly thereafter. Five months later, and on the heels of another national election, election officials, policy makers and advocates are without guidance from the EAC on this critical subject. Across the country and at all levels of government, legislative and judicial debates that should be informed by the report's findings continue. The EAC has had ample time to research and release this critical report. There is no reasonable explanation for this delay.

Please immediately release the Election Assistance Commission's Voter Fraud and Voter Intimidation report. If immediate release is not possible, please provide me with an explanation of the delay and a detailed time line for the report's release.

Thank You.

Barbara R. Arnwine  
Executive Director  
Lawyers' Committee for Civil Rights Under Law

cc: Hon. Trent Lott, Chairman, Senate Committee on Rules and Administration  
Hon. Christopher J. Dodd, Ranking Member, Senate Committee on Rules and Administration  
Hon. Vernon Ehlers, Chairman, Committee on House Administration  
Hon. Juanita Millender-McDonald, Ranking Member, Committee on House Administration




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**FACSIMILE TRANSMITTAL SHEET**

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**FROM: RALPH G. NEAS  
PRESIDENT, PEOPLE FOR THE AMERICAN WAY FOUNDATION**

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**DATE: 10/18/06**

**TOTAL NO. OF PAGES INCLUDING COVER: 3**

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**RE: REPORT COMMISSIONED BY THE EAC ON VOTER FRAUD**

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URGENT     FOR REVIEW     PLEASE COMMENT     PLEASE REPLY     PLEASE RECYCLE

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**NOTES/COMMENTS:**

Cc: USPS Mail

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**2000 M STREET, NW ♦ SUITE 400 ♦ WASHINGTON, DC 20036  
TELEPHONE 202-467-4999 ♦ FAX 202-293-2672 ♦ EMAIL pfaw@pfaw.org 006181**



October 18, 2006

Chairman Paul DeGregorio  
Commissioner Donetta L. Davidson  
Commissioner Gracia M. Hillman  
United States Election Assistance Commission  
1225 New York Avenue N.W., Suite - 1100  
Washington, DC 20005  
Fax: (202) 566-3127

Dear Commissioners,

On October 11<sup>th</sup>, *USA Today* published an article describing the report commissioned by the EAC on voter fraud. We write today to urge the EAC to release this report.

As a 25 year old civil rights and civil liberties organization, People For the American Way Foundation (PFAWF) and our sister organization, People For the American Way (PFAW) have long been dedicated to ensuring the integrity of our elections. In particular in the years since the 2000 election, PFAWF and other principle partners such as the NAACP and the Lawyers' Committee for Civil Rights Under Law, have carried out a program called Election Protection to ensure that all eligible voters are able to vote and have that vote counted as cast.

We know that voter fraud and intimidation occur- we've seen the long lines, the erroneous purges, the misleading flyers and phone calls. And yet there seems to be little attention to these matters on the state and federal level.

Instead, a disproportionate amount of time and energy are spent on measures that purport to curb voter fraud by requiring voters to produce proof of citizenship and identity to vote. In actuality, these measures do little to secure the elections and much to disenfranchise otherwise eligible voters. Indeed we are weeks away from an election where thousands of eligible voters may be disenfranchised by overly restrictive voter identification laws. That presents a real threat to the integrity of our elections and the health of our democracy.

The report that the EAC commissioned from voting experts would make a vitally important contribution to the national discourse on the reality of voter fraud. In light of the numerous claims regarding the prevalence of voter fraud, this report provides a much

needed analysis about the state of our electoral process. While media reports indicate that this tax-payer funded report is final, even if there are outstanding concerns within the EAC, we implore you to move forward with releasing the report as is, and to hold a public hearing to address any potential issues. Again, the importance of the information in this report is paramount and the public deserves such full disclosure. The report should be released immediately so that those who are concerned about ensuring the integrity of elections can benefit from its findings.

Sincerely,



Ralph G. Neas

President, People For the American Way Foundation

Cc: Senate Majority Leader Bill Frist  
Senate Minority Leader Harry Reid  
Senator Trent Lott, Chair, Senate Rules and Administration  
Senator Chris Dodd, Ranking Member, Senate Rules and Administration  
House Majority Leader John Boehner  
House Minority Leader Nancy Pelosi  
Representative Vernon Ehlers, Chair, House Administration  
Representative Juanita Millender-McDonald, Ranking Member, House Administration

006183

October 19, 2006

The Honorable Rush Holt  
1019 Longworth Building  
Washington, DC 20515

**Via Facsimile Transmission ONLY**  
**202-225-6025**

RE: October 16, 2006 Letter

Dear Congressman Holt:

Your letter of October 16, 2006 requests the release of EAC's Voter Fraud and Intimidation Report. I would like to take this opportunity to clarify the purpose and status of this study.

In late 2005, EAC hired two consultants for the purpose of assisting EAC with two things: 1) developing a uniform definition of the phrase voter fraud, and 2) making recommendations on how to further study the existence, prosecution, and means of deterring such voter fraud. In May 2006, a status report on this study was given to the EAC Standards Board and EAC Board of Advisors during their public meetings. During the same week, a working group convened to react to and provide comment on the progress and potential conclusions that could be reached from the work of the two consultants.

The conversation at the working group meeting was lively on the very points that we were trying to accomplish as a part of this study, namely what is voter fraud and how do we pursue studying it. Many of the proposed conclusions that were suggested by the consultants were challenged by the working group members. As such, the consultants were tasked with reviewing the concerns expressed at the working group meeting, conducting additional research as necessary, and providing a draft report to EAC that took into account the working group's concerns and issues.

That draft report is currently being vetted by EAC staff. EAC will release a final report from this study after it has conducted a review of the draft provided by the consultants. However, it is important to remember the purpose of this study – finding a uniform definition of voter fraud and making recommendations on how to study the existence, prosecution and deterrence of voter fraud -- as it will serve as the basis of the EAC report on this study.

Thank you for your letter. You can be assured that as soon as a final report on the fraud and intimidation study is available, a copy will be made available to the public.

Sincerely,

Paul S. DeGregorio  
Chairman

006184

October 19, 2006

Ralph G. Neas  
President, People for the American Way Foundation  
2000 M Street, NW  
Suite 400  
Washington, DC 20036

**Via Facsimile Transmission ONLY**  
**202-293-2672**

RE: October 18, 2006 Letter

Dear Mr. Neas:

Your letter of October 18, 2006 requests the release of EAC's Voter Fraud and Intimidation Report. I would like to take this opportunity to clarify the purpose and status of this study.

In late 2005, EAC hired two consultants for the purpose of assisting EAC with two things: 1) developing a uniform definition of the phrase voter fraud, and 2) making recommendations on how to further study the existence, prosecution, and means of deterring such voter fraud. In May 2006, a status report on this study was given to the EAC Standards Board and EAC Board of Advisors during their public meetings. During the same week, a working group convened to react to and provide comment on the progress and potential conclusions that could be reached from the work of the two consultants.

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Thank you for your letter. You can be assured that as soon as a final report on the fraud and intimidation study is available, a copy will be made available to the public.

Sincerely,

Paul S. DeGregorio  
Chairman

006185



UNITED STATES COMMISSION ON CIVIL RIGHTS  
WASHINGTON, D.C. 20435

OFFICE OF STAFF DIRECTOR

# FACSIMILE COVER SHEET

DATE: 10-19-06

TO: U.S. ELECTION ASSISTANCE COMMISSION

ATTN: CHAIRMAN PAUL DE GREGORIO

FROM: OFFICE OF THE STAFF DIRECTOR

COMMENTS:

NUMBER OF PAGES INCLUDING COVER PAGE: \_\_\_\_\_

PERSON TO CONTACT IF PROBLEM:

OFFICE OF THE STAFF DIRECTOR  
(202) 376-7700  
FACSIMILE NO.: (202) 376-7672



UNITED STATES COMMISSION ON CIVIL RIGHTS

624 NINTH STREET, NW, WASHINGTON, DC 20425

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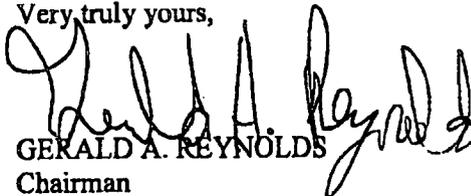
October 19, 2006

The Honorable Paul S. DeGregorio  
Chairman  
United States Election Assistance Commission  
1225 New York Avenue, NW  
Suite 1100  
Washington, DC 20005

Dear Chairman DeGregorio:

On behalf of the U.S. Commission on Civil Rights, I write to inquire about the status of a report on voter fraud allegedly produced by the Election Assistance Commission. The U.S. Commission on Civil Rights held a briefing on October 13, 2006 on voter fraud and voter intimidation. During this briefing, a panelist cited media reports that the Election Assistance Commission had produced a report on voter fraud but had not yet released it to the public. It would be useful to know the status of this report as Election Day approaches. Any information provided by the Election Assistance Commission would be of great value to all voters seeking to effectively exercise their right to vote.

Very truly yours,

  
GERALD A. REYNOLDS  
Chairman

006187



U.S. ELECTION ASSISTANCE COMMISSION  
1225 NEW YORK AVENUE, N.W., SUITE 1100  
WASHINGTON, D.C. 20005

OFFICE OF THE CHAIRMAN

October 24, 2006

Gerald A Reynolds  
Chairman, United States Commission on Civil Rights  
624 9<sup>th</sup> Street, NW  
Washington, DC 20425

**Via Facsimile Transmission ONLY**  
**202-376-7672**

RE: October 19, 2006 Letter

Dear Mr. Reynolds:

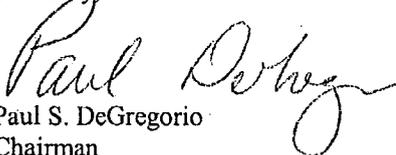
Your letter of October 19, 2006 requests the status on the EAC's Voter Fraud and Intimidation Report. I would like to take this opportunity to clarify the purpose and status of this study.

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That draft report is currently being vetted by EAC staff. EAC will release a final report from this study after it has conducted a review of the draft provided by the consultants. However, it is important to remember the purpose of this study -- finding a uniform definition of voter fraud and making recommendations on how to study the existence, prosecution and deterrence of voter fraud -- as it will serve as the basis of the EAC report on this study. Thank you for your letter.

Sincerely,

  
Paul S. DeGregorio  
Chairman

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**U.S. ELECTION ASSISTANCE COMMISSION**

**Status Report on the  
Voting Fraud-Voter Intimidation Research  
Project**

**May 17, 2006**

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## INTRODUCTION

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority.

## FOCUS OF CURRENT RESEARCH

In September 2005, the Commission hired two consultants with expertise in this subject matter, Job Serebrov and Tova Wang, to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;
- establish a project working group, in consultation with EAC, composed of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation;
- provide the description of what constitutes voting fraud and voter intimidation and the results of the preliminary research to the working group, and convene the working group to discuss potential avenues for future EAC research on this topic; and
- produce a report to EAC summarizing the findings of the preliminary research effort and working group deliberations that includes recommendations for future research, if any;

As of the date of this report, the consultants have drafted a definition of election fraud, reviewed relevant literature and reports, interviewed persons from government and private sectors with subject matter expertise, analyzed news reports of alleged election fraud, reviewed case law, and established a project working group.

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## DEFINITION OF ELECTION FRAUD

The consultants drafted a definition of election fraud that includes numerous aspects of voting fraud (including voter intimidation, which is considered a subset of voting fraud) and voter registration fraud, but excludes campaign finance violations and election administration mistakes. This draft will be discussed and probably refined by the project working group, which is scheduled to convene on May 18, 2006.

## LITERATURE REVIEW

The consultants found many reports and books that describe anecdotes and draw broad conclusions from a large array of incidents. They found little research that is truly systematic or scientific. The most systematic look at fraud appears to be the report written by Lori Minnite, entitled "Securing the Vote: An Analysis of Election Fraud". The most systematic look at voter intimidation appears to be the report by Laughlin McDonald, entitled "The New Poll Tax". The consultants found that books written about this subject all seem to have a political bias and a pre-existing agenda that makes them somewhat less valuable.

Moreover, the consultants found that reports and books make allegations but, perhaps by their nature, have little follow up. As a result, it is difficult to know when something has remained in the stage of being an allegation and gone no further, or progressed to the point of being investigated or prosecuted or in any other way proven to be valid by an independent, neutral entity. This is true, for example, with respect to allegations of voter intimidation by civil rights organizations, and, with respect to fraud, John Fund's frequently cited book, "Stealing Elections".

Consultants found that researchers agree that measuring something like the incidence of fraud and intimidation in a scientifically legitimate way is extremely difficult from a methodological perspective and would require resources beyond the means of most social and political scientists. As a result, there is much more written on this topic by advocacy groups than social scientists.

Other items of note:

- There is as much evidence, and as much concern, about structural forms of disenfranchisement as about intentional abuse of the system. These include felon disenfranchisement, poor maintenance of databases and identification requirements.
- There is tremendous disagreement about the extent to which polling place fraud, e.g. double voting, intentional felon voting, noncitizen voting, is a serious problem. On balance, more researchers find it to be less of a problem than is commonly described in the political debate; but some reports say it is a major problem, albeit hard to identify.

- There is substantial concern across the board about absentee balloting and the opportunity it presents for fraud.
- Federal law governing election fraud and intimidation is varied and complex and yet may nonetheless be insufficient or subject to too many limitations to be as effective as it might be.
- Deceptive practices, e.g. targeted flyers and phone calls providing misinformation, were a major problem in 2004.
- Voter intimidation continues to be focused on minority communities, although the American Center for Voting Rights uniquely alleges it is focused on Republicans.

### **Recommendations**

The consultants recommend that subsequent EAC research include a follow up study of allegations made in reports, books and newspaper articles. They also suggest that the research should focus on filling the gap between the lack of reports based on methodical studies by social or political scientists and the numerous, but less scientific, reports published by advocacy groups.

### **INTERVIEWS**

The consultants jointly selected experts from the public and private sector for interviews. The consultants' analysis of their discussions with these members of the legal, election official, advocacy, and academic communities follows.

### **Common Themes**

- There is virtually universal agreement that absentee ballot fraud is the biggest problem, with vote buying and registration fraud coming in after that. The vote buying often comes in the form of payment for absentee ballots, although not always. Some absentee ballot fraud is part of an organized effort; some is by individuals, who sometimes are not even aware that what they are doing is illegal. Voter registration fraud seems to take the form of people signing up with false names. Registration fraud seems to be most common where people doing the registration were paid by the signature.
- There is widespread but not unanimous agreement that there is little polling place fraud, or at least much less than is claimed, including voter impersonation, "dead" voters, noncitizen voting and felon voters. Those few who believe it occurs often enough to be a concern say that it is impossible to show the extent to which it happens, but do point to instances in the press of such incidents. Most people believe that false registration forms have not resulted in polling place fraud,

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although it may create the perception that vote fraud is possible. Those who believe there is more polling place fraud than reported/investigated/prosecuted believe that registration fraud does lead to fraudulent votes. Jason Torchinsky from the American Center for Voting Rights is the only interviewee who believes that polling place fraud is widespread and among the most significant problems in the system.

- Abuse of challenger laws and abusive challengers seem to be the biggest intimidation/suppression concerns, and many of those interviewed assert that the new identification requirements are the modern version of voter intimidation and suppression. However there is evidence of some continued outright intimidation and suppression, especially in some Native American communities. A number of people also raise the problem of poll workers engaging in harassment of minority voters. Other activities commonly raised were the issue of polling places being moved at the last moment, unequal distribution of voting machines, videotaping of voters at the polls, and targeted misinformation campaigns.
- Several people indicate that, for various reasons, DOJ is bringing fewer voter intimidation and suppression cases now, and has increased its focus on matters such as noncitizen voting, double voting, and felon voting. Interviews with DOJ personnel indicate that the Voting Section, Civil Rights Division, focuses on systemic patterns of malfeasance in this area. While the Election Crimes Branch, Public Integrity Section, continues to maintain an aggressive pursuit of systematic schemes to corrupt the electoral process (including voter suppression), it also has increased prosecutions of individual instances of felon, alien, and double voting.
- The problem of badly kept voter registration lists, with both ineligible voters remaining on the rolls and eligible voters being taken off, remains a common concern. A few people are also troubled by voters being on registration lists in two states. They said that there was no evidence that this had led to double voting, but it opens the door to the possibility. There is great hope that full implementation of the new requirements of HAVA – done well, a major caveat – will reduce this problem dramatically.

#### **Common Recommendations:**

- Many of those interviewed recommend better poll worker training as the best way to improve the process; a few also recommended longer voting times or voting on days other than election day (such as weekends) but fewer polling places so only the best poll workers would be employed.
- Many interviewed support stronger criminal laws and increased enforcement of existing laws with respect to both fraud and intimidation. Advocates from across the spectrum expressed frustration with the failure of the Department of Justice to pursue complaints.

- With respect to DOJ's Voting Section, Civil Rights Division, John Tanner indicated that fewer cases are being brought because fewer are warranted – it has become increasingly difficult to know when allegations of intimidation and suppression are credible since it depends on one's definition of intimidation, and because both parties are doing it. Moreover prior enforcement of the laws has now changed the entire landscape – race based problems are rare now. Although challenges based on race and unequal implementation of identification rules would be actionable, Mr. Tanner was unaware of such situations actually occurring and his office has not pursued any such cases.
- Craig Donsanto of DOJ's Election Crimes Branch, Public Integrity Section, says that while the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate claims of fraud, the number of cases DOJ is investigating and the number of indictments his office is pursuing are both up dramatically. Since 2002, in addition to pursuing systematic election corruption schemes, DOJ has brought more cases against alien voters, felon voters and double voters than ever before. Mr. Donsanto would like more resources so that his agency can do more and would like to have laws that make it easier for the federal government to assume jurisdiction over voter fraud cases.
- A couple of interviewees recommend a new law that would make it easier to criminally prosecute people for intimidation even when there is not racial animus.
- Several advocate expanded monitoring of the polls, including some associated with the Department of Justice.
- Almost everyone hopes that administrators will maximize the potential of statewide voter registration databases to prevent fraud.
- Challenge laws, both with respect to pre-election day challenges and challengers at the polls, need to be revised by all states to ensure they are not used for purposes of wrongful disenfranchisement and harassment.
- Several people advocate passage of Senator Barak Obama's "deceptive practices" bill.
- There is a split on whether it would be helpful to have nonpartisan election officials – some indicated they thought even if elections officials are elected as non partisan officials, they will carry out their duties in biased ways nonetheless. However, most agree that elections officials pursuing partisan agendas are a problem that must be addressed in some fashion. Suggestions included moving election responsibilities out of the secretary of states' office; increasing transparency in the process; and enacting conflict of interest rules.

- A few recommend returning to allowing use of absentee ballots “for cause” only if it were politically feasible.
- A few recommend enacting a national identification card, including Pat Rogers, an attorney in New Mexico, and Jason Torchinsky from ACVR, who advocates the proposal in the Carter-Baker Commission Report.
- A couple of interviewees indicated the need for clear standards for the distribution of voting machines

## NEWS ARTICLES

Consultants conducted a Nexis search of related news articles published between January 1, 2001 and January 1, 2006. A systematic, numerical analysis of the data collected during this review is currently being prepared. What follows is an overview of these articles provided by the consultants.

### Absentee Ballots

According to press reports, absentee ballots are abused in a variety of ways:

- Campaign workers, candidates and others coerce the voting choices of vulnerable populations, usually elderly voters.
- Workers for groups and individuals have attempted to vote absentee in the names of the deceased.
- Workers for groups, campaign workers and individuals have attempted to forge the names of other voters on absentee ballot requests and absentee ballots and thus vote multiple times.

It is unclear how often actual convictions result from these activities (a handful of articles indicate convictions and guilty pleas), but this is an area in which there have been a substantial number of official investigations and actual charges filed, according to news reports where such information is available. A few of the allegations became part of civil court proceedings contesting the outcome of the election.

While absentee fraud allegations turn up throughout the country, a few states have had several such cases. Especially of note are Indiana, New Jersey, South Dakota, and most particularly, Texas. Interestingly, there were no articles regarding Oregon, where the entire system is vote by mail.

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## **Voter Registration Fraud**

According to press reports, the following types of allegations of voter registration fraud are most common:

- Registering in the name of dead people;
- Fake names and other information on voter registration forms;
- Illegitimate addresses used on voter registration forms;
- Voters being tricked into registering for a particular party under false pretenses; and
- Destruction of voter registration forms depending on the party the voter registered with.

There was only one self evident instance of a noncitizen registering to vote. Many of the instances reported included official investigations and charges filed, but few actual convictions, at least from the news reporting. There have been multiple reports of registration fraud in California, Colorado, Florida, Missouri, New York, North Carolina, Ohio, South Dakota, and Wisconsin.

## **Voter Intimidation and Suppression**

This is the area which had the most articles, in part because there were so many allegations of intimidation and suppression during the 2004 election. Most of these remained allegations and no criminal investigation or prosecution ensued. Some of the cases did end up in civil litigation.

This is not to say that these alleged activities were confined to 2004 – there were several allegations made during every year studied. Most notable were the high number of allegations of voter intimidation and harassment reported during the 2003 Philadelphia mayoral race.

A very high number of the articles were about the issue of challenges to voters' registration status and challengers at the polling places. There were many allegations that planned challenge activities were targeted at minority communities. Some of the challenges were concentrated in immigrant communities.

However, the tactics alleged varied greatly. The types of activities discussed also include the following:

- Photographing or videotaping voters coming out of polling places;
- Improper demands for identification;

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- Poll watchers harassing voters;
- Poll workers being hostile to or aggressively challenging voters;
- Disproportionate police presence;
- Poll watchers wearing clothes with messages that seemed intended to intimidate; and
- Insufficient voting machines and unmanageably long lines.

Although the incidents reported on occurred everywhere, not surprisingly, many came from “battleground” states. There were several such reports out of Florida, Ohio, and Pennsylvania.

### **“Dead Voters and Multiple Voting”**

There were a high number of articles about people voting in the names of the dead and voting more than once. Many of these articles were marked by allegations of big numbers of people committing these frauds, and relatively few of these allegations turning out to be accurate according to investigations by the newspapers themselves, elections officials, and criminal investigators. Often the problem turned out to be a result of administrative error, poll workers mis-marking voter lists, a flawed registration list and/or errors made in the attempt to match names of voters on the list with the names of the people who voted. In a good number of cases, there were allegations that charges of double voting by political leaders were an effort to scare people away from the voting process.

Nonetheless there were a few cases of people actually being charged and/or convicted for these kinds of activities. Most of the cases involved a person voting both by absentee ballot and in person. A few instances involved people voting both during early voting and on Election Day, which calls into question the proper marking and maintenance of the voting lists. In many instances, the person charged claimed not to have voted twice on purpose. A very small handful of cases involved a voter voting in more than one county and there was one substantiated case involving a person voting in more than one state. Other instances in which such efforts were alleged were disproved by officials.

In the case of voting in the name of a dead person, the problem lay in the voter registration list not being properly maintained, i.e. the person was still on the registration list as eligible to vote, and a person took criminal advantage of that. In total, the San Francisco Chronicle found five such cases in March 2004; the AP cited a newspaper analysis of five such persons in an Indiana primary in May 2004; and a senate committee found two people to have voted in the names of the dead in 2005.

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As usual, there were a disproportionate number of such articles coming out of Florida. Notably, there were three articles out of Oregon, which has one hundred percent vote-by-mail.

### **Vote Buying**

There were a surprising number of articles about vote buying cases. A few of these instances involved long-time investigations concentrated in three states (Illinois, Kentucky, and West Virginia). There were more official investigations, indictments and convictions/pleas in this area.

### **Deceptive Practices**

In 2004 there were numerous reports of intentional disinformation about voting eligibility and the voting process meant to confuse voters about their rights and when and where to vote. Misinformation came in the form of flyers, phone calls, letters, and even people going door to door. Many of the efforts were reportedly targeted at minority communities. A disproportionate number of them came from key battleground states, particularly Florida, Ohio, and Pennsylvania. From the news reports found, only one of these instances was officially investigated, the case in Oregon involving the destruction of completed voter registration applications. There were no reports of prosecutions or any other legal proceeding.

### **Non-citizen Voting**

There were surprisingly few articles regarding noncitizen registration and voting – just seven all together, in seven different states across the country. They were also evenly split between allegations of noncitizens registering and noncitizens voting. In one case, charges were filed against ten individuals. In another case, a judge in a civil suit found there was illegal noncitizen voting. Three instances prompted official investigations. Two cases, from this Nexis search, remained just allegations of noncitizen voting.

### **Felon Voting**

Although there were only thirteen cases of felon voting, some of them involved large numbers of voters. Most notably, of course, are the cases that came to light in the Washington gubernatorial election contest (see Washington summary) and in Wisconsin (see Wisconsin summary). In several states, the main problem was the large number of ineligible felons that remained on the voting list.

### **Election Official Fraud**

In most of the cases in which fraud by elections officials is suspected or alleged, it is difficult to determine whether it is incompetence or a crime. There are several cases of ballots gone missing, ballots unaccounted for and ballots ending up in a worker's possession. In two cases workers were said to have changed peoples' votes. The one

instance in which widespread ballot box stuffing by elections workers was alleged was in Washington State. The judge in the civil trial of that election contest did not find that elections workers had committed fraud. Four of the cases are from Texas.

### **Recommendation**

The consultants recommend that subsequent EAC research should include a Nexis search that specifically attempts to follow up on the cases for which no resolution is evident from this particular initial search.

## **CASE LAW RESEARCH**

After reviewing over 40,000 cases from 2000 to the present, the majority of which came from appeals courts, the consultants found comparatively few applicable to this study. Of those that were applicable, the consultants found that no apparent thematic pattern emerges. However, it appears to them that the greatest areas of fraud and intimidation have shifted from past patterns of stealing votes to present problems with voter registration, voter identification, the proper delivery and counting of absentee and overseas ballots, provisional voting, vote buying, and challenges to felon eligibility.

### **Recommendation**

Because so few cases provided a picture of these current problems, consultants suggest that subsequent EAC research include a review of state trial-level decisions.

## **PROJECT WORKING GROUP**

Consultants and EAC worked together to select members for the Voting Fraud-Voter Intimidation Working Group that included election officials and representatives of advocacy groups and the legal community who have an interest and expertise in the subject matter. (See Attachment A for a list of members.) The working group is scheduled to convene at EAC offices on May 18, 2006 to consider the results of the preliminary research and to offer ideas for future EAC activities concerning this subject.

## **FINAL REPORT**

After convening the project working group, the consultants will draft a final report summarizing the results of their research and the working group deliberations. This report will include recommendations for future EAC research related to this subject matter. The draft report will be reviewed by EAC and, after obtaining any clarifications or corrections deemed necessary, will be made available to the EAC Standards Board and EAC Board of Advisors for review and comment. Following this, a final report will be prepared.

**Attachment A**

**Voting Fraud-Voter Intimidation Project Working Group**

**The Honorable Todd Rokita**

Indiana Secretary of State  
Member, EAC Standards Board and the Executive Board of the Standards Board

**Kathy Rogers**

Georgia Director of Elections, Office of the Secretary of State  
Member, EAC Standards Board

**J.R. Perez**

Guadalupe County Elections Administrator, TX

**Barbara Arnwine**

Executive Director, Lawyers Committee for Civil Rights Under Law  
Leader of Election Protection Coalition  
*(To be represented at May 18, 2006 meeting by Jon M. Greenbaum, Director of the Voting Rights Project for the Lawyers Committee for Civil Rights Under Law)*

**Robert Bauer**

Chair of the Political Law Practice at the law firm of Perkins Coie, DC  
National Counsel for Voter Protection, Democratic National Committee

**Benjamin L. Ginsberg**

Partner, Patton Boggs LLP  
Counsel to national Republican campaign committees and Republican candidates

**Mark (Thor) Hearne II**

Partner-Member, Lathrop & Gage, St Louis, MO  
National Counsel to the American Center for Voting Rights

**Barry Weinberg**

Former Deputy Chief and Acting Chief, Voting Section, Civil Rights Division, U.S. Department of Justice

*EAC Invited Technical Advisor:*

**Craig Donsanto**

Director, Election Crimes Branch, U.S. Department of Justice



U.S. ELECTION ASSISTANCE COMMISSION  
1225 New York Ave. NW – Suite 1100  
Washington, DC 20005

## **TALLY VOTE MEMORANDUM**

TO: EAC Commissioners Hillman, DeGregorio, Martinez, Davidson  
FROM: Thomas Wilkey, EAC Executive Director  
DATE: September 16, 2005  
RE: Consulting assistance with developing an Election Assistance Commission (EAC) Voting Fraud and Voter Intimidation Project

### **Background**

“On such periodic basis as the Commission may determine, the Commission shall conduct and make available to the public studies regarding the election administration issues described in subsection (b)” Sections 241(b) (6) and (7) list the following election administration issues:

(6) Nationwide statistics and methods of identifying, deterring and investigating voting fraud in election for Federal offices.

(7) Identifying, deterring and investigating methods of voter intimidation.

Building on this HAVA reference to studies of voting fraud and voter intimidation, the EAC Board of Advisors has indicated that further study of these issues, to determine how the EAC might respond to them, is a high priority.

The U.S. Election Assistance Commission (EAC) has identified two senior-level project consultants to develop various project activities and studies related to voting fraud and voter intimidation affecting Federal elections. The consultants, whose contracts would run for the period September-February, 2005, would be responsible for helping the EAC identify what constitutes voting fraud and voter intimidation affecting Federal elections.

To accomplish this the consultants will: perform background research, including Federal and state-by state administrative and case law review related to voting fraud and voter intimidation, along with a review of current voting fraud and voter intimidation activities taking place with key government agencies, civic and advocacy organizations; in consultation with EAC, identify and convene, a working group of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation; develop an EAC project scope of work and a project work plan related to voting fraud and voter intimidation and; author a report summarizing the key findings of this preliminary study of voting fraud and voter intimidation.

### **Recommendation**

Attached is the Statement of Work for the voting fraud and voter intimidation project consultants. The consultant contract fees total \$110,000 (\$55,000 per person). An additional \$10,000 is allotted for the voting fraud and intimidation project working group. The total project amount is \$120,000.

006201

## Existing Research Analysis

There are many reports and books that describe anecdotes and draw broad conclusions from a large array of incidents. There is little research that is truly systematic or scientific. The most systematic look at fraud is the report written by Lori Minnite. The most systematic look at voter intimidation is the report by Laughlin McDonald. Books written about this subject seem to all have a political bias and a pre-existing agenda that makes them somewhat less valuable.

Researchers agree that measuring something like the incidence of fraud and intimidation in a scientifically legitimate way is extremely difficult from a methodological perspective and would require resources beyond the means of most social and political scientists. As a result, there is much more written on this topic by advocacy groups than social scientists. It is hoped that this gap will be filled in the "second phase" of this EAC project.

Moreover, reports and books make allegations but, perhaps by their nature, have little follow up. As a result, it is difficult to know when something has remained in the stage of being an allegation and gone no further, or progressed to the point of being investigated or prosecuted or in any other way proven to be valid by an independent, neutral entity. This is true, for example, with respect to allegations of voter intimidation by civil rights organizations, and, with respect to fraud, John Fund's frequently cited book. Again, this is something that it is hoped will be addressed in the "second phase" of this EAC project by doing follow up research on allegations made in reports, books and newspaper articles.

Other items of note:

- There is as much evidence, and as much concern, about structural forms of disenfranchisement as about intentional abuse of the system. These include felon disenfranchisement, poor maintenance of databases and identification requirements.
- There is tremendous disagreement about the extent to which polling place fraud, e.g. double voting, intentional felon voting, noncitizen voting, is a serious problem. On balance, more researchers find it to be less of a problem than is commonly described in the political debate, but some reports say it is a major problem, albeit hard to identify.
- There is substantial concern across the board about absentee balloting and the opportunity it presents for fraud.
- Federal law governing election fraud and intimidation is varied and complex and yet may nonetheless be insufficient or subject to too many limitations to be as effective as it might be.

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- Deceptive practices, e.g. targeted flyers and phone calls providing misinformation, were a major problem in 2004.
- Voter intimidation continues to be focused on minority communities, although the American Center for Voting Rights uniquely alleges it is focused on Republicans.

006203

**Presentation to the  
U. S. Election Assistance Commission  
February 8, 2007**

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Summarizing a report on  
Best Practices to Improve Voter Identification Requirements  
Pursuant to the  
HELP AMERICA VOTE ACT OF 2002  
Public Law 107-252  
Submitted on June 28, 2006  
by  
The Eagleton Institute of Politics, Rutgers, The State University of New Jersey  
The Moritz College of Law, The Ohio State University

Thomas M. O'Neill  
Project Director  
And  
Tim Vercellotti  
Assistant Research Professor  
Assistant Director, Center for Public Interest Polling

Eagleton Institute of Politics  
Rutgers, The State University of New Jersey

006204

Introduction

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Our report, submitted to the EAC last June, provided information on voter identification practices in the 2004 election. It made recommendations for best practices to evaluate future proposals for voter ID requirements. In particular, we recommended a concerted, systematic effort to collect and evaluate information on voter ID requirements and turnout from the states. This report was a companion to our report on Provisional Voting, submitted to the EAC in November 2005.

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The research was conducted by the Eagleton Institute of Politics at Rutgers, the State University of New Jersey, and the Moritz College of Law at the Ohio State University under a contract with the EAC, dated May 24, 2005. Unfortunately, our colleagues from Moritz could not be with us today because of teaching obligations.

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Our work included a review and legal analysis of state statutes, regulations and litigation concerning voter identification and provisional voting as well as a statistical analysis of the relationship of various requirements for voter identification to turnout in the 2004 election.

Voter ID requirements are just one set of election rules that may affect turnout. Social scientists have long studied how election rules affect participation in elections. The general view today is that the individual citizen chooses whether to vote by comparing costs and benefits. The benefits of voting are fairly stable --and hard to specify given the remote probability that any one vote will make a difference in an election. But whatever the benefit may be, as the costs of voting (for example, time, hassle, acquisition of information) increase, the likelihood that a citizen will vote decreases.

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We conducted our research before last year's election, when the debate over voter ID requirements was sharp and polarized. We took seriously our charge from the EAC, which was not to enter the national debate, but rather to explore if an empirical study could suggest how we might estimate the effects of different voter ID requirements on turnout. That analysis, of course, would be a sensible first step to assess tradeoffs between ballot security and ballot access and provide valuable information for all parties to the debate.

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A voting system that requires voters to produce an identity document or documents may prevent the ineligible from voting. It may also prevent eligible voters from casting a ballot. If the ID requirement of a ballot protection system blocks ineligible voters from the polls at the cost of preventing eligible voters who lack the required forms of identification, the net integrity of the ballot may not have been improved.

A key part of our work was a statistical analysis to examine how turnout may vary under different voter identification requirements. We used this statistical study to develop a model to illuminate the relationships between voter ID requirements and turnout. The model's findings and limitations suggest avenues for further research and analysis that may assist the EAC and the states as they explore policies to balance the goals of ballot integrity and ballot access.

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Tim Vercellotti led that phase of our research and will describe his methods and conclusions.

Results of Statistical Analysis

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Our research included an examination of variation in turnout based on voter ID requirements in the 50 states and the District of Columbia. We examined this question using aggregate data at

the county level gathered from the U.S. Census and other sources, and individual-level data from the November 2004 Current Population Survey.

Drawing from the research conducted by the Moritz College of Law, we were able to classify the states into one of five voter ID categories. Voters either had to:

1. state their name,
2. sign their name,
3. match their signatures to those already on file,
4. provide a non-photo ID,
5. provide a photo ID.

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But election laws in numerous states offer exceptions to these requirements if individuals lack the necessary form of identification, and laws in those states set a minimum standard that a voter must meet in order to vote using a regular ballot (as opposed to a provisional ballot). Thus it is also possible to categorize states based on the minimum requirement for voting with a regular ballot. In 2004 the categories were somewhat different compared to the maximum requirement, in that none of the states required photo identification as a minimum standard for voting with a regular ballot. Four states, however, required voters to swear an affidavit as to their identity. The five categories for minimum requirements were:

1. stating one's name,
2. signing one's name,
3. matching one's signature to a signature on file,
4. providing a non-photo identification, or
5. swearing an affidavit.

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Analysis of the aggregate data showed that the average turnout in states requiring photo identification as a maximum requirement was 58.1 percent compared to 64.2 percent in states that required voters to give their name as the maximum requirement. The differences were slightly smaller when we examined states in terms of their minimum requirements, with 60.1 percent of voters turning out in states that required an affidavit compared to 63 percent in states that required voters to give their name as the minimum requirement.

The analyses of aggregate data also included models that controlled for other factors that might influence turnout, such as whether a county was in a presidential battleground state, the length of time between the close of the registration period and Election Day, and the demographic composition of the county in terms of race and ethnicity, age, and household income. Controlling for those factors, the maximum requirements of providing a signature match or a non-photo identification showed a negative effect on voter turnout when compared to counties in states that only required voters to give their names. None of the voter identification requirements showed an effect on turnout, however, in the model that coded counties according to the states' minimum requirements.

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Analyses of the individual-level data from the November 2004 Current Population Survey also indicated relationships between voter ID requirements and turnout. Controlling for contextual factors, such as whether a voter resided in a presidential battleground state, and demographic characteristics, such as a voter's gender, race, ethnicity, age, and education, the data showed that registered voters in states that require photo identification as a maximum requirement were 2.9 percent less likely to say they had voted compared to registered voters in states that required voters to state their names. Examining states within the context of minimum identification requirements showed that registered voters in states requiring affidavits were four

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percent less likely to say they had voted compared to registered voters in states that required individuals to give their names at the polling place.

Breaking down the Current Population Survey sample by race and ethnicity also revealed interesting patterns. Photo identification and affidavit requirements were negatively associated with whether white registered voters said they voted compared to their counterparts in states requiring registered voters to give their names. But African-American, Hispanic, and Asian-American registered voters in states that required photo identification as the maximum requirement or an affidavit as the minimum requirement were no less likely to say they had voted than their racial or ethnic counterparts in states that simply required voters to give their names.

The most consistent difference emerged in states that required non-photo identification as a maximum or a minimum requirement. In five of six statistical models, African-American, Hispanic, and Asian-American registered voters in non-photo identification states were less likely to say they had voted in November 2004 than their racial or ethnic counterparts in states that required voters to state their names as a maximum or minimum identification requirement.

That the non-photo identification requirement was the most consistent in terms of statistical significance across the groups is intriguing given the intense debates surrounding photo identification requirements. This observation does not answer the question as to why photo identification requirements did not have a more uniform effect across groups in 2004. Of course, photo identification was a maximum requirement in only five states, and each of those states accepted another type of identification as a minimum requirement. But the finding that photo identification requirements were associated with a lower probability that white registered voters said they had voted, and the absence of a similar relationship within other racial and ethnic groups, runs counter to concerns expressed by some in the debate over voter ID. This finding points up the need for further research in this area, perhaps with a view to comparing turnout rates over time before and after a photo identification requirement takes effect, to further isolate potential relationships between photo ID requirements and turnout.

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In examining the link between voter identification requirements and turnout, there is still much to learn. The data examined in this project could not capture the dynamics of how identification requirements might lower turnout. If these requirements dampen turnout, is it because individuals are aware of the requirements and stay away from the polls because they cannot or do not want to meet the requirements? Or, do the requirements result in some voters being turned away when they cannot meet the requirements on Election Day? The CPS data do not include measures that can answer this question. Knowing more about the "on the ground" experiences of voters concerning identification requirements could guide policy-makers at the state and local level in determining whether and at what point in the electoral cycle a concerted public information campaign might be most effective in helping voters to meet identification requirements.

### Conclusions from the Research

The statistical analysis suggests that stricter voter ID requirements can be associated with lower turnout. It was not designed, however, to look at the other side of the balance equation: do tighter ID requirements reduce multiple voting or voting by ineligible voters? The scope of our research as defined by the EAC excluded assessing the dynamics and incidence of vote fraud.

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We believe, however, that sound policy on voter ID should begin with an examination of the tradeoffs between ballot security and ballot access.

The existing evidence on the incidence of vote fraud, especially on the kind of vote fraud that could be reduced by requiring more rigorous voter identification, is not sufficient to evaluate those tradeoffs. The EAC's recent study<sup>1</sup> of election crimes found, for example, that there has never been a comprehensive, nationwide study of voting fraud and intimidation.

Without a better understanding of the incidence of vote fraud and its relationship to voter ID, for now, best practice for the states may be to limit requirements for voter identification to the minimum needed to prevent duplicate registration and ensure eligibility. Election law should provide the clarity and certainty needed to forestall destabilizing challenges to election outcomes. Absent a sound, empirical basis for striking a wise balance between voter ID and ballot access, legal challenges may increase, not just to the process but to electoral outcomes.

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The analysis of litigation conducted by the Moritz College of Law for our research suggests that the courts will look more strictly at requirements that voters produce a photo ID in order to cast a regular ballot, than at non-photo ID laws. The courts have used a balancing test to weigh the legitimate interest in preventing election fraud against the citizen's right to privacy (protecting Social Security numbers from public disclosure, for example) and the reasonableness of requirements for identity documents.

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To strike that balance requires a more precise understanding of how voter ID requirements affect turnout. A first step in that direction would be to encourage or require states to collect and report additional data, including:

- The reasons potential voters are required to cast a provisional ballot and
- The reasons for rejecting provisional ballots.

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#### Recommendations for consideration and action by the EAC

1. Encourage or sponsor further research to clarify the connection between voter ID requirements and the number of potential voters able to cast a ballot that is counted.
2. Recommend as a best practice the publication of a "Voting Impact Statement" by states as they assess their voter ID requirements. The analysis will help focus the attention of the public and policy-makers on the tradeoff between ballot access and ballot security. A "Voter Impact Statement," to be drafted and offered for public review and comment before the adoption of new identity requirements, would estimate the number and demographics of:
  - Eligible, potential voters who may be kept from the polls or permitted to cast a provisional ballot by a stricter ID requirement; and
  - Assess the number of ineligible voters who will be prevented from voting by the stricter ID requirements.

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The data collection and analysis recommended in this report would help make feasible an empirically-based assessment of the effects on voter participation of proposed identification requirements. That assessment could improve the quality of the debate on this polarizing topic.

<sup>1</sup> U. S. Election Assistance Commission, *Election Crimes: An Initial Review and Recommendations for Future Study*, December 2006.

3. Encourage or require the states to collect and report reliable, credible information on the relationship between ballot access and ballot security. A compilation by EAC of this information would provide a factual basis for the states to consider as they estimate the incidence of the kinds of vote fraud that more stringent ID requirements may prevent. The studies should include precinct-level data to provide the fine-grained analysis that can provide a solid foundation for policy.
4. Encourage or require states to sponsor surveys of voters to be conducted by local election officials. Such surveys would determine why those who cast a provisional ballot were found ineligible to cast a regular ballot and illuminate the frequency with which ID issues divert voters into the provisional ballot line. The connection between Voter ID requirements and provisional ballots is, of course, close. Voters who lack required ID will likely vote provisionally, thus placing greater demands on a system that may be hard pressed to meet those demands. Asking voters what they know about ID requirements would also provide useful context for evaluating the effect of those requirements on electoral participation.<sup>2</sup>
5. Recommend as a best practice that state election officials conduct spot checks on how the identification process actually works at polling places. These spot checks could provide information on how closely actual practice tracks statutory or regulatory requirements.
6. Encourage states to examine the time period allowed for voters who cast a provisional ballot because they lacked required ID to return with their identification. In 11 states, voters who had to cast a provisional ballot because they lacked the ID required for a regular ballot were permitted to return later with their ID. Their provision of this ID is the critical step in evaluating the ballots. The length of the period in which the voter may return with ID is important. In setting the time period for return, which now varies among the states from the same day to about two weeks, states should consider three factors: the convenience of the voter, the total time allowed to evaluate ballots, and the safe harbor provision in presidential elections.

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#### A final thought

A voting system that requires voters to produce an ID may prevent the ineligible from voting. It may also prevent some eligible voters from casting a ballot. If the ID requirements block a few ineligible voters from the polls at the cost of preventing an equal or greater number of eligible voters who cannot obtain or have left at home the required forms of identification, the integrity of the ballot may not have been improved; the harm may be as great as the benefit.

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Ultimately, a normative evaluation of whether a state should adopt a stricter voter ID requirement (and what form that requirement should take) will weigh value judgments as well as available factual evidence. We did our work on the premise that increased understanding of the facts relating to the imposition of voter ID requirements, based on available data and statistical analysis of that data, can help inform the policy process.

<sup>2</sup> Arizona held its first election with its new, stricter ID requirements on March 14, 2006. In at least one county (Maricopa) election officials handed a survey to voters that asked if they knew about the voter identification law and if they did, how they found out about it.

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We hope that premise is realistic, and we also hope that this research has helped the Commissioners and the interested public to clarify their thinking on this polarizing topic.

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On behalf of the Eagleton – Moritz research team, we thank you for the opportunity to contribute to the national debate.

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**Election Official Misconduct:**

- A person commits Election Official misconduct if while an election official the person:
  - Intentionally fails to perform an election duty, or knowingly does an unauthorized act with the intent to effect the election.
  - Knowingly permits, makes, or attempts to make a false count of election returns.
  - Intentionally conceals, withholds, or destroys election returns or attempts to do so.
  - Opens a ballot received from a voter at an election, unless otherwise permitted.
  - Marks a ballot by folding or physically altering the ballot so as to recognize the ballot at a later time.
  - Otherwise attempts to learn how a voter marked a ballot.
  - Distributes or attempts to distribute election material knowing it to be fraudulent.
  - Knowingly refuses to register a person who is entitled to register under the rules of that jurisdiction.

**Petition Subscription:**

- A person commits a crime of improper subscription to a petition or referendum if:
  - He signs a name other than his own to a petition proposing an initiative, referendum, recall, or nomination of a candidate for office.
  - Knowingly signs more than once for the proposition, question, or candidate at one election.
  - Signs a petition proposing an initiative or referendum while knowingly not being a qualified voter.
  - Solicits, accepts, or agrees to accept money or other valuable thing in exchange for signing or refraining from signing a petition proposing an initiative.

**Campaign misconduct:**

- A person commits a crime of campaign misconduct if he knowingly makes a communication:
  - Containing false factual information relating to a candidate for an election that the person knows to be false and that a person could reasonably construe as damaging to the candidate's reputation for honesty or integrity, or to the candidate's qualifications to serve if elected to office.
  - Knowingly removes, alters, defaces or covers any political sign of any candidate for public office for a prescribed period prior to and following the election.

**Unlawful Interference with Voting:**

- A person commits the crime of unlawful interference with voting when the person:

- Uses, threatens to use, or causes to be used force, coercion, violence, restraint, or inflicts, threatens to inflict, or causes to be inflicted damage harm, or loss, upon or against another person to induce or compel that person to vote or refrain from voting.
- Knowingly pays, offers to pay, or causes to be paid money or other valuable thing to a person to vote or refrain from voting for a candidate at an election or for an election proposition or question.
- Has an official ballot in possession outside the voting room, unless the person is an election official or other person authorized by law or local ordinance.
- Makes, or knowingly has in possession, a counterfeit of an official election ballot.
- Knowingly solicits or encourages a registered voter who is no longer qualified to vote in an election.
- Fraudulently alters or changes the vote of any elector, by which such elector is prevented from voting as he intended.
- Knowingly causes to be mailed or distributed, or knowingly mails or distributes, literature that includes a designation of the voter's precinct polling place other than a precinct polling place listed for that voter in an official precinct polling list that constituted the latest official precinct polling list.
- Knowingly challenges a person's right to vote without probable cause or on fraudulent grounds, or who engages in mass, indiscriminate, and groundless challenging of voters solely for the purpose of preventing voter from voting or delay the process of voting.
- As an employer, attempts by coercion, intimidation, threats to discharge or to lessen the remuneration of an employee, to influence his vote in any election, or who requires or demands an examination or inspection by himself or another of an employee's ballot.
- Removes or destroys any of the supplies or other conveniences placed in the voting booths or compartments for the purpose of enabling the voter to prepare his or her ballot.
- Removes, tears down, or defaces the cards printed for the instruction of voters.
- Removes, tears down, marks or otherwise defaces any voter index with the intent to falsify or prevent others from readily ascertaining the name, address, or political affiliation of an voter, or the fact that a voter has or has not voted.

### **Voter Misconduct**

- A voter commits voter misconduct if the person:
  - Votes or attempts to vote in the name of another person or in a name other than person's own.
  - Votes or attempts to vote more than once at the same election with the intent that the person's vote be counted more than once.
  - Intentionally makes a false affidavit, swears falsely, or falsely affirms under an oath required by a statute regarding their voting status.
  - Knowingly solicits a person to vote after the polls are closed with the intent that the vote be counted.

- Registers to vote without being entitled to register.
- Knowingly makes a material false statement while applying for voter registration or reregistration.
- Voters or attempts to vote in an election after being disqualified.

**Unlawful Interference With an Election**

- A person commits the crime of unlawful interference with an election if the person:
  - Induces or attempts to induce an election official to fail in the official's duty by force, threat, intimidation, or offers of reward.
  - Intentionally changes, attempts to change, or causes to be changed an official election document including ballots, tallies, and returns.
  - Intentionally delays, attempts to delay, or causes to be delayed the sending of certificate, register, ballots, or other materials whether original or duplicate, required to be sent by jurisdictional law.
  - Directly or through any other person advances, pays, solicits, or receives or causes to be advanced, paid, solicited, or received, any money or other valuable consideration to or for the use of any person in order to induce a person not to become or to withdraw as a candidate for public office.



Tamar Nedzar/EAC/GOV  
11/28/2006 11:32 AM

To Jeannie Layson/EAC/GOV@EAC  
cc  
bcc  
Subject Re: FOIA Request

Jeannie,

I have a ton of files for you. I sent to Tova and Job the results of searches I did for them on Lexis. I don't have the emails anymore as my archives were erased when we migrated. However, all of the files I sent them are located at T:\RESEARCH IN PROGRESS\Law Clerk '06 Projects\Tamar\Tova and Job Searches.

If you need help locating the files, please let me know.

Tamar Nedzar  
Law Clerk  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
(202) 566-1707  
<http://www.eac.gov>  
TNedzar@eac.gov  
Jeannie Layson/EAC/GOV

Jeannie Layson/EAC/GOV  
11/28/2006 10:27 AM

To EAC Personnel  
cc  
Subject FOIA Request

Hello everyone,

I need each of you to respond affirmatively or negatively to the FOIA request below. If you have no documents in your possession related to this request, please reply to me with the words "no records." If you have records, please identify them in an e-mail reply and attach them to the e-mail. If the document is not electronic, hand deliver them to me. Also, if you believe any of these related documents should be withheld, please provide a brief memo stating the reason for your position.

I need this information and/or a response by COB December 5, 2006. If you cannot comply by this date, please provide notification and an estimated time when you will provide the information and the reason why you cannot comply by the original deadline. Thanks for your cooperation. See request below:

Wendy Weiser of the Brennan Center for Justice has submitted a FOIA request for the voting fraud report prepared by our consultants and the voter ID report, as well as the following information:

"In the event that the EAC denies my renewed request for the voter ID and voting fraud reports or delays another week in providing those materials, we respectfully request copies of (1) all requests for proposals and contracts relating to the voter ID and voting fraud reports; and (2) all written and electronic communications concerning the voter ID and voting fraud reports between the EAC and (a) the Eagleton Institute of Politics, (b) the Moritz College of Law, (c) Tova Wang, (d) Job Serebrov, and (e) any other individuals or entities, including but not limited to outside reviewers."

006216

Please let me know if you would like a copy of the FOIA request.

Jeannie Layson  
U.S. Election Assistance Commission  
1225 New York Ave., NW  
Suite 1100  
Washington, DC 20005  
Phone: 202-566-3100  
[www.eac.gov](http://www.eac.gov)

006215

**BYLAWS COMMITTEE**

**AGENDA**

**Wednesday, October 4, 2006**

- |                   |  |   |
|-------------------|--|---|
| <b>8:30 a.m.</b>  | Review of Committee Members<br>& Introductions               | Tonni Bartholomew and<br>All Members      |
| <b>8:45 a.m.</b>  | Overview of Purpose/History of the<br>Bylaws Committee       | Commissioner Hillman                      |
| <b>9:00 a.m.</b>  | Committee Timeline   | Tonni Bartholomew                         |
| <b>9:10 a.m.</b>  | Setting Protocols for How Committee<br>Will Conduct Its Work | Tonni Bartholomew<br>Commissioner Hillman |
| <b>9:40 a.m.</b>  | Work Groups/Task Distribution                                | Tonni Bartholomew                         |
| <b>10:00 a.m.</b> | Review of Bylaws   | All Members                               |
|                   | <b>12:00 (noon)</b>  | <b>LUNCH</b>                              |
| <b>2:15 p.m.</b>  | Wrap Up  | Tonni Bartholomew                         |
|                   | <b>3:00 p.m.</b>   | <b>ADJOURN</b>                            |

006216

**Bylaws  
of  
The Standards Board  
of  
The U.S. Election Assistance  
Commission**



006217

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## **BYLAWS**

### **UNITED STATES ELECTION ASSISTANCE COMMISSION STANDARDS BOARD**

The U.S. Election Assistance Commission Standards Board, hereinafter referred to as Standards Board, embodies the vision of Congress to forge a partnership among federal, state and local election officials whose goal is to promote public confidence in the conduct of federal elections in the United States.

#### **Article I. Authority**

1. Pursuant to the Federal Advisory Committee Act and the Help America Vote Act of 2002 (HAVA) [Public Law 107-252], as such statutes may be amended from time to time, the Standards Board has been granted its authority through its charter with the United States Election Assistance Commission (EAC) (as first filed with Congress on June 14, 2004, and renewed every two (2) years). The Standards Board, Executive Board and the committees of the Standards Board will comply fully with the provisions of the Federal Advisory Committee Act (FACA); and all other applicable Federal laws

#### **Article II. Objectives**

The Standards Board will:

1. Advise EAC through review of the voluntary voting system guidelines described in Title II Part 3 of HAVA; through review of the voluntary guidance described under Title III of HAVA; and through the review of the best practices recommendations described in Section 241 of Title II of HAVA, as required by HAVA or as may be developed by EAC.
2. Provide guidance and advice to EAC on a variety of topics related to the administration of elections for Federal office.
3. Make recommendations to EAC. Neither the Executive Board nor any subcommittees of the Standards Board may make recommendations to EAC without the consideration and approval of the Standards Board.
4. Function solely as an advisory body.

#### **Article III. Standards Board Membership**

1. Pursuant to Section 213(a) of HAVA, the Standards Board shall consist of 110 members, as follows:
  - a. Fifty-five (55) shall be state election officials selected by the chief State election official of each State.
  - b. Fifty-five (55) shall be local election officials selected as follows:
    - i. Each state's local election officials, including the local election officials of Puerto Rico and the United States Virgin Islands, shall select a representative local election official from the state in a process supervised by the chief election official of the state.
    - ii. In the case of the District of Columbia, Guam, and American Samoa, the chief election official shall establish a procedure for selecting an

individual to serve as a local election official. The individual selected under such a procedure may not be a member of the same political party as the chief election official.

- c. The two (2) Standards Board members who represent the same state may not be members of the same political party.

#### **Article IV. Standards Board Member Vacancies**

1. The chief election official of each state shall notify EAC and the Executive Board of the Standards Board within five (5) business days of any vacancy or membership changes to the Standards Board.
2. Vacancy appointments to the Standards Board shall be made in accordance with Section 213(a) of HAVA, as follows:
  - a. Fifty-five (55) shall be state election officials selected by the chief State election official of each State.
  - b. Fifty-five (55) shall be local election officials selected as follows:
    - i. Each state's local election officials, including the local election officials of Puerto Rico and the United States Virgin Islands, shall select a representative local election official from the state in a process supervised by the chief election official of the state.
    - ii. In the case of the District of Columbia, Guam, and American Samoa, the chief election official shall establish a procedure for selecting an individual to serve as a local election official. The individual selected under such a procedure may not be a member of the same political party as the chief election official.
  - c. The two (2) Standards Board members who represent the same state may not be members of the same political party.
3. In December of each year, EAC shall notify the appointing authority of each state or territory as to who represents their state or territory on the Standards Board.

#### **Article V. Executive Board of the Standards Board**

1. Pursuant to Section 213(c) of HAVA, the Standards Board shall select nine (9) of its members to serve as the Executive Board of the Standards Board as follows:
  - a. Membership.
    - i. Not more than five (5) members of the Executive Board may be state election officials.
    - ii. Not more than five (5) members of the Executive Board may be local election officials.
    - iii. Not more than five (5) members of the Executive Board may be of the same political party.
  - b. Nominations.
    - i. Expired Terms.
      - (a) The Nominating Committee shall solicit nominations for the Executive Board from Standards Board members. The Nominating Committee shall send to Standards Board members a solicitation no

later than December 1<sup>st</sup> immediately prior to the expiration of any Executive Board member's term. The solicitations shall designate the address and form for submitting nominations.

- (b) Standards Board members may nominate themselves or other Standards Board members by responding to the solicitation.
  - (c) Nominations shall be submitted to the Standards Board's Designated Federal Officer (DFO) in writing and may be submitted electronically no later than January 15<sup>th</sup> immediately prior to the expiration of any Executive Board member's term. In the event that January 15<sup>th</sup> is a federal holiday, nominations are due no later than January 16<sup>th</sup>.
  - (d) Upon receipt of nominations, the Nominating Committee shall prepare ballot information to be distributed to the Standards Board at least fifteen (15) days prior to the date of the Standards Board meeting immediately following the submission deadline.
- ii. Vacancies Before the End of a Term.
- (a) In the event of a vacancy on the Executive Board prior to the expiration of a member's term on the Executive Board, the Nominating Committee shall send to Standards Board members a solicitation no later than sixty (60) days before the next meeting of the Standards Board. The solicitations shall designate the address and form for submitting nominations.
  - (b) Standards Board members may nominate themselves or other Standards Board members by responding to the solicitation.
  - (c) Nominations shall be submitted to the Standards Board's Designated Federal Officer (DFO) in writing and may be submitted electronically no later than the date indicated on the solicitation.
  - (d) Upon receipt of nominations, the Nominating Committee shall prepare ballot information to be distributed to the Standards Board at least fifteen (15) days prior to the date of the Standards Board meeting immediately following the submission deadline.
- c. Elections.
- i. Elections to the Executive Board shall be by secret ballot and shall take place at a meeting of the Standards Board.
  - ii. The ballot shall be designed to enable Standards Board members to select candidates based on the following: (1) The Candidate's political party affiliation, (2) whether the candidate is a state or local election official, (3) which state or territory the candidate represents, (4) whether the candidate was elected or appointed, and (5) in the case of state election officials, what position the candidate holds. Concise biographical information for each candidate shall be provided to each Standards Board member in advance of the election.
  - iii. For elections following the first election (2005), not including any special elections to fill unexpired terms, two (2) of the three (3) positions shall be for local election officials. For elections following the second election (2007), two (2) of the (3) three positions shall be for state election officials.

- The number of positions for state and local election officials on the Executive Board shall continue to alternate in subsequent elections.
- iv. Within thirty (30) days of an Executive Board election, the Executive Board members shall convene to elect a Chair, Vice-Chair, and Secretary.
  - v. In the event that the Standards Board is unable to meet for elections before the end of an Executive Board member's term, the sitting members of the Executive Board shall remain in their elected capacity until such time as the Standards Board is able to meet again and a new member is elected.
- d. Executive Board Members Terms of Service and Vacancies.
- i. Generally.
    - (a) The Chair of the Executive Board shall notify EAC and the Nominating Committee Chair within five (5) business days of any vacancy on the Executive Board.
    - (b) The Chair, Vice-Chair, and Secretary, shall serve for a term of not more than one (1) year. An Executive Board member shall not serve for two (2) consecutive terms for the same office, except in the case of a member serving the unexpired term of an office, in which case the member may be elected to the same office for the succeeding term.
    - (c) An Executive Board member may be removed from the Executive Board, for cause, by a vote of two-thirds (2/3) of Standards Board members at a Standards Board meeting.
    - (d) In the event of a vacancy on the Executive Board, the remaining members of the Executive Board may appoint an interim member of the Executive Board until the next Standards Board meeting.
  - ii. Initial Term.
    - (a) Pursuant to Section 213(c)(3) of HAVA, of the members first selected to serve on the Executive Board of the Standards Board:
      - (i) Three (3) shall serve for one (1) term.
      - (ii) Three (3) shall serve for two (2) consecutive terms.
      - (iii) Three (3) shall serve for three (3) consecutive terms.
  - iii. Subsequent Terms.
    - (a) Pursuant to Section 213(c)(2) of HAVA, members of the Executive Board shall serve for a term of two (2) years and may not serve for more than three (3) consecutive terms.
    - (b) Members of the Standards Board who have previously served on the Executive Board shall be eligible to be nominated to the Executive Board no sooner than two (2) years from the last term in which they served on the Executive Board.
- e. Meetings.
- i. Any two (2) members of the Executive Board may call an Executive Board meeting by filing the original call of the meeting with and obtaining approval from the DFO, including the stated reason for calling the meeting, and the date and time of the meeting. Such meetings include, but are not limited to meetings by conference call and virtual (electronic media) meetings. These meetings must allow each Executive

Board member to include their comments and hear or view others' comments.

ii. A majority of Executive Board Members shall be present for a quorum.

iii. The Executive Board shall agree to actions by a majority roll call vote of seated members of the Executive Board.

iv.

Proxy voting shall not be allowed in Executive Board votes.

v. Any member of the Standards Board may attend and at the discretion of the Chair, may participate in any and all discussions at an Executive Board meeting, but may not vote.

## Article VI. Executive Board Duties

1. Chair. The Chair shall:
  - a. Preside over all meetings of the Executive Board and Standards Board.
  - b. Appoint the chair of standing committees and any ad hoc committees of the Standards Board.
  - c. Establish the agenda for meetings of the Executive Board and Standards Board in consultation with the DFO.
  - d. Call meetings of the Executive Board and Standards Board in consultation with the DFO.
  - e. Act as the official liaison between the Standards Board and EAC for all resolutions, recommendations, and information requests.
  - f. Serve as an *ex officio* member of all committees.
  - g. Appoint a Parliamentarian to preside over all Standards Board meetings in order to advise and assist the Chair in running all meetings in accordance with Roberts Rules of Order.
2. Vice-Chair. The Vice-Chair shall:
  - a. Preside over meetings of the Executive Board and Standards Board in the Chair's absence.
  - b. Perform other duties as may be appropriate in the Chair's absence.
  - c. Assist the Chair, from time to time, as the Chair may designate.
  - d. In the event of a vacancy before the completion of the Chair's term, serve as the Chair.
3. Secretary. The Secretary shall:
  - a. Review Board minutes before distribution to Standards Board members.
  - b. Ensure, with assistance from the DFO, that meeting minutes are properly on file at EAC.
  - c. Assist the Chair at meetings and, from time to time, as the Chair may designate.
4. Executive Board, Generally. The Executive Board shall:
  - a. Perform all duties required under HAVA and other applicable Federal laws.
  - b. Appoint the membership of appropriate standing committees and ad hoc committees by soliciting interest from the Standards Board membership.
  - c. Meet as necessary to address issues of concern in between Standards Board meetings.
  - d. Convene Standards Board meetings, including, but not limited to, meetings by conference call and virtual (electronic media) meetings. Such meetings must allow each Standards Board member to include their comments and view or hear others' comments. Such meetings shall be held in accordance with all applicable federal laws.

- e. Consult with the DFO to ensure compliance with federal statutes and other applicable regulations.
  - f. Attend Executive Board meetings, including, but not limited to, meetings by conference call and virtual meetings, in accordance with these bylaws.
  - g. As soon as possible and in consultation with the DFO, provide Standards Board Members all proposed guidelines to be adopted pursuant to Section 222(b)(3) of HAVA. Executive Board recommendations to the Standards Board pursuant to Section 222(b)(3) of HAVA shall include an appendix of all dissenting comments from Executive Board members.
  - h. Perform all other duties as from time to time the Standards Board may delegate to the Executive Board.
  - i. Immediately upon notice of an Executive Board meeting, the Executive Board shall notify the Standards Board of the Executive Board meeting.
5. Designated Federal Officer (DFO). The DFO shall:
- a. Serve as the government's agent for all Standards Board activities.
  - b. Approve or call Standards Board meetings.
  - c. Approve agendas proposed by the Executive Committee.
  - d. Attend all Standards Board and Executive Board meetings.
  - e. Adjourn Standards Board and Executive Board meetings when such adjournment is in the public interest.
  - f. Provide adequate staff support to the Standards Board, to assist with:
    - i. Notice. The DFO shall:
      - (a) Notify members of the time and place for each meeting of the Standards Board and the Executive Board.
      - (b) Notify the public of time and place for the meeting of the Standards Board.
      - (c) Notify appointing authorities of any and all vacancies on the Standards Board.
      - (d) Perform other duties as required in these Bylaws.
    - ii. Recordkeeping and Administration. The DFO shall:
      - (a) Maintain records for all meetings, including subgroup or working group activities, as required by law.
      - (b) Maintain the roll.
      - (c) Assure that minutes of all Standards Board meetings are prepared and distributed.
      - (d) Maintain and house at EAC all official Standards Board records, including subgroup and working group activities.
      - (e) File all papers and submissions prepared for or by the Standards Board, including those items generated by subgroups and working groups.
      - (f) Respond to official correspondence.
      - (g) Prepare and handle all reports, including the annual report as required by FACA.
      - (h) Act as the Standard Board's agent to collect, validate, and pay all vouchers for pre-approved expenditures.

## Article VII. Meetings

1. Consistent with the requirements of HAVA 215(a)(2), the Standards Board shall meet on an annual basis or otherwise as requested by EAC to address its responsibilities under HAVA and attend to other issues presented by EAC. Such meetings include, but are not limited to, meetings by conference call and virtual (electronic media) meetings. These meetings must allow each Standards Board member to include their comments and view or hear others' comments. Such meetings shall be held in accordance with all applicable Federal laws.
2. Meetings shall be called by the DFO in consultation with the Executive Board.
3. The DFO shall approve the agenda for all meetings. EAC shall distribute the agenda to Standards Board members prior to each meeting and shall publish notice of the meeting in the Federal Register as required by FACA.
4. Standards Board members and members of the public may submit agenda items to the DFO or Executive Board Chair.
5. Meetings.
  - a. Open Meetings.
    - i. Unless otherwise determined in advance, all Standards Board meetings shall be open to the public.
    - ii. Members of the public may attend any meeting or portion of a meeting that is not closed to the public and may, at the determination of the Chair, offer oral comment at such meeting. The Chair may decide in advance to exclude oral public comment during a meeting, in which case the meeting announcement published in the Federal Register will note that oral comment from the public is excluded. In such a case, the Standards Board will accept written comments as an alternative. In addition, members of the public may submit written statements to EAC at any time.
    - iii. All materials brought before, or presented to, the Board during the conduct of an open meeting, including, but not limited to, the minutes of the proceedings of the previous open meeting, will be available to the public for review or copying at the time of the scheduled meeting.
    - iv. Minutes of open meetings shall be available to the public upon request.
    - v. Once an open meeting has begun, it will not be closed to the public unless prior approval of the closure has been obtained and proper notice of the closed meeting has been given to the public.
    - vi. If, during the course of an open meeting, matters inappropriate for public disclosure arise during discussions, the Chair will order such discussion to cease and will schedule it for a closed meeting.
  - b. Closed Sessions.
    - i. Notices regarding portions of meetings to be closed (to be referred to as sessions hereinafter) will be published in the Federal Register at least fifteen (15) calendar days in advance.
    - ii. Standards Board sessions will be closed to the public only in limited circumstances and in accordance with applicable law. The Standards Board must obtain prior approval to conduct a closed session. Requests

for closed sessions must be submitted by the DFO to EAC's Office of General Counsel a minimum of forty-five (45) days in advance of the proposed closed session.

- iii. Where the DFO, in conjunction with the Office of General Counsel, has determined in advance that discussions during a Standards Board meeting will involve matters about which public disclosure would be harmful to the interests of the government, industry, or others, an advance notice of a closed session, citing the applicable exemptions of the Government in the Sunshine Act (GISA), shall be published in the Federal Register. The notice may announce the closing of all or just part of a meeting.
- iv. Minutes of closed sessions are not available to the public, and as a result, not subject to the Freedom of Information Act (FOIA).

6. Minutes.

- a. The DFO, or his or her designee, shall assure that detailed minutes of each meeting are prepared and distributed to Standards Board members.
- b. Meeting minutes shall include the following: (1) Time, (2) date, (3) location, (4) record of persons present, including the names of Standards Board members, EAC Commissioners and staff, and the names of members of the public making written or oral presentations, (5) a complete and accurate description of the matters discussed and conclusions reached, and (6) copies of all reports received, issued, or approved by the Standards Board.
- c. Meeting minutes are considered part of the official government record.
- d. All documents, reports, or other materials prepared by or for the Standards Board constitute official government records and shall be housed at EAC and maintained according to the Federal Records Act.

### **Article VIII. Quorum and Proxy Voting**

1. Quorum.

- a. A quorum shall be established when 56 Standards Board members are present for a meeting as determined by a roll call or quorum call of the Standards Board members.

2. Proxy Votes.

- a. Proxy designations may be submitted in writing to the Chair up to the day of the Standards Board meeting by the designated meeting start time established via the meeting agenda.
- b. Proxy votes may only be cast by Standards Board members, provided proxy designations have been timely filed in advance with the Chair clearly identifying the Standards Board member selected to cast an absent member's proxy vote.
- c. The Chair shall appoint a proxy committee to verify the eligibility of a member(s) designating a proxy vote and of the member(s) designated to cast a proxy vote(s) on behalf of absent Standard's Board members.

3. Voting Generally.

- a. The Standards Board shall agree to actions by majority vote of those present

- and voting unless otherwise specified by these bylaws.
- b. Votes by the Standard Board on recommendations to EAC shall have the ayes, nays, and abstentions recorded.
  - c. Votes taken during meetings conducted by conference call and through virtual (electronic media) means shall have a quorum established prior to voting.

## **Article IX. Committees**

In appointing members to committees, the Standards Board shall pay particular attention to ensuring diverse membership. Accordingly, the Executive Board shall do due diligence to ensure that committee members (1) affiliate with diverse parties, (2) are representative of both state and local election officials, (3) represent different states and territories, and (4) are representative of both elected and appointed officials.

1. Meetings.
  - a. All committees may meet informally at any time for the purpose of conducting their business, including telephonically or through electronic media.
2. Standing Committees.
  - a. Nominating Committee. The Nominating Committee shall:
    - i. Be comprised of five (5) members.
    - ii. Solicit nominations for the Executive Board from Standards Board members.
    - iii. Prepare and distribute to Standards Board members ballots that include all the information listed in Article V, section 1, subsection c, paragraph ii of these Bylaws.
  - b. Bylaws Committee. The Bylaws Committee shall:
    - i. Be comprised of seven (7) members.
    - ii. Submit a report with all recommended bylaws amendments to the Executive Board for a seven (7) day comment period before submitting recommendations to the Standards Board for resolution and adoption.
3. Ad-Hoc Committees.
  - a. A Standards Board member wishing to establish an ad-hoc committee must present to the Standards Board the reason(s) he/she is requesting the committee.
  - b. The Standards Board may, at any time, by majority vote, establish an ad-hoc committee.
  - c. Once an ad-hoc committee has been established, the Executive Board shall appoint members to the ad-hoc committee.

## **Article X. Amendments**

1. The Standards Board's Bylaws Committee shall promulgate a form for proposing an amendment to the Standards Board's Bylaws.
  - a. The form shall require the specific language of the proposed amendment to be included, identify the author of the amendment, and be designed to elicit the rationale and impact of the proposed amendment.
2. All proposed bylaw changes must be submitted in writing to the DFO:
  - a. No later than December 1st; or

- b. Within the seventy (70) day timeframe established by the Executive Board at the time of the call of the Standards Board Meeting; with immediate notification to all Standards Board members to be issued by the DFO.
3. After receiving proposed bylaw changes, the DFO shall forward the proposed changes to the Standards Board Bylaws Committee and EAC's General Counsel.
  - a. The General Counsel shall report in an expeditious manner to the Bylaws Committee and the Executive Board whether or not a proposed change to the Bylaws is consistent with federal law and/or rules.
  - b. The Bylaws Committee shall transmit a report containing the proposed bylaw changes to the Executive Board.
  - c. The Standards Board's Executive Board shall place the report on the proposed change to the Standards Board's Bylaws on the agenda for the next meeting of the Standards Board.
4. The Executive Board shall forward all proposed changes to Standards Board members at least thirty (30) days prior to the next meeting of the Standards Board via email and U.S. Mail to the applicable address of record on file with EAC. The Executive Board shall request that EAC post the proposed change to the bylaws and all supporting material on EAC's website at least thirty (30) days prior to the next meeting of the Standards Board.
5. The bylaws may be amended by a two-thirds (2/3) vote of the members present and voting at any Standards Board meeting.

#### **Article XI. Expenses and Reimbursement**

1. Expenses related to Standards Board operations will be borne by EAC.
2. Expenditures of any kind must be approved in advance by the DFO.
3. Standards Board members shall not receive any compensation for their services, but shall be paid travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of federal agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in performance of their services for the Standards Board.

#### **Article XII. Parliamentary Authority**

1. The rules contained in the current edition of *Robert's Rules of Order Newly Revised* shall govern the Standards Board in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules of order the Standards Board may adopt.
2. Voting procedures for the Standards Board, the Executive Board, and the subcommittees shall follow the accepted procedure according to Robert's Rules of Order.

**Article XIII. Effective Date**

1. These By-Laws are effective upon adoption by the Standards Board.

**Article XIV. Transition Procedures and Ratification**

1. The adoption of the bylaws has no effect on the selection, terms or appointment of the officers or members of the Standards Board, the Executive Board, or a committee of the Board serving on the effective date of these bylaws.
2. All acts of the Standards Board, the Executive Board, or a committee of the Board are hereby ratified, except to the extent that an act does not conform with a resolution adopted by the Standards Board before the effective date of these bylaws.

*Joni G. Bartholomew*

Chair

March 2, 2007

Date

*Juanita M. Helman*

DFO

March 2, 2007

Date

These bylaws were adopted February 23, 2007, and supersede all previous versions.



U.S. ELECTION ASSISTANCE COMMISSION  
BOARD of ADVISORS

RESOLUTION 2007-[#]

**Whereas**, the Election Assistance Commission is an agency of the United States federal government created by the Help America Vote Act; and

**Whereas**, the working group met in May 2006 and heard an initial verbal presentation of information to be included in a report on Voter Fraud and Voter Intimidation and made specific recommendations for the content of the report;

**Whereas**, the Voter Fraud and Intimidation Report was submitted to the EAC on or about July 2006, but was not released to the public.

**Whereas**, on or about October 2006, Barbara Arnwine wrote a letter of complaint regarding the failure to timely release this Report noting that these issues are of utmost importance to the fair administration of elections; and

**Whereas**, the EAC released in December 2006, a severely edited version of the Voter Fraud and Intimidation Report to the public; and

**Whereas**, these issues of Voter Fraud and Intimidation have become the justification for many states' passage of voter identification and citizenship laws.

**Now Therefore, Be It Resolved** that the Board of Advisors recommends to the United States Election Assistance Commission that it release the original Voter Fraud and Intimidation Report to the public; and,

**In the Alternative, Be It Resolved** that the Board of Advisors recommends to the United States Election Assistance Commission that the EAC release the Voter Fraud and Intimidation Report to the EAC Board of Advisors for its review.

**A True Record Attest:**

\_\_\_\_\_  
**Christopher M. Thomas**  
Chair of the Board of Advisors

Submitted by Barbara Arnwine

Approved as to Form by Resolution committee \_\_\_\_\_

Passed on \_\_\_\_\_ by a vote of \_\_\_\_\_ with \_\_\_\_\_ members not voting.

002900



**U.S. ELECTION ASSISTANCE COMMISSION  
BOARD of ADVISORS**

**RESOLUTION 2006-01**

Whereas, The Election Assistance Commission has commissioned a study of provisional voting;

And Whereas, The Election Assistance Commission Board of Advisors heard a presentation on the draft report on provisional voting;

And Whereas, the draft report failed to account for differences in how states utilize or do not utilize provisional ballots for NVRA fail-safe voting;

And Whereas, the draft report contains an unsubstantiated estimate of the number of voters who failed to receive provisional ballots yet the report contains a conclusion based on that unsubstantiated estimate;

Be It Resolved, that the Board of Advisors recommends that the Election Assistance Commission not accept the study of provisional voting for the time being; in such event that the Commission decides to go forward with this particular study,

Then, Be It Resolved, that the Board of Advisors recommends that the Election Assistance Commission not publish this report until the report is revised to account for differences in how states implement fail-safe voting and the removal of unsubstantiated estimates from the report;

And, Be It Further Resolved, that the Election Assistance Commission Board of Advisors appoints a subcommittee to review a revised draft report on provisional voting prior to publication by the Election Assistance Commission.

006231



**U.S. ELECTION ASSISTANCE COMMISSION  
BOARD of ADVISORS**

**RESOLUTION 2006-02**

Whereas, The Election Assistance Commission's important role in election research needs to be with research that fairly and equitably and bipartisanship published studies on various election issues;

And Whereas, any study conducted by the Election Assistance Commission needs to provide an opportunity for, and a method of, review of controlled studies so that alternative viewpoints are included and published as a part of the contracted study in order to assure that official studies of the Election Assistance Commission do have balance when published;

And Whereas, this is not intended to direct the Election Assistance Commission to publish studies on which the Commission cannot reach consensus;

Therefore, Be It Resolved, that the Board of Advisors recommends to the Election Assistance Commission that it require all studies to be reviewed by the Advisory Board and the Standards Board and on any study where there is substantial concern, that the studies be withheld until such time as representatives of those bodies can develop and deliver alternative viewpoints included with the studies.

006232



**U.S. ELECTION ASSISTANCE COMMISSION  
STANDARDS BOARD**

**RESOLUTION 2006-01**

WHEREAS, the U.S. Election Assistance Commission is conducting studies and research on a wide variety of subjects related to elections.

RESOLVED that the Standards Board recommends—

- The EAC carefully review each study and recommendation of researchers to ensure that findings are based on facts that are clearly defended by quantitative data, rather than suspicions or assumptions;
- The EAC require researchers to study and report on the practicality and expense of implementing each recommendation;
- Election Day survey questions be considered and completed and noticed to states no later than two years before the election in which the data is to be collected.



**U.S. ELECTION ASSISTANCE COMMISSION  
STANDARDS BOARD**

**RESOLUTION 2006-03**

WHEREAS, the Help America Vote Act requires the EAC to report on finite and specific topics that are clearly listed in the law;

WHEREAS, Taxpayer dollars are being used to prepare these reports at a great deal of expense in terms of funding and time,

WHEREAS, the EAC itself is not performing the Research, but instead contracting out such research to various individuals, policy institutes, think tanks, and/or activist groups,

RESOLVED that the Standards Board recommends:

- That the EAC adhere strictly to the plain language meaning of the Help America Vote Act, where it clearly lists the specific topics that are to be reported on and the parameters thereof, without assuming tangential issues or taking action that would lead to an increased project scope;
- That the EAC recognize that the wide disparity of state election laws may make quantitative analysis difficult depending on the subject being discussed. As a result, there is value in recognizing this fact alone and where this is the case, federal and taxpayer funds should not be used in making assumptions that cannot be carried in a nationwide forum;

- That the EAC has a role in promulgating limited guidance in those areas specifically enumerated in Title III of HAVA, and otherwise the EAC is simply acting as a nationwide clearinghouse of state election practices. These EAC roles should be clearly enunciated on all EAC final and interim reports (through, for example; preambulatory language or “Draft” watermarks on each page) and should be clearly emphasized to the media and public in any statements or communication made by the EAC or its Commissioners.

> >  
> > --- Tova Wang [REDACTED] e:  
> >  
> > > is Jon Greenbaum  
> > >  
> > > Here' s his info in full:  
> > >  
> >  
>  
[REDACTED]  
>  
> >  
> > > 1  
> > >  
> > > He is the Director of the Voting Rights Project  
> > for  
> > > the Lawyers Committee  
> > > for Civil Rights. He will be representing  
> Barbara  
> > > Arnwine, the Executive  
> > > Director of the Lawyers Committee.  
> > >  
> > > His contact and mailing info is:  
> > >  
> > > [REDACTED]  
> > > [REDACTED]  
> > > [REDACTED]  
> > > [REDACTED]  
> > >  
> > >  
> > > Tova Andrea Wang  
> > > [REDACTED]  
> > > [REDACTED]  
> > > [REDACTED]  
> > > [REDACTED]  
> > >  
> > > Visit our Web site, <<http://www.tcf.org/>>  
> > > www.tcf.org, for the latest news,  
> > > analysis, opinions, and events.  
> > >  
> > >  
> > > \_\_\_\_\_  
> > > [REDACTED]  
> > > Click here to receive our  
> > > weekly e-mail updates.  
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008236

----- Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:22 PM -----

Margaret Sims/EAC/GOV

05/11/2006 03:46 PM

To "Job Serebrov"

cc

Subject Re: Literature Summary

Do you have text to replace the corrupted text in paragraph 4? --- Peggy

"Job Serebrov"



"Job Serebrov"

05/11/2006 03:17 PM

To psims@eac.gov

cc

Subject Re: Literature Summary



Fed Crime Election Fraud.doc

--- psims@eac.gov wrote:

> Tova just sent me the summary you prepared of The  
> Federal Crime of  
> Election Fraud by Craig Donsanto. There is  
> something wrong in the fourth  
> paragraph (odd characters and missing text). Can  
> you please send a  
> replacement fourth paragraph? You can send it in  
> an email and I will  
> place it in the document. --- Peggy

----- Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:22 PM -----

Devon E. Romig/EAC/GOV

05/02/2006 09:45 AM

To wang@tcf.org

cc Margaret Sims/EAC/GOV@EAC

Subject Voting Fraud/Voter Intimidation Project Working Group

Dear Tova,

I am working with Peggy Sims in order to set a date for the Voting Fraud/Voter Intimidation Project Working Group. I have been trying to reach Barbara Arnwine in order to find out which days in May she is potentially available to attend this meeting but all of my attempts have been unsuccessful.

I would appreciate any help that you could provide in this matter.

006237

Sincerely,

Devon Romig  
U.S. Election Assistance Commission  
1225 New York Ave. NW - Suite #1100  
Washington, D.C. 20005  
(202)566-2377

----- Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:22 PM -----

Margaret Sims/EAC/GOV

05/09/2006 11:13 AM

To "Job Serebrov"

<serebrov@sbcglobal.net>@GSAEXTERNAL

cc wang@tcf.org

Subject Re: Working Group-Perez 

As you may recall, the Commissioners directed me to find a nonpartisan local election official to serve on the Working Group. The three of us discussed the desirability of having a Hispanic. I proposed that I find someone from Texas because of that State's colorful history of voting fraud and their innovative approaches to combat it. In those Texas counties that hire Election Administrators to run elections, rather than having elected officials do so (Tax Assessor for voter registration; County Clerk for balloting), the Election Administrator is hired by the County Election Commission and is supposed to perform his or her duties in a nonpartisan manner. (See attached excerpts from Texas Election Code regarding election administrator hiring and restrictions on partisan activity.)

Any experienced Texas election official will be familiar with voting fraud and voter intimidation schemes used in that State. Mr. Perez has over 13 years experience as a county Election Administrator in Texas. You won't find many news articles mentioning him because he has kept his nose clean. (The Texas press, as in many other parts of the country, prefers to report bad news.) Mr. Perez is plugged into the association of Texas election officials and the two largest organizations of election officials in this country: the International Association of Clerks, Recorders, Election Officials and Treasurers (IACREOT); and The Election Center. He is a past President and past Chairman of the Legislative Committee for the Texas Association of Election Administrators. He currently serves on IACREOT's Election Officials Committee, which plans the educational sessions for election officials that are conducted at that organization's conferences. His peers in IACREOT and The Election Center have selected his submissions on web presentations (IACREOT) and his professional practices papers (Election Center) for awards. Mr. Perez also has access to information from other States through his membership in IACREOT and The Election Center. He also has a sense of humor, which you will note if you access the staff web page on the Guadalupe County Elections web site and hear the Mission Impossible theme .. something that might be useful in the upcoming meeting.

Guadalupe County is small but growing. In 2004, the county had over 65 thousand registered voters (a number more than doubled the number of registered voters in 1988). A third of the county's population claims Hispanic or Latino origin, according to the U.S. Census Bureau. The county is in south central Texas and is bordered by Comal, Hays, Cladwell, Gonzales, Wilson, and Bexar counties. In the 1980s, the county was predominately a farming community; but in recent years, many people have moved from San Antonio (Bexar County) to Guadalupe County, preferring to live in Guadalupe County and work in Bexar County.

--- Peggy



tx elec admin-appt-partisan restrictions.doc

006238

"Job Serebrov" <serebrov@sbcglobal.net>



"Job Serebrov"  
<serebrov@sbcglobal.net>  
05/08/2006 11:30 PM

To psims@eac.gov  
cc  
Subject Re: Working Group

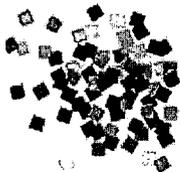
Peggy:

What political party is Perez with? How political is he? Is the position in Texas neutral or political? Who appointed Perez?

As to Pat I will contact him but I can't promise anything. If Pat can't come, who is getting knocked off Tova's list?

Job

----- Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:22 PM -----



Devon E. Romig/EAC/GOV  
04/24/2006 04:41 PM

To Margaret Sims/EAC/GOV@EAC  
cc  
Subject Updated scheduling list and Contact info

Peggy,

Here is the most updated version of the list that I have available.



Work Group Contact-Availability Info.xls

Thanks,

Devon Romig  
U.S. Election Assistance Commission  
1225 New York Ave. NW - Suite #1100  
Washington, D.C. 20005  
(202)566-2377

----- Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:22 PM -----



"Donsanto, Craig"  
<Craig.Donsanto@usdoj.gov>  
>  
05/16/2006 01:41 PM

To psims@eac.gov  
cc  
Subject RE: Your Materials

006239



Sure. But where is the resistance coming from? The notes were not accurate. As you know, I have to be very concerned about that.

---

**From:** psims@eac.gov [mailto:psims@eac.gov]  
**Sent:** Tuesday, May 16, 2006 12:34 PM  
**To:** Donsanto, Craig  
**Subject:** RE: Your Materials

Craig:

I am getting some resistance from my consultants to correcting the summary of the interview prior to the meeting. Would you mind noting the corrections at the meeting? --- Peggy

"Donsanto, Craig" <Craig.Donsanto@usdoj.gov>

05/16/2006 12:06 PM

Topsims@eac.gov  
cc  
SubjectRE: Your Materials

Thank you, Peg. This stuff is very interesting.

---

**From:** psims@eac.gov [mailto:psims@eac.gov]  
**Sent:** Tuesday, May 16, 2006 11:27 AM  
**To:** Donsanto, Craig  
**Subject:** Re: Your Materials

I have forwarded your message to our consultants and have requested a corrected version for distribution at the WG meeting. --- Peggy

"Donsanto, Craig" <Craig.Donsanto@usdoj.gov>

006240

05/16/2006 10:46 AM

Topsims@eac.gov  
cc  
Subject: Your Materials

Peg - -

I have read over the materials you sent to me and viewed the pieces on the CD.

I have only one correction:

I did not say that offenders who receive target letters routinely request - - or routinely receive - - audiences here at DOJHQ. That is very rare. Instead, what usually happens is that once a subject for an election fraud investigation is advised that he or she is going to be charged that person usually enters into plea negotiations and ultimately pleads guilty. Very few federal election fraud cases go to trial. When a subject does request a HQ interview or a HW hearing, it would be held in the first instance by myself. But again, Peg, that is rare.

Also, while the occurrences of prosecutions of isolated instances of felons and alien voters and double voters has increased, we still aggressively and I believe quite successfully pursue systematic schemes to corrupt the electoral process, as the cases we brought recently out of Knott and Pike Counties in Kentucky, those we brought out of Lincoln and Logan Counties in West Virginia, and those we brought in New Hampshire growing out of the jamming of get-out-the-vote phone bank lines attest.

----- Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:22 PM -----



"Job Serebrov"  
<serebrov@sbcglobal.net>  
05/15/2006 09:54 AM

To psims@eac.gov  
cc  
Subject Re: research summary

Peggy:

-006241

What about my question on gas receipts?

Job

--- psims@eac.gov wrote:

> I can email this out to our participants after I get  
> back to the office, and we can have copies available  
> at the meeting.

> Peggy

>

> -----

> Sent from my BlackBerry Wireless Handheld

>

>

> ----- Original Message -----

> From: wang

> Sent: 05/13/2006 10:54 AM

> To: psims@eac.gov

> Cc: "Job Serebrov" <[REDACTED]>

> Subject: Fw: research summary

>

> Job found it. I'm assuming its too late to include

> so as I said I'll just

> present it if thats OK. Thanks again Job. T

> ----- Original Message -----

> From: "Job Serebrov" <[REDACTED]>

> To: [REDACTED]

> Sent: Saturday, May 13, 2006 10:12 AM

> Subject: Re: research summary

>

>

> > T~

> >

> > Are you talking about this?

> >

> > J~

> >

> > --- [REDACTED]

> >

> >> In the middle of the night I got the feeling that

> >> you may be right, that I did do a summary of the

> >> existing literature review (that Job, you

> >> approved)

> >> . I'll have to look for it on Monday (unless I go

> >> into the office over the weekend, which is

> >> possible). I may be hallucinating, but if not,

> >> I'll

> >> just present it at the meeting rather than try to

> >> get it to them ahead of time. Tova

>

--- Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:22 PM ---



"Tova Wang"

<wang@tcf.org>

05/22/2006 06:07 PM

To psims@eac.gov

cc

006242



Subject RE: PowerPoint Presentation to EAC Boards

I don't know if its too late, but in the interview summary we actually said There is widespread but not unanimous agreement that there is little polling place fraud. Thats quite different than saying, as you do here, that there is disagreement.

-----Original Message-----

**From:** psims@eac.gov [mailto:psims@eac.gov]

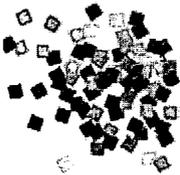
**Sent:** Monday, May 22, 2006 3:56 PM

**To:** [REDACTED]

**Subject:** PowerPoint Presentation to EAC Boards

FYI - Attached is a copy of the PowerPoint presentation on the voting fraud-voter intimidation research project for tomorrow's meetings of the EAC Standards Board (110 state and local election officials) and the EAC Advisory Board (37 representatives from national associations and government agencies who play a role in HAVA implementation and from science and technology-related professions appointed by Congressional members). I used your summaries as the primary source of information for the presentation. --- Peggy

----- Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:22 PM -----



Devon E. Romig/EAC/GOV

05/25/2006 02:37 PM

To Margaret Sims/EAC/GOV@EAC

cc

Subject Summary for VFVI working group meeting

Peggy,

Here is the summary that you requested. Let me know if this works.

Thanks!

Devon Romig  
United States Election Assistance Commission  
1225 New York Ave. NW, Suite 1100  
Washington, DC 20005  
202.566.2377 phone  
202.566.3128 fax  
www.eac.gov



VFVI Meeting Summary.doc

----- Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:22 PM -----

Margaret Sims/EAC/GOV

05/16/2006 02:47 PM

To "Donsanto, Craig"

<Craig.Donsanto@usdoj.gov>@GSAEXTERNAL

cc

006243

Subject RE: Your Materials

I think they are panicking because they are preparing to travel tomorrow and may not have time to submit a revised version. They also are resisting changes to their interview summaries because the summaries represent what they think they heard. I was there at the interview and I heard what you said. I'm not sure that either of them heard everything (including the nuances) because so much of the information was new to them and it was one of their earlier interviews. I'm sorry I did not catch the defects before the summary went out.

My first concern is ensuring that the Working Group has the correct information. Then, we can deal with what version, *if any*, goes in the final report. Do you want me to excerpt the corrections from your email and submit them to the Working Group? --- Peggy

"Donsanto, Craig" <Craig.Donsanto@usdoj.gov>



"Donsanto, Craig"  
<Craig.Donsanto@usdoj.gov>  
>

05/16/2006 01:41 PM

To psims@eac.gov

cc

Subject RE: Your Materials

Sure. But where is the resistance coming from? The notes were not accurate. As you know, I have to be very concerned about that.

---

**From:** psims@eac.gov [mailto:psims@eac.gov]

**Sent:** Tuesday, May 16, 2006 12:34 PM

**To:** Donsanto, Craig

**Subject:** RE: Your Materials

Craig:

I am getting some resistance from my consultants to correcting the summary of the interview prior to the meeting. Would you mind noting the corrections at the meeting? --- Peggy

"Donsanto, Craig" <Craig.Donsanto@usdoj.gov>

05/16/2006 12:06 PM

Topsims@eac.gov

cc

Subject RE: Your Materials

006244

Thank you, Peg. This stuff is very interesting.

---

**From:** psims@eac.gov [mailto:psims@eac.gov]  
**Sent:** Tuesday, May 16, 2006 11:27 AM  
**To:** Donsanto, Craig  
**Subject:** Re: Your Materials

I have forwarded your message to our consultants and have requested a corrected version for distribution at the WG meeting. --- Peggy

"Donsanto, Craig" <Craig.Donsanto@usdoj.gov>

05/16/2006 10:46 AM

Topsims@eac.gov  
cc  
SubjectYour Materials

Peg - -

I have read over the materials you sent to me and viewed the pieces on the CD.

I have only one correction:

I did not say that offenders who receive target letters routinely request - - or routinely receive - - audiences here at DOJHQ. That is very rare. Instead, what usually happens is that once a subject for an

006245

election fraud investigation is advised that he or she is going to be charged that person usually enters into plea negotiations and ultimately pleads guilty. Very few federal election fraud cases go to trial. When a subject does request a HQ interview or a HW hearing, it would be held in the first instance by myself. But again, Peg, that is rare.

Also, while the occurrences of prosecutions of isolated instances of felons and alien voters and double voters has increased, we still aggressively and I believe quite successfully pursue systematic schemes to corrupt the electoral process, as the cases we brought recently out of Knott and Pike Counties in Kentucky, those we brought out of Lincoln and Logan Counties in West Virginia, and those we brought in New Hampshire growing out of the jamming of get-out-the-vote phone bank lines attest.

----- Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:22 PM -----



[REDACTED]  
05/12/2006 09:48 PM

To psims@eac.gov  
cc  
Subject Re: Fraud Definition

How about specifying Section 2 and 203 of the VRA?

----- Original Message -----

**From:** [psims@eac.gov](mailto:psims@eac.gov)

**To:** [REDACTED]

**Sent:** Friday, May 12, 2006 1:34 PM

**Subject:** RE: Fraud Definition

Lets raise this issue at the meeting. (I'll add "DRAFT" to the current document.) My concern is that there are a number of requirements in the Voting Rights Act. Not all of them are considered election fraud, when violated. For example, failure to preclear changes in election procedures is not treated as election fraud, though it is actionable. --- Peggy

[REDACTED]  
05/12/2006 12:45 PM

To psims@eac.gov, [REDACTED]  
cc  
Subject RE: Fraud Definition

Upon first reading, my only comment would be that I would like to restore "failing to follow the

006246

requirements of the Voting Rights Act"

-----Original Message-----

**From:** psims@eac.gov [mailto:psims@eac.gov]

**Sent:** Friday, May 12, 2006 9:20 AM

**To:** [REDACTED]

**Subject:** Fraud Definition

Would you please take a look at the attached? I combined both of your definitions, reformatted the list, removed a reference to the fraud having to have an actual impact on the election results (because fraud can be prosecuted without proving that it actually changed the results of the election), and taken out a couple of vague examples (e.g.; reference to failing to enforce state laws --- because there may be legitimate reasons for not doing so).

I have made contact with Ben Ginsberg's office and am waiting to hear if he accepts our invitation to join the working group. --- Peggy

----- Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:22 PM -----



"Donsanto, Craig"

<Craig.Donsanto@usdoj.gov

To psims@eac.gov

>

cc

05/16/2006 02:55 PM

Subject RE: Your Materials

The first item is not as big a deal as the second one: the processes under which subjects of investigations come to Jesus is not as important as the overall assessment of our law enforcement achievements. But stressing the isolated test cases we brought - - and will continue to bring - - to deter things like felon voting, alien voting and double voting, which not mentioning such significant achievements as the five case PROJECTS mentioned in my last e-mail - - misrepresents what we are doing and the deterrent message we are trying to communicate.

I appreciate that these two young people may have found themselves in a Brave New World when they came over here. It showed in their questioning. But the fact that criminal law enforcement is not at all similar to preventative legal relief (as under the Voting Rights Act) or civil relief (as election contest litigation) is I guess more of a problem than I at first foresaw. My real concern is that the civil rights groups - - with whom we over here have an amazing amount of common grounds - - will take the singling out of the felon and alien voter cases as evincing a malevolent aggression on their constituencies. That is not the case. We are only enforcing the law.

---

**From:** psims@eac.gov [mailto:psims@eac.gov]

**Sent:** Tuesday, May 16, 2006 2:47 PM

**To:** Donsanto, Craig

**Subject:** RE: Your Materials

I think they are panicking because they are preparing to travel tomorrow and may not have time to submit a revised version. They also are resisting changes to their interview summaries because the summaries represent what they think they heard. I was there at the interview and I heard what you said. I'm not sure that either of them heard everything (including the nuances) because so much of the information was new to them and it was one of their earlier interviews. I'm sorry I did not catch the defects before the summary

006247

went out.

My first concern is ensuring that the Working Group has the correct information. Then, we can deal with what version, *if any*, goes in the final report. Do you want me to excerpt the corrections from your email and submit them to the Working Group? --- Peggy

"Donsanto, Craig" <Craig.Donsanto@usdoj.gov>

05/16/2006 01:41 PM

Topsims@eac.gov  
cc  
SubjectRE: Your Materials

Sure. But where is the resistance coming from? The notes were not accurate. As you know, I have to be very concerned about that.

---

**From:** psims@eac.gov [mailto:psims@eac.gov]  
**Sent:** Tuesday, May 16, 2006 12:34 PM  
**To:** Donsanto, Craig  
**Subject:** RE: Your Materials

Craig:

I am getting some resistance from my consultants to correcting the summary of the interview prior to the meeting. Would you mind noting the corrections at the meeting? --- Peggy

"Donsanto, Craig" <Craig.Donsanto@usdoj.gov>

05/16/2006 12:06 PM

Topsims@eac.gov  
cc  
SubjectRE: Your Materials

006248

Thank you, Peg. This stuff is very interesting.

---

**From:** psims@eac.gov [mailto:psims@eac.gov]  
**Sent:** Tuesday, May 16, 2006 11:27 AM  
**To:** Donsanto, Craig  
**Subject:** Re: Your Materials

I have forwarded your message to our consultants and have requested a corrected version for distribution at the WG meeting. --- Peggy

"Donsanto, Craig" <Craig.Donsanto@usdoj.gov>

05/16/2006 10:46 AM

Topsims@eac.gov  
cc  
SubjectYour Materials

006249

Peg - -

I have read over the materials you sent to me and viewed the pieces on the CD.

I have only one correction:

I did not say that offenders who receive target letters routinely request - - or routinely receive - - audiences here at DOJHQ. That is very rare. Instead, what usually happens is that once a subject for an election fraud investigation is advised that he or she is going to be charged that person usually enters into plea negotiations and ultimately pleads guilty. Very few federal election fraud cases go to trial. When a subject does request a HQ interview or a HW hearing, it would be held in the first instance by myself. But again, Peg, that is rare.

Also, while the occurrences of prosecutions of isolated instances of felons and alien voters and double voters has increased, we still aggressively and I believe quite successfully pursue systematic schemes to corrupt the electoral process, as the cases we brought recently out of Knott and Pike Counties in Kentucky, those we brought out of Lincoln and Logan Counties in West Virginia, and those we brought in New Hampshire growing out of the jamming of get0-out-the-vote phone bank lines attest.

--- Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:21 PM ---

Margaret Sims/EAC/GOV

05/16/2006 02:37 PM

To Elieen L. Collver/EAC/GOV

cc dromig@eac.gov

Subject Re: Tent Cards 

Oops! I hit send prematurely. Here is the attachment. --- Peggy



Working Group Attendees 5-18-06.doc

Elieen L. Collver/EAC/GOV



Elieen L. Collver/EAC/GOV

05/16/2006 01:38 PM

To Margaret Sims/EAC/GOV@EAC

cc dromig@eac.gov

Subject Re: Tent Cards 

Please forward list...there was no attachment. thanks!

Elle L.K Collver

006250

U.S. Election Assistance Commission  
1225 New York Avenue, Suite 1100  
Washington, D.C. 20005  
office: (202) 566-2256  
blackberry: (202) 294-9251  
www.eac.gov  
Margaret Sims/EAC/GOV

Margaret Sims/EAC/GOV  
05/16/2006 01:36 PM

To Elieen L. Collver/EAC/GOV@EAC  
cc dromig@eac.gov  
Subject Tent Cards

Attached is a list of folks who will be attending the Voting Fraud-Voter Intimidation Working Group meeting. I have asterisked the names that will require tent cards. I am working on a seating chart so that we can be sure the Ds and the Rs aren't all seated together in a "them vs. us" pattern. --- Peggy

----- Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:21 PM -----



"Donsanto, Craig"  
<Craig.Donsanto@usdoj.gov  
>  
05/23/2006 02:49 PM

To psims@eac.gov, "Voris, Natalie (USAEO)"  
<Natalie.Voris@usdoj.gov>, "Hillman, Noel"  
<Noel.Hillman@usdoj.gov>, "Simmons, Nancy"  
<Nancy.Simmons@usdoj.gov>  
cc

Subject Request to interview AUSAs

Peg --

At the Advisory Board meeting we had last week, your two contractors asked to interview the over-100 AUSAs who are serving as District Election Officers in connection with the Fraud study.

This request needs to be addressed to Natalie Voris of EOUSA per the message from here that follows.

If the contractors require additional information in connection with the Fraud Study, and should EOUSA not be able to satisfy their needs n they can communicate with me on criminal issues and Cameron Quinn on Civil Rights issues.

I will be here when you arrive later today at the Board of Advisors meeting when you arrive to talk to us at 4:30.

Ms. Voris' message follows:

Per the USAM, all requests for interviews/surveys/research projects that involve USAOs must be approved by EOUSA. I am pasting the provision

006251

below - the contact name needs to be updated. Requests should come to me, as the Acting Counsel to the Director.

Thanks,  
Natalie

-----  
Sent from Dr. D's Fabulous BlackBerry Wireless Handheld

----- Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:21 PM -----

Margaret Sims/EAC/GOV

05/24/2006 03:17 PM

To "Tova Wang" <wang@tcf.org>@GSAEXTERNAL

cc Jeannie Layson/EAC/GOV@EAC, bwhitener@eac.gov

Subject Re: press interview 

Thanks for the "heads up". --- Peggy

"Tova Wang" <wang@tcf.org>



"Tova Wang"  
<wang@tcf.org>

05/24/2006 02:52 PM

To psims@eac.gov

cc

Subject press interview

Hi Peg,

Just wanted to give you the heads up that I did an interview with a reporter from The Hill today on fraud. As far as I know he is simply referring to me as a fellow at TCF and I did not discuss the project in any way

Tova Andrea Wang  
Democracy Fellow  
**The Century Foundation**  
41 East 70th Street - New York, NY 10021  
phone: 212-452-7704 fax: 212-535-7534

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----- Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:21 PM -----



"Donsanto, Craig"  
<Craig.Donsanto@usdoj.gov>

>

To psims@eac.gov

cc "Hillman, Noel" <Noel.Hillman@usdoj.gov>, "Simmons,

006252



05/16/2006 09:43 AM

Nancy" <Nancy.Simmons@usdoj.gov>, "Campbell, Benton"  
<Benton.Campbell@usdoj.gov>  
Subject RE: Voting Fraud-Voter Intimidation Working Group

Thank you for this, Peg.

The third bullet point is one I embrace fully. We lack the statutory tool to do the job. Hopefully, that can be remedied through legislation. But as things stand today large loopholes in the federal legal matrix addressing electoral abuse and fraud exist - - particularly when such abuses occur in elections where there were no federal candidates on the ballot.

---

**From:** psims@eac.gov [mailto:psims@eac.gov]  
**Sent:** Tuesday, May 16, 2006 8:44 AM  
**To:** Donsanto, Craig  
**Subject:** Re: Voting Fraud-Voter Intimidation Working Group

Here is the content of the email attachment:

### **Existing Research Analysis**

There are many reports and books that describe anecdotes and draw broad conclusions from a large array of incidents. There is little research that is truly systematic or scientific. The most systematic look at fraud is the report written by Lori Minnite. The most systematic look at voter intimidation is the report by Laughlin McDonald. Books written about this subject seem to all have a political bias and a pre-existing agenda that makes them somewhat less valuable.

Researchers agree that measuring something like the incidence of fraud and intimidation in a scientifically legitimate way is extremely difficult from a methodological perspective and would require resources beyond the means of most social and political scientists. As a result, there is much more written on this topic by advocacy groups than social scientists. It is hoped that this gap will be filled in the "second phase" of this EAC project.

Moreover, reports and books make allegations but, perhaps by their nature, have little follow up. As a result, it is difficult to know when something has remained in the stage of being an allegation and gone no further, or progressed to the point of being investigated or prosecuted or in any other way proven to be valid by an independent, neutral entity. This is true, for example, with respect to allegations of voter intimidation by civil rights organizations, and, with respect to fraud, John Fund's frequently cited book. Again, this is something that it is hoped will be addressed in the "second phase" of this EAC project by doing follow up research on allegations made in reports, books and newspaper articles.

Other items of note:

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- There is as much evidence, and as much concern, about structural forms of disenfranchisement as about intentional abuse of the system. These include felon disenfranchisement, poor maintenance of databases and identification requirements.
- There is tremendous disagreement about the extent to which polling place fraud, e.g. double voting, intentional felon voting, noncitizen voting, is a serious problem. On balance, more researchers find it to be less of a problem than is commonly described in the political debate, but some reports say it is a major problem, albeit hard to identify.
- There is substantial concern across the board about absentee balloting and the opportunity it presents for fraud.
- Federal law governing election fraud and intimidation is varied and complex and yet may nonetheless be insufficient or subject to too many limitations to be as effective as it might be.
- Deceptive practices, e.g. targeted flyers and phone calls providing misinformation, were a major problem in 2004.
- Voter intimidation continues to be focused on minority communities, although the American Center for Voting Rights uniquely alleges it is focused on Republicans.

"Donsanto, Craig" <Craig.Donsanto@usdoj.gov>

05/15/2006 04:53 PM

Topsims@eac.gov

cc

SubjectRe: Voting Fraud-Voter Intimidation Working Group

Peggy --

I am currently on train in transit back from a day in Newark. I tried to recover your attachment on Blackberry but got a message telling me the "file is empty."

Can you paste it to an e-mail perhaps?

-----  
Sent from Dr. D's Fabulous BlackBerry Wireless Handheld

006254





"Job Serebrov"  
 <serebrov@sbcglobal.net>  
 05/16/2006 09:25 AM

To psims@eac.gov, wang@tcf.org  
 cc  
 Subject Re: Date Ranges for Research

Cases were from 2000 to the present.

--- psims@eac.gov wrote:

- > Would you please refresh my memory about the date
- > ranges used for the
- > Nexis article research and the case law research?
- > I'm drawing a blank and
- > I don't see it in the summaries. I need it for this
- > mornings Commissioner
- > briefing. Thanks! --- Peggy

--- Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:21 PM ---



"Job Serebrov"  
 <serebrov@sbcglobal.net>  
 05/15/2006 09:56 AM

To psims@eac.gov  
 cc  
 Subject Re: Question

Did you find out whether I can use the Chairman's parking spot?

--- psims@eac.gov wrote:

- > You will need to submit hotel and parking receipts.
- > You don't need to submit meal receipts. You don't
- > need to submit gas receipts because use of a
- > personally owned vehicle (POV) is reimbursed based
- > on mileage. I think I emailed the mileage rate to
- > you. If you need it again, I'll look it up when I am
- > at the office (this afternoon).
- > Peg

> -----  
 > Sent from my BlackBerry Wireless Handheld

> ----- Original Message -----

- > From: "[REDACTED]"
- > Sent: 05/12/2006 09:05 PM
- > To: psims@eac.gov
- > Subject: Question

006256

> Peg:  
>  
> Since I am driving to DC, besides hotel receipts, do  
> you want me to keep my gas receipts or how will my  
> car  
> use be compensated? Also, I assume I don't have to  
> retain food receipts.  
>  
> Job  
>  
>  
>

----- Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:21 PM -----

Margaret Sims/EAC/GOV

05/24/2006 04:57 PM

To "Tova Wang" <wang@tcf.org>@GSAEXTERNAL

cc

Subject RE: presentation 

The Standards Board has the reputation of being crankier than the Board of Advisors. They beat up on the Commissioners last year.





"Tova Wang"

  
05/24/2006 04:50 PM

To psims@eac.gov

cc

Subject RE: presentation

Is such a roasting usual? I mean, do they think we did a bad job???

-----Original Message-----

**From:** psims@eac.gov [mailto:psims@eac.gov]

**Sent:** Wednesday, May 24, 2006 3:43 PM

**To:** wang@tcf.org

**Subject:** RE: presentation

You have most of the pieces of the report now. We absolutely need to put the statutory authority for the research up front. We need to add the definition. We also need to add a short piece addressing the approach for this preliminary research (including short statements on the pros and cons of information sources --- you began to address this in the literature review summary). I expect that the biggest project will be fleshing out the possible avenues for subsequent research in this area. It would be great if we could come up with cost estimates. If we can't, we need to at least identify what info we hope to get, what we are likely to miss, and any pitfalls.

Given today's roast, I will take another look at what we have now to highlight remarks that might

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needlessly tick board members off. We can discuss whether or not editing or removing the remark would be detrimental to or have no real effect on the final report. (An example of such a remark is the reference to the number of articles out of Florida. A local official from that State objected on the grounds that the number of articles does not reliably indicate the number of problems.) I know we can expect a challenge from Board of Advisors member Craig Donsanto regarding the focus of the Election Crimes Branch prosecutions.

Yes, we can discuss the organization and "look" of the report after Job returns. Yes, the Commissioners will want to review it and submit their changes before the report goes to the boards.

It is too early to tell what EAC efforts may be mounted in FY 2007. I doubt that fire from the Standards Board will prevent Commissioners from doing what they think is needed. But, given that it is an election year, appropriations legislation may not be signed until December or later -- so we won't know how much money we have for awhile. --- Peggy

[REDACTED]  
05/24/2006 03:27 PM

To psims@eac.gov  
cc  
Subject RE: presentation

Yikes. It sounds like a lot of work after all. Should we talk over what the report should look like again, I guess when Job gets back? Will you help us write it in a way you think will satisfy? I guess it goes to the commissioners first anyway. Does this portend anything for phase 2?

Thanks Peg. Tova

-----Original Message-----

**From:** psims@eac.gov [mailto:psims@eac.gov]

**Sent:** Wednesday, May 24, 2006 2:16 PM

**To:** [REDACTED]

**Subject:** Re: presentation

I'm glad it is over --- for now. One audience was a lot tougher than the other. The Standards Board was much more critical of the research than the Board of Advisors.

Of course, the Board of Advisors is the body that wanted EAC to place a high priority on the research. Its members were interested in sharing personal experiences (including problems with getting anyone to prosecute) and observations (that we need to expand the research to give Congress and political parties a better picture of how rare or prevalent are voting fraud and intimidation, that the HAVA-mandated statewide voter registration lists should help to prevent fraud, etc.). They also asked if EAC will look at specific opportunities for fraud (using cell phones

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in vote buying schemes to photograph the ballot being cast at the poll) and how the agency will research voter intimidation/suppression involving voters with disabilities (advocates want to pass on complaints received).

The members of the Standards Board focused much more on the scope of the research and the completeness and accuracy of the information gleaned. Some wanted to include campaign finance crimes in the mix; others understood why we did not. Several did not like the use of newspaper articles, or were defensive about references to the large number of articles about their State. They made the point that, given the vagaries of the press, EAC should not use the number of articles about a specific State or particular vote fraud/intimidation activity as a basis for determining the likelihood that problems will occur in a given State or the frequency with which certain activities occur. (I never said that we did, but some members thought it was at least implied.) Some members want more research on the topic (into prosecutions and/or unsuccessful referrals made by election officials to law enforcement agencies); others want us to "quit throwing away tax dollars" and to stop the research altogether. Although my first slide noted our statutory authority to conduct this study, several members challenged EAC's right to do so --- saying that DOJ, not EAC, should conduct such research.

The dueling approaches of these boards may give us heartburn when the time comes for them to review and comment on the draft. We will have to make a strong statement at the beginning, perhaps repeated at the end, that this is preliminary research. We also may need to thoroughly explain how choices were made regarding what to look at, who to interview, etc. We may need to clearly acknowledge both the strengths and weaknesses of the various sources of information used in the preliminary research. Finally, when reviewing ideas for subsequent research, we may need to discuss the pros and cons of each approach, what additional information we expect to retrieve, and, perhaps, the estimated cost.

By the way, I did clarify the polling place fraud bullet. --- Peg

05/24/2006 09:14 AM

To psims@eac.gov  
cc  
Subject presentation

How did it go? Were you able to verbally correct that discrepancy we talked about the other day?  
Thanks. Tova

Tova Andrea Wang  
Democracy Fellow  
The Century Foundation

006259

41 East 70th Street - New York, NY 10021  
phone: 212-452-7704 fax: 212-535-7534

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[Click here](#) to receive our weekly e-mail updates.

— Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:21 PM —



Elieen L. Collver/EAC/GOV

05/15/2006 12:19 PM

To Margaret Sims/EAC/GOV@EAC

cc Laiza N. Otero/EAC/GOV@EAC, dromig@eac.gov@EAC

Subject working group

Peggy,

In preparation for the logistics of this week's working group, I need to know how many people to expect for the meeting. Also, if you still need me to make name tags, I will need a list of attendees and the avery label size.

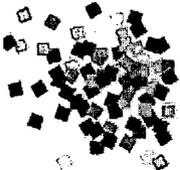
Also, I will need help from Laiza on the table tents, or we can see if she has the time to help with that.

Thanks!

Elle

Elle L.K Collver  
U.S. Election Assistance Commission  
1225 New York Avenue, Suite 1100  
Washington, D.C. 20005  
office: (202) 566-2256  
blackberry: (202) 294-9251  
[www.eac.gov](http://www.eac.gov)

— Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:21 PM —



Devon E. Romig/EAC/GOV

05/15/2006 02:25 PM

To Elieen L. Collver/EAC/GOV@EAC

cc Laiza N. Otero/EAC/GOV@EAC, Margaret  
Sims/EAC/GOV@EAC

Subject Re: working group

I have attached the list of the working groups participants. Peggy, you may want to double check this list incase I have left anyone out.

In place of name tags we just used the tent cards for the APIA working group. This seemed to be effective because it was easier to identify the person who was speaking but we could use both.

006260



Meeting Participants for VFVI Working Group.doc

Devon Romig  
United States Election Assistance Commission  
1225 New York Ave. NW, Suite 1100  
Washington, DC 20005  
202.566.2377 phone  
202.566.3128 fax  
www.eac.gov  
Elieen L. Collver/EAC/GOV



Elieen L. Collver/EAC/GOV  
05/15/2006 12:19 PM

To Margaret Sims/EAC/GOV@EAC  
cc Laiza N. Otero/EAC/GOV@EAC, dromig@eac.gov@EAC  
Subject working group

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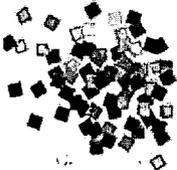
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— Forwarded by Margaret Sims/EAC/GOV on 04/30/2007 04:21 PM —



Devon E. Romig/EAC/GOV  
05/15/2006 03:28 PM

To Elieen L. Collver/EAC/GOV@EAC  
cc Margaret Sims/EAC/GOV@EAC  
Subject Re: working group

I have arranged for a transcriptionist to be at the meeting but I am not sure about the snacks for the break.

Devon Romig

006261

United States Election Assistance Commission  
1225 New York Ave. NW, Suite 1100  
Washington, DC 20005  
202.566.2377 phone  
202.566.3128 fax  
www.eac.gov  
Elieen L. Collver/EAC/GOV



Elieen L. Collver/EAC/GOV  
05/15/2006 03:19 PM

To Margaret Sims/EAC/GOV@EAC  
cc dromig@eac.gov  
Subject Re: working group 

Sounds great. It did seem to work just fine for our Asian Language group. Is there going to be a transcriptionist? If so, has anyone taken care of that?

Did you still want to provide the cookies or snacks, or shall I get that from Cafe Mozart (where I am planning to get the coffee). I can just buy a few boxes of cookies for the break.

Elle

Elle L.K Collver  
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1225 New York Avenue, Suite 1100  
Washington, D.C. 20005  
office: (202) 566-2256  
blackberry: (202) 294-9251  
www.eac.gov

Margaret Sims/EAC/GOV

05/15/2006 02:48 PM

To Elieen L. Collver/EAC/GOV@EAC  
cc dromig@eac.gov  
Subject Re: working group [Link](#)

Elle:

I think our number will be about 21 (with the Working Group members, consultants, possible EAC Commissioners and staff, and the court reporter). I'll have a better idea of the final list after I brief Commissioners tomorrow morning. Devon noted that they used only tent cards for the Asian Language Working Group. That might be sufficient for this group and would cut back on some of the work we have

006262