



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

TALLY VOTE MATTER

DATE & TIME OF TRANSMITTAL: September 16, 2005, 3:00PM

BALLOT DEADLINE: September 20, 2005, 3:00PM

COMMISSIONERS: HILLMAN, DEGREGORIO, MARTINEZ, DAVIDSON

SUBJECT: Consulting assistance with developing an Election Assistance Commission (EAC) Voting Fraud and Voter Intimidation Project

- I approve the recommendation.
- I disapprove of the recommendation.
- I object to the recommendation.
- I am recused from voting.

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE: September 18, 2005 SIGNATURE: Paul S DeGregorio  
*signed by Ann Smith*

A definite vote is required. All ballots must be signed and dated. Please return ONLY THE BALLOT to DeAnna Smith. Please return the ballot no later than the date and time shown above.

FROM THOMAS R. WILKEY, EXECUTIVE DIRECTOR



Paul DeGregorio/EAC/GOV  
09/18/2005 04:38 PM

To Amie J. Sherrill/EAC/GOV  
cc Thomas R. Wilkey/EAC/GOV, Juliet E. Thompson/EAC/GOV,  
Karen Lynn-Dyson/EAC/GOV, Carol A. Paquette/EAC/GOV  
bcc  
Subject Tally Votes

This is to authorize my Special Assistant, Amie Sherrill, to mark on my behalf the following Tally Votes regarding the awarding of contracts, as approving the staff recommendation for each of the following:

1. RFP #05-04 to the University of Florida Levin College of Law for the development of legal resources clearinghouse
2. RFP #05-07 to the Center for Public Policy and Administration of the University of Utah for the development of best practices on vote count and recount procedures
3. RFP #05-11 to Zimmerman Associates, Inc for the development of records management policies and procedures
- ~~4. Sole Source contracts to Job Serebry and Goya Wang in developing a EAC Voting Brand and Voter Information Program~~
5. Sole Source contract to the National Academies of Science for Technical Support for Statewide Registration Database Implementation with Online Forums for Discussion

Paul DeGregorio  
Vice Chairman  
US Election Assistance Commission  
1225 New York Ave, NW  
Suite 1100  
Washington, DC 20005  
1-866-747-1471 toll-free  
202-566-3100  
202-566-3127 (FAX)  
pdegregorio@eac.gov  
www.eac.gov

026015



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

TALLY VOTE MATTER

DATE & TIME OF TRANSMITTAL: September 16, 2005, 3:00PM

BALLOT DEADLINE: September 20, 2005, 3:00PM

COMMISSIONERS: HILLMAN, DEGREGORIO, MARTINEZ, DAVIDSON

SUBJECT: Consulting assistance with developing an Election Assistance Commission (EAC) Voting Fraud and Voter Intimidation Project

- I approve the recommendation.
- I disapprove of the recommendation.
- I object to the recommendation.
- I am recused from voting.

COMMENTS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

DATE: 9-17-05

SIGNATURE: *Jim Hillman*

A definite vote is required. All ballots must be signed and dated. Please return ONLY THE BALLOT to DeAnna Smith. Please return the ballot no later than the date and time shown above.

FROM THOMAS R. WILKEY, EXECUTIVE DIRECTOR *TRW*



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

**TALLY VOTE MATTER**

**DATE & TIME OF TRANSMITTAL:** November 3, 2005, 5:00PM

**BALLOT DEADLINE:** November 7, 2005, 5:00 PM

**COMMISSIONERS:** DEGREGORIO, HILLMAN, MARTINEZ, DAVIDSON

**SUBJECT:** Ratification of Personal Services Contract with Tova Wang  
(EAC 05-66).

- ( ) I approve the recommendation.
- ( ) I disapprove the recommendation.
- ( ) I object to the recommendation.
- ( ) I am recused from voting.

**COMMENTS:** See the attached memo in support.

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**DATE:** \_\_\_\_\_ **SIGNATURE:** \_\_\_\_\_

A definite vote is required. All ballots must be signed and dated. Please return ONLY THE BALLOT to the Benita Fundersburg. Please return the ballot no later than date and time shown above.

FROM JULIET THOMPSON, GENERAL COUNSEL

026015



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

**MEMORANDUM**

**TO:** Commissioners Hillman, DeGregorio, Martinez and Davidson  
**FROM:** Juliet Thompson  
**DATE:** November 1, 2005  
**RE:** **Personal Services Contract with Tova Wang (EAC Contract No. 05-66; ACT No. E4019697)**

**BACKGROUND:**

On or about October 7, 2005, the Chair of the EAC requested that the Office of General Counsel review 19 contracts for procurement of goods and services. As a part of the review, we examined contract file documents and spoke with EAC staff and representatives involved in each stage of the contracting process.

In reviewing the contract with Ms. Tova Wang to provide services in researching and developing a voter fraud and intimidation project for EAC, we determined that the agreement had been entered through a legally permissible process, that a vote was taken by the Commission to award this agreement, that the award was communicated by an EAC staff member to Ms. Wang, work has begun under the agreement, and that EAC has and will receive a benefit from the provision of these services by Ms. Wang. The review revealed that the commitment was made by a person who was not the contracting officer of EAC and who was not authorized to make such commitment. Therefore, this agreement was made by a person who did not have the authority to bind the Commission. Because the contract was otherwise proper and EAC has and will continue to receive benefits from the completion of this contract, the agreement and facts surrounding it fit within the framework for ratification set forth in the Federal Acquisition Regulation (FAR).

Ratification is the process proscribed by the FAR to approve, by an official with the authority to do so, an agreement that was not binding on an agency because the Government representative who made it lacked authority to enter into the agreement on behalf of the government (unauthorized commitment). (FAR 1.602-3(a)).

## REQUIREMENTS FOR RATIFICATION:

FAR 1.602-3 (b) and (c) set federal ratification policy and requirements. These sections note:

- (1) Agencies should take action to prevent the need for ratification actions. Ratification procedures should not be used in a manner that encourages unauthorized commitments being made by government personnel. (FAR 1.602-3(b)(1)).
- (2) The head of an agency's contracting activity, unless the authority is designated higher, may ratify an unauthorized agreement. This authority may be delegated with limitations. (FAR 1.602-3(b)(2) & (3)).
- (3) Agencies should process unauthorized commitments consistent with FAR 1.602-3. Such actions should not be forwarded to the General Accounting Office for resolution unless they are subject to a Contracts Dispute Act Claim or are not otherwise ratifiable under the subsection. (FAR 1.602-3(b)(4)-(5) & (d)).
- (4) Consistent with FAR 1.602-3(c)(1)-(7), ratification authority may be exercised only when:
  - a. *Supplies or services have been provided to and accepted by the Government, or the Government otherwise has obtained or will obtain a benefit resulting from performance of the unauthorized commitment;*
  - b. *The ratifying official has the authority to enter into a contractual commitment;*
  - c. *The resulting contract would otherwise have been proper if made by an appropriate contracting officer;*
  - d. *The contracting officer reviewing the unauthorized commitment determines the price to be fair and reasonable;*
  - e. *The contracting officer recommends payment and legal counsel concurs in the recommendation, unless agency procedures expressly do not require such concurrence; and*
  - f. *Funds are available and were available at the time the unauthorized commitment was made.*

## ANALYSIS:

The commitment at issue began as a routine contracting effort. EAC, unlike many government agencies, has the express statutory authorization to enter into personal services contracts under 5 U.S.C. Section 3109. That authority is provided by the Help America Vote Act Section 204(b). Section 3109 and Office of Personnel Management regulations implementing the statute allow personal services contracts only when they meet the terms specified in the statute and regulation for type of appointment and rate of pay. The agreement with Mr. Serebrov properly appoints him in an intermittent capacity and establishes a rate of \$111 per hour, a rate which falls within the limits prescribed by 5 CFR Part 304.105.

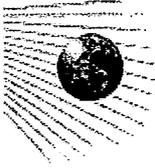
In reviewing the fiscal law, it appears that the type of the contract is not dispositive as to whether the services provided by that contract are severable and must be funded in the fiscal year in

which the services are rendered. While personal services contracts are generally considered severable (and payable in the fiscal year the work is performed), there must be an analysis of the nature of the work performed under the contract. The GAO Red Book, Vol. I sites one case which notes that legal administrative services were considered severable where there was no final report or final product produced from the contractual agreement. Another, case determined that substantive legal services procured from attorney's was non-severable. Thus, appears to be a distinction made between perennial, clerical work and substantive, project-based work. In the instant case, the consultant is providing project associated services that will result in a final report and final product in the form of a report and an RFP for a future study of voter fraud and voter intimidation.

Issues regarding the agreement's unauthorized nature arose near the end of the award process. While the contract authority (Commissioners) properly took action to make an award determination, they relied on EAC employees to communicate this fact to the contractor. In doing so, the Commission failed to realize that it is the communication of acceptance and award by the appropriate person that serves to obligate the government. EAC personnel seem to have viewed the Commissioners' concurrence as granting them the authority to communicate award in a manner that would obligate the agency. The bottom line is that the EAC employee believed her efforts to notify the contractor of award obligated the EAC by accepting the contractor's proposal. Based upon this, the contractor began performance on the agreement and the EAC has and will receive benefit.

**RECOMMENDATION:**

- (1) Review the contract, contract materials and statements of persons involved in the contracting process;
- (2) Ratify the contract by voting affirmatively to take such action;
- (3) Authorize the Chair on behalf of the Commission, with concurrence by the General Counsel, to document such ratification through a memorandum for the record to become a permanent part of the contract file on this contract;
- (4) Execute the contract and transmit the signed contract to the contractor.



Paul DeGregorio /EAC/GOV

11/17/2005 10:18 AM

To Juliet E. Thompson/EAC/GOV

cc

bcc

Subject Fw: RESPONSE REQUESTED-Working Group for Voting  
Fraud and Voter Intimidation Project

Fyi.  
Any recommendations?

-----  
Sent from my BlackBerry Wireless Handheld

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

**From:** Margaret Sims

**Sent:** 11/16/2005 01:12 PM

**To:** Gracia Hillman; Paul DeGregorio; Raymundo Martinez;  
donetta.davidson

**Cc:** Sheila Banks; Amie Sherrill; Adam Ambrogi; Elieen Collver; Gavin Gilmour

**Subject:** RESPONSE REQUESTED-Working Group for Voting Fraud and Voter  
Intimidation Project

Dear Commissioners:

The consultants' contracts for EAC's voting fraud and voter intimidation project require Tova Wang and Job Serebrov to work in consultation with EAC staff and the Commissioners "to identify a working group of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation". The contracts do not specify the number of working group members but, as EAC has to pay for the group's travel and we want the size of the group to be manageable, I recommend that we limit the number to 6 or 8. **Please let me know if you think that this limit is too conservative** .

Attached for your review and comment are two lists of potential working group members for this project. One list was submitted by Job, the other by Tova. Tova and Job have provided brief summaries of each candidate's relevant experience and have placed asterisks next to the names of the individuals whom they particularly recommend. I can provide more extensive biographies of these individuals, if you need them. If EAC agrees that the recommended working group members are acceptable, an equal number may be selected from each list in order to maintain a balanced perspective.

Absent from the attached lists is the name of a representative from the U.S. Department of Justice's Election Crimes Branch. At this time, I am working through the DOJ bureaucracy to determine to what degree Craig Donsanto will be permitted to participate. If he cannot be named as a working group member, we may still be able to use him as a resource.

**Please provide your feedback to me no later than Monday , November 28.** I am available to meet with you if you would like to discuss this matter further.

Peggy Sims  
Research Specialist

026019



Possible Working Group Members -Serebrov.doc Possible Working Group Members- Wang.doc

## Possible Working Group Members - Serebrov

I recommend the first four with an \*

\***Mark (Thor) Hearne II**-Counsel to Republican National Committee; National Counsel to American Center for Voting Rights; National election counsel to Bush-Cheney, '04; Testified before U.S. House Administration Committee hearings into conduct of Ohio presidential election; Academic Advisor to Commission on Federal Election Reform (Baker-Carter Commission).

\***Todd Rokita**-Secretary of State, Indiana; Secretary Rokita strives to reform Indiana's election practices to ensure Indiana's elections are as fair, accurate and accessible as possible; Secretary Rokita serves on the nine-member Executive Board of the Election Assistance Commission Standards Board, charged by federal law to address election reform issues.

\***Patrick J. Rogers**-Partner/Shareholder, Modrall, Sperling, Roehl, Harris and Sisk, P.A., Albuquerque, New Mexico; 1991-2003 General Counsel to the New Mexico Republican Party; Election cases: *The Coalition to Expose Ballot Deception, et al v. Judy N. Chavez, et al*; Second Judicial District Court of Bernalillo County, New Mexico (2005); represented plaintiffs challenging petition procedures; *Miguel Gomez v. Ken Sanchez and Judy Chaves*; Second Judicial District Court of Bernalillo County, New Mexico (2005); residency challenge; *Moises Griego, et al v. Rebecca Vigil-Giron v. Ralph Nader and Peter Miguel Camejo*, Supreme Court for the State of New Mexico (2004); represented Ralph Nader and Peter Camejo, ballot access issues; *Larry Larrañaga, et al v. Mary E. Herrera and Rebecca Vigil-Giron*, Supreme Court of New Mexico (2004); voter identification and fraudulent registration issues; *Decker, et al v. Kunko, et al*; District Court of Chaves County, New Mexico (2004); voter identification and fraudulent registration issues; *Kunko, et al v. Decker, et al*; Supreme Court of New Mexico (2004); voter identification and fraudulent registration issues; *In the Matter of the Security of Ballots Cast in Bernalillo County in the 2000 General Election*; Second Judicial District Court of Bernalillo County, New Mexico (2000); voting and counting irregularities and fraud.

\***David A. Norcross**- Partner, Blank Rome LLP, Trenton NJ, Washington D.C; Chairman, New Jersey Republican State Committee, 1977 – 1981; General Counsel, Republican National Committee, 1993 – 1997; General Counsel, International Republican Institute; Counsel, The Center for Democracy; Vice Chairman, Commission on Presidential Debates; Executive Director, New Jersey Election Law Enforcement Commission

**Benjamin L. Ginsberg**-Served as national counsel to the Bush-Cheney presidential campaign; He played a central role in the 2000 Florida recount; He also represents the campaigns and leadership PACs of numerous members of the Senate and House, as well as the Republican National Committee, National Republican Senatorial Committee and

National Republican Congressional Committee; His expertise is more in campaign finance.

**Cleta Mitchell**-Partner in the Washington, D.C. office of Foley & Lardner LLP; She advises corporations, nonprofit organizations, candidates, campaigns, and individuals on state and federal election and campaign finance law, and compliance issues related to lobbying, ethics and financial disclosure; Ms. Mitchell practices before the Federal Election Commission and similar federal and state enforcement agencies; Her expertise is more in campaign finance law.

**Mark Braden**-Of counsel at Baker & Hostetler; He concentrates his work principally on election law and governmental affairs, including work with Congress, the Federal Election Commission, state campaign finance agencies, public integrity issues, political broadcast regulation, contests, recounts, the Voting Rights Act, initiatives, referendums and redistricting; His expertise is mainly outside of the voter fraud area.

To: Peggy Sims  
From: Tova Wang  
Re: Working Group Recommendations  
Date: November 12, 2005

\*Wendy R. Weiser, Associate Counsel in the Democracy Program at the Brennan Center for Justice at NYU School of Law and an expert in federal and constitutional law, has done a great deal of research, writing, speaking, and litigating on voting rights and election law issues. As part of the Brennan Center's wide ranging activities in the area of democracy, Ms. Weiser is currently overseeing an analysis and investigation of recent allegations of voter fraud throughout the country.

\*Barbara Arnwine is Executive Director of the Lawyers Committee for Civil Rights Under Law, an organization that for four decades has been at the forefront of the legal struggle to secure racial justice and equal access to the electoral process for all voters. Notably, Ms. Arnwine and the organization have led the Election Protection program for the last several years, a nationwide grassroots education and legal effort deploying thousands of volunteers and using a nationally recognized voter hotline to protect voters' rights on election day.

\*Daniel Tokaji, professor and associate director of the Election Law Center at the Moritz College of Law at the Ohio State University, is one of the nation's foremost experts in election law and reform and ensuring equality in the voting system. Professor Tokaji frequently writes and speaks on democracy related issues at academic and practitioner conferences, on such issues as voting technology, fraud, registration, and identification requirements, as well as the interplay between the election administration practices and voting rights laws.

Donna Brazile is Chair of the Democratic National Committee's Voting Rights Institute, the Democratic Party's major initiative to promote and protect the right to vote created in response to the irregularities of the 2000 election, and former Campaign Manager for Gore-Lieberman 2000 (the first African American to lead a major presidential campaign.) Brazile is a weekly contributor and political commentator on CNN's Inside Politics and American Morning, a columnist for Roll Call Newspaper and a contributing writer for Ms. Magazine.

Wade Henderson is the Executive Director of the Leadership Conference on Civil Rights (LCCR) and Counsel to the Leadership Conference on Civil Rights Education Fund (LCCREF), an organization at the forefront of defending voting rights for the last fifty years. Prior to his role with the Leadership Conference, Mr. Henderson was the Washington Bureau Director of the National Association for the Advancement of Colored People (NAACP)

Robert Bauer is the Chair of the Political Law Practice at the law firm of Perkins Coie, National Counsel for Voter Protection, Democratic National Committee, Counsel to the Democratic Senatorial and Congressional Campaign Committees and Co-Author, Report

of Counsel to the Senate Rules and Administration Committee in the Matter of the United States Senate Seat from Louisiana in the 105<sup>th</sup> Congress of the United States, (March 27, 1997). He is the author of *United States Federal Election Law*, and one of the foremost attorneys in the country in the area of federal/state campaign finance and election laws.

Laughlin McDonald has been the executive director of the Southern Regional Office of the ACLU since 1972 and as the Director of the ACLU Voting Rights Project, McDonald has played a leading role eradicating discriminatory election practices and protecting the gains in political participation won by racial minorities since passage of the 1965 federal Voting Rights Act. During the past two decades, McDonald has broken new ground by expanding ACLU voting rights cases to include representation of Native Americans in various western states, and written innumerable publications on voting rights issues.

Joseph E. Sandler is a member of the firm of Sandler, Reiff & Young, P.C., in Washington, D.C., concentrating in campaign finance and election law matters, and general counsel to the Democratic National Committee. As an attorney he has handled campaign finance and election law matters for Democratic national and state party organizations, Members of Congress, candidates and campaigns. He served as general co-counsel of the Association of State Democratic Chairs, as general counsel for the Democratic Governors' Association and as counsel to several state Democratic parties.

Cathy Cox is serving her second term as Georgia's Secretary of State, having first been elected in 1998. In 2002 she earned re-election with over 61 percent of the vote, winning 146 out of 159 counties. Because of Secretary Cox's efforts Georgia has become a national leader in election reform. Her initiative made Georgia the first state in America to deploy a modern, uniform electronic voting system in every county



Paul DeGregorio /EAC/GOV  
09/28/2006 09:09 PM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Re: Speech on Fraud intimidation Sept 29 06 Salt Lake City  


Thanks. I actually sent you an earlier version by mistake. That paragraph. (and a few others) have been improved. You are right about Tova. I'll say the consultants' report is undergoing staff review.

-----  
Sent from my BlackBerry Wireless Handheld

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

**From:** Juliet E. Hodgkins  
**Sent:** 09/28/2006 08:52 PM  
**To:** Paul DeGregorio  
**Subject:** Re: Speech on Fraud intimidation Sept 29 06 Salt Lake City

Paul,

Two comments:

1) There is a sentence on page 2 that doesn't make sense. I have copied the text below.

. While others consider any form of ineligible voter as fraud.

2) I am pretty sure that we have received the final product from our voter fraud/intimidation contractors. However, that product is pending staff review. So, if Tova is in the audience and she likely will be, she may challenge the statement in the speech that we await their report.

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

-----Paul DeGregorio/EAC/GOV wrote: -----

To: Juliet E. Thompson/EAC/GOV, Jeannie Layson/EAC/GOV  
From: Paul DeGregorio/EAC/GOV  
Date: 09/28/2006 05:10PM

026025

Juliet E. Hodgkins/EAC/GOV  
12/08/2006 04:38 PM

To Paul DeGregorio/EAC/GOV@EAC, Gracia Hillman/EAC/GOV@EAC, "Davidson, Donetta" <ddavidson@eac.gov>, Thomas R. Wilkey/EAC/GOV@EAC  
cc Bert A. Benavides/EAC/GOV@EAC, Sheila A. Banks/EAC/GOV@EAC, Elieen L. Collver/EAC/GOV@EAC, Matthew Masterson/EAC/GOV@EAC, jlayson@eac.gov  
bcc

Subject Draft response to Tova Wang

History

 This message has been replied to

Commissioners,

Jeannie and I have collaborated on the following draft response to Tova Wang's letter. Please let me know if you agree or have comments/edits.



draft response to Tova Wang.doc

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

026026

December 8, 2006

Ms. Tova Wang  
(Address)  
(Address)

Dear Ms. Wang:

The U.S. Election Assistance Commission believes that voting fraud and voter intimidation are very important, complex topics that should be studied and reported on fairly and accurately. As a clearinghouse of election administration information, EAC is committed to providing complete and comprehensive information to the election community and the public.

In its December 2006 report on voting fraud and voter intimidation, EAC honored this commitment by providing the readers of its report with the full and complete summaries of every interview conducted as well as every book, article, report or case that was reviewed. It is incumbent upon us to provide them with the best and most complete data and research that we can. Rather than provide only the synopsis of these interviews, EAC provided the readers with the entire summaries created by the consultants so readers could reach their own conclusions about the substance of the interviews.

With regard to the interviews of two of the personnel from the Department of Justice, EAC made clarifying edits. Upon reviewing initial information about their interviews contained in the status report provided to the EAC Standards Board and EAC Board of Advisors and the information provided by the consultants at the working group meeting, those persons interviewed did not agree with certain characterizations of their statements contained in these materials. The Department of Justice is an important prosecutorial agency engaged in enforcing Federal anti-fraud and anti-intimidation laws. Thus, it was important to EAC to assure that the summary of their comments did not lend confusion to an already complex and hotly-debated topic.

Because of the lack of organization and cohesion in the draft provided by the consultants, that document would have led to greater confusion and division regarding the issues of voting fraud and voter intimidation. As such, EAC revised the draft report and provided the entirety of the supporting documentation to the public.

For these reasons, the report on voting fraud and voter intimidation will stand as adopted on December 7, 2006.

Juliet E. Hodgkins/EAC/GOV  
12/08/2006 05:37 PM

To Paul DeGregorio/EAC/GOV@EAC  
cc  
bcc  
Subject Re: Draft response to Tova Wang

History: This message has been replied to

I can certainly do that. I was focusing on trying to use her own words against her.

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100  
Paul DeGregorio/EAC/GOV



Paul DeGregorio /EAC/GOV  
12/08/2006 05:29 PM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
Subject Re: Draft response to Tova Wang

Julie,

The letter is good, but don't you want to point out that in every report we issue that the research provided by paid consultants/organizations is provided under contract to the EAC, who by law is ultimately responsible for any final report issued to the public. And that such reports always takes into consideration the research provided but the EAC is obligated to consider all factors when making determinations to insure fairness and integrity of the process.

Paul

-----  
Sent from my BlackBerry Wireless Handheld  
Juliet E. Hodgkins  
----- Original Message -----

**From:** Juliet E. Hodgkins  
**Sent:** 12/08/2006 04:38 PM  
**To:** Paul DeGregorio; Gracia Hillman; Donetta Davidson; Thomas Wilkey  
**Cc:** Bert Benavides; Sheila Banks; Elieen Collver; Matthew Masterson; Jeannie Layson  
**Subject:** Draft response to Tova Wang

Commissioners,

Jeannie and I have collaborated on the following draft response to Tova Wang's letter. Please let me know if you agree or have comments/edits.

[attachment "draft response to Tova Wang.doc" deleted by Paul DeGregorio/EAC/GOV]

Juliet Thompson Hodgkins  
General Counsel

026028

United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100



Paul DeGregorio /EAC/GOV

12/08/2006 05:40 PM

To Juliet E. Hodgkins/EAC/GOV@EAC

cc

bcc

Subject Re: Draft response to Tova Wang

I saw that...and feel it's VERY appropriate considering the unprofessional conduct she had shown in dealing with this matter.  
Have a great weekend.

-----  
Sent from my BlackBerry Wireless Handheld

Juliet E. Hodgkins

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

**From:** Juliet E. Hodgkins

**Sent:** 12/08/2006 05:37 PM

**To:** Paul DeGregorio

**Subject:** Re: Draft response to Tova Wang

I can certainly do that. I was focusing on trying to use her own words against her.

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100  
Paul DeGregorio/EAC/GOV



Paul DeGregorio /EAC/GOV

12/08/2006 05:29 PM

To Juliet E. Hodgkins/EAC/GOV@EAC

cc

Subject Re: Draft response to Tova Wang

Julie,

The letter is good, but don't you want to point out that in every report we issue that the research provided by paid consultants/organizations is provided under contract to the EAC, who by law is ultimately responsible for any final report issued to the public. And that such reports always takes into consideration the research provided but the EAC is obligated to consider all factors when making determinations to insure fairness and integrity of the process.

Paul

-----  
Sent from my BlackBerry Wireless Handheld

Juliet E. Hodgkins

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

**From:** Juliet E. Hodgkins

**Sent:** 12/08/2006 04:38 PM

**To:** Paul DeGregorio; Gracia Hillman; Donetta Davidson; Thomas Wilkey

**Cc:** Bert Benavides; Sheila Banks; Eileen Collver; Matthew Masterson;

Jeannie Layson

026030

**Subject:** Draft response to Tova Wang

Commissioners,

Jeannie and I have collaborated on the following draft response to Tova Wang's letter. Please let me know if you agree or have comments/edits.

[attachment "draft response to Tova Wang.doc" deleted by Paul DeGregorio/EAC/GOV]

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

026031

Juliet E. Hodgkins/EAC/GOV  
12/11/2006 11:40 AM

To "Davidson, Donetta" <ddavidson@eac.gov>, Paul  
DeGregorio/EAC/GOV@EAC  
cc Gracia Hillman/EAC/GOV@EAC  
bcc

Subject Fw: Draft response to Tova Wang

History This message has been replied to

commisisoners,

See below edits that Gracia has offered to the letter. Let me know if you agree. I would like to send this out today. Also, in response to Gracia's question below, I believe that since her letter was addressed to the Commissioners that the Commissioners should respond (either collectively or through the Chairman). Please let me know if you agree with the edits. It would be nice to get this out today.

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

— Forwarded by Juliet E. Hodgkins/EAC/GOV on 12/11/2006 11:37 AM —



Gracia Hillman/EAC/GOV  
12/11/2006 11:26 AM

To Juliet E. Hodgkins/EAC/GOV@EAC, jlayson@eac.gov  
cc

Subject Re: Draft response to Tova Wang

Julie and Jeannie:

Thank you for the quick turn around on drafting a response to Tova Wang.

I have made substantial edits because I think the first draft offered too much information, which is not germane to Tova's complaint. Additionally, too much verbiage masks the strength of our good report and seemed to obscure the main points in our response.

I hope you will find the attached helpful.

BTW, who will sign the letter ?



Tova Wang, Dec06.doc

Gracia M. Hillman  
Commissioner  
U.S. Election Assistance Commission  
1225 New York Avenue, NW, Suite 1100  
Washington, DC 20005  
Tel: 202-566-3100  
Fax: 202-566-1392  
www.eac.gov

026032

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December 8, 2006

Ms. Tova Wang  
(Address)  
(Address)

Dear Ms. Wang:

We are writing in response to your December 7, 2006 memorandum. As you know, the U.S. Election Assistance Commission (EAC) issued its first report on election crimes last week, based in large part on the work that was done for EAC by Job and you. The report contains the full and complete summaries of every interview conducted as well as every book, article, report or case that was reviewed. Rather than provide the synopsis of these interviews, EAC provided the individual summaries so readers could reach their own conclusions about the substance of the interviews.

Upon reviewing initial information about the Department of Justice interviews contained in the status report that was provided to the EAC Standards Board and EAC Board of Advisors and the information provided at the working group meeting in May 2006, those persons interviewed at the Department of Justice did not agree with certain characterizations of their statements contained in these materials. Therefore, EAC exercised its responsibility to make clarifying edits. The Department of Justice is an important prosecutorial agency engaged in enforcing Federal anti-fraud and anti-intimidation laws. Thus, it was important to EAC to assure that the summary of their comments did not lend confusion to an already complex and hotly-debated topic.

The report on voting fraud and voter intimidation will stand as adopted on December 7, 2006. Again, we thank you for the contributions you made to the EAC's initial research of these important issues.

Sincerely,

**Deleted:** The U.S. Election Assistance Commission believes that voting fraud and voter intimidation are very important, complex topics that should be studied and reported on fairly and accurately. As a clearinghouse of election administration information, EAC is committed to providing complete and comprehensive information to the election community and the public.¶

**Deleted:** ¶  
In its December 2006 report on voting fraud and voter intimidation,

**Deleted:** EAC honored this commitment by providing the readers of its report with

**Deleted:** It is incumbent upon us to provide them with the best and most complete data and research that we can.

**Deleted:** only

**Deleted:** readers with the

**Deleted:** entire

**Deleted:** created by the consultants

**Deleted:** With regard to the interviews of two of the personnel from the Department of Justice, EAC made clarifying edits.

**Deleted:** eir

**Deleted:** by the consultants

**Deleted:**

**Deleted:** Because of the lack of organization and cohesion in the draft provided by the consultants, that document would have led to greater confusion and division regarding the issues of voting fraud and voter intimidation. As such, EAC revised the draft report and provided the entirety of the supporting documentation to the public. ¶

¶  
For these reasons, t



Gracia Hillman /EAC/GOV

12/11/2006 02:16 PM

To Juliet E. Hodgkins/EAC/GOV@EAC

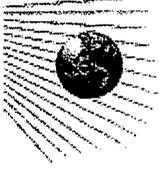
cc "Davidson, Donetta" <ddavidson@eac.gov>, Paul  
DeGregorio/EAC/GOV@EAC

bcc

Subject Re: Fw: Draft response to Tova Wang 

With respect to how the letter to Tova is signed, either way is fine with me.

026035



Paul DeGregorio /EAC/GOV

12/11/2006 03:40 PM

To Juliet E. Hodgkins/EAC/GOV

cc "Davidson, Donetta" <ddavidson@eac.gov>, Gracia Hillman/EAC/GOV@EAC

bcc

Subject Re: Fw: Draft response to Tova Wang

Julie,

I am ok with the edits Commissioner made to the letter; however, I do think that because of the tone of Tova's letter, which is likely to be supplied to others (as was their report to us). that we need a paragraph in the letter that makes it clear that the process used in producing this final report was consistent with the process we have used in all the reports and studies we have issued to date. What she needs to know (in writing) is that while we review the work of our researchers and consultants on a topic closely to draw various conclusions, our staff and the commissioners themselves have input into the final product that becomes the public report issued by a majority vote of the EAC. Since I've been on the EAC, we have consistently questioned statistics, statements and conclusions drawn by those doing work for the EAC. We have also drawn upon our collect resources and wisdom to produce the best report possible. I think that was true in this case as it has been with all the other reports we have issued. In the end, it is the EAC--and the commissioners in particular--who are held accountable for what we adopt and release; not our paid consultants or organizations we contract with to do studies.

Paul DeGregorio  
Chairman  
US Election Assistance Commission  
1225 New York Ave, NW  
Suite 1100  
Washington, DC 20005  
1-866-747-1471 toll-free  
202-566-3100  
202-566-3127 (FAX)  
pdegregorio@eac.gov  
www.eac.gov

Juliet E. Hodgkins/EAC/GOV

Juliet E. Hodgkins/EAC/GOV

12/11/2006 11:40 AM

To "Davidson, Donetta" <ddavidson@eac.gov>, Paul DeGregorio/EAC/GOV@EAC

cc Gracia Hillman/EAC/GOV@EAC

Subject Fw: Draft response to Tova Wang

commisisoners,

See below edits that Gracia has offered to the letter. Let me know if you agree. I would like to send this out today. Also, in response to Gracia's question below, I believe that since her letter was addressed to the Commissioners that the Commissioners should respond (either collectively or through the Chairman). Please let me know if you agree with the edits. It would be nice to get this out today.

Juliet Thompson Hodgkins

026036

General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

— Forwarded by Juliet E. Hodgkins/EAC/GOV on 12/11/2006 11:37 AM —



Gracia Hillman/EAC/GOV

12/11/2006 11:26 AM

To Juliet E. Hodgkins/EAC/GOV@EAC, jlayson@eac.gov  
cc

Subject Re: Draft response to Tova Wang 

Julie and Jeannie:

Thank you for the quick turn around on drafting a response to Tova Wang.

I have made substantial edits because I think the first draft offered too much information, which is not germane to Tova's complaint. Additionally, too much verbiage masks the strength of our good report and seemed to obscure the main points in our response.

I hope you will find the attached helpful.

**BTW, who will sign the letter ?**

[attachment "Tova Wang, Dec06.doc" deleted by Paul DeGregorio/EAC/GOV]

Gracia M. Hillman  
Commissioner  
U.S. Election Assistance Commission  
1225 New York Avenue, NW, Suite 1100  
Washington, DC 20005  
Tel: 202-566-3100  
Fax: 202-566-1392  
www.eac.gov

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026037



Gracia Hillman/EAC/GOV

12/11/2006 03:43 PM

To Juliet E. Hodgkins/EAC/GOV@EAC

cc "Davidson, Donetta" <ddavidson@eac.gov>, Paul DeGregorio/EAC/GOV@EAC

bcc

Subject Re: Fw: Draft response to Tova Wang 

I agree with the Chairman's recommended additional language.

026038

Juliet E. Hodgkins/EAC/GOV  
12/11/2006 03:50 PM

To Paul DeGregorio/EAC/GOV@EAC  
cc "Davidson, Donetta" <ddavidson@eac.gov>, Gracia Hillman/EAC/GOV@EAC  
bcc  
Subject Re: Fw: Draft response to Tova Wang 

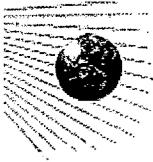
Commissioners,

Consistent with the changes requested by both Commissioners DeGregorio and Hillman, I have revised the draft response. Please take one more look at the letter. If possible, it would be nice to get this out today.



tova wang response 121106.doc

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100  
Paul DeGregorio/EAC/GOV



Paul DeGregorio/EAC/GOV  
12/11/2006 03:40 PM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc "Davidson, Donetta" <ddavidson@eac.gov>, Gracia Hillman/EAC/GOV@EAC  
Subject Re: Fw: Draft response to Tova Wang 

Julie,

I am ok with the edits Commissioner made to the letter; however, I do think that because of the tone of Tova's letter, which is likely to be supplied to others (as was their report to us). that we need a paragraph in the letter that makes it clear that the process used in producing this final report was consistent with the process we have used in all the reports and studies we have issued to date. What she needs to know (in writing) is that is that while we review the work of our researchers and consultants on a topic closely to draw various conclusions, our staff and the commissioners themselves have input into the final product that becomes the public report issued by a majority vote of the EAC. Since I've been on the EAC, we have consistently questioned statistics, statements and conclusions drawn by those doing work for the EAC. We have also drawn upon our collect resources and wisdom to produce the best report possible. I think that was true in this case as it has been with all the other reports we have issued. In the end, it is the EAC--and the commissioners in particular--who are held accountable for what we adopt and release; not our paid consultants or organizations we contract with to do studies.

Paul DeGregorio  
Chairman  
US Election Assistance Commission  
1225 New York Ave, NW  
Suite 1100  
Washington, DC 20005

026039

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pdegregorio@eac.gov  
www.eac.gov

Juliet E. Hodgkins/EAC/GOV

Juliet E. Hodgkins/EAC/GOV  
12/11/2006 11:40 AM

To "Davidson, Donetta" <ddavidson@eac.gov>, Paul  
DeGregorio/EAC/GOV@EAC  
cc Gracia Hillman/EAC/GOV@EAC  
Subject Fw: Draft response to Tova Wang

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Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

— Forwarded by Juliet E. Hodgkins/EAC/GOV on 12/11/2006 11:37 AM —



Gracia Hillman/EAC/GOV  
12/11/2006 11:26 AM

To Juliet E. Hodgkins/EAC/GOV@EAC, jlayson@eac.gov  
cc  
Subject Re: Draft response to Tova Wang

Julie and Jeannie:

Thank you for the quick turn around on drafting a response to Tova Wang.

I have made substantial edits because I think the first draft offered too much information, which is not germane to Tova's complaint. Additionally, too much verbiage masks the strength of our good report and seemed to obscure the main points in our response.

I hope you will find the attached helpful.

BTW, who will sign the letter ?

[attachment "Tova Wang, Dec06.doc" deleted by Paul DeGregorio/EAC/GOV]

026040

Gracia M. Hillman  
Commissioner  
U.S. Election Assistance Commission  
1225 New York Avenue, NW, Suite 1100  
Washington, DC 20005  
Tel: 202-566-3100  
Fax: 202-566-1392  
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December 11, 2006

Ms. Tova Wang  
c/o The Century Foundation  
1333 H Street NW, 10<sup>th</sup> Floor  
Washington, DC 20005

Via U.S. Mail and Facsimile Transmission  
202-483-9430

Dear Ms. Wang:

We are writing in response to your December 7, 2006 memorandum. As you know, the U.S. Election Assistance Commission (EAC) issued its first report on election crimes last week, based in large part on the work that was done for EAC by Job and you. The report contains the full and complete summaries of every interview conducted as well as every book, article, report or case that was reviewed. Rather than provide the synopsis of these interviews, EAC provided the individual summaries so readers could reach their own conclusions about the substance of the interviews.

As the agency responsible for these final reports, it is incumbent upon EAC to assure that the information contained in the reports is accurate and fairly presented. With each of the reports, best practices documents, quick start guides, and other documents that EAC publishes, EAC makes changes as needed to make certain that our constituents are receiving the best and most complete information. This due diligence process is observed regardless of whether the document was created in-house or was created by consultants or contractors.

Upon reviewing initial information about the Department of Justice interviews contained in the status report that was provided to the EAC Standards Board and EAC Board of Advisors and the information provided at the working group meeting in May 2006, those persons interviewed at the Department of Justice did not agree with certain characterizations of their statements contained in these materials. Therefore, EAC exercised its responsibility to make clarifying edits. The Department of Justice is an important prosecutorial agency engaged in enforcing Federal anti-fraud and anti-intimidation laws. Thus, it was important to EAC to assure that the summary of their comments did not lend confusion to an already complex and hotly-debated topic.

Deleted: ¶

025042

The report on voting fraud and voter intimidation will stand as adopted on December 7, 2006. Again, we thank you for the contributions you made to the EAC's initial research of these important issues.

Sincerely,

<u>Paul DeGregorio</u>	<u>Donetta Davidson</u>
<u>Chairman</u>	<u>Commissioner</u>

Gracia Hillman  
Commissioner

Karen Lynn-Dyson/EAC/GOV

To twilkey@eac.gov, Bert A. Benavides/EAC/GOV@EAC

06/15/2006 11:26 AM

cc

bcc Paul DeGregorio/EAC/GOV

Subject Eagleton letter in response to the Chairman

History:  This message has been forwarded

Tom-

Attached is a letter which I have drafted for you summarizing the Commissioner's discussion on the Eagleton contract and which will respond to John Weingart's letter to the Chairman.

K



Wilkey Eagleton close out letter.doc  
Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

026044

June 15, 2006

John Weingart:  
Eagleton Institute of Politics  
Rutgers University

Dear John:

During its bi-weekly meeting the four EAC Commissioners met, discussed and reviewed possible next steps with the provisional voting and voter identification studies as well as the Eagleton contract which is scheduled to conclude on June 30, 2006.

The four Commissioners were in agreement that Eagleton's work on the EAC contract should conclude, as scheduled, by June 30, 2006. In preparation for this conclusion the Commissioners have asked that the comments and suggestions which were noted during the EAC's recent Board of Advisors and Standards Boards meeting (and were described in your June xxx letter to Chairman DeGregorio) be included in the final report on provisional which Eagleton will deliver to the EAC on or about June 30, 2006. The Commissioners have determined that they will take this final report and, from it, develop guidance and best practice recommendations that will be presented to the Board of Advisors and Standards Boards for further review.

The EAC Commissioners have also reviewed and considered next steps with the voter identification draft report which Eagleton has prepared. While the final disposition of the results and findings of this study, on the part of the EAC, are still unclear, the Commissioners have asked that the final report of this study also be prepared and submitted to the EAC not later than June 30, 2006.

We look forward to receiving these reports. On behalf of the EAC thank you for the considerable time and energy which the Eagleton/Moritz team has devoted to these critical election issues during the last eighteen months.

Sincerely,

Thomas Wilkey

026045



Paul DeGregorio /EAC/GOV

06/15/2006 03:25 PM

To Amie J. Sherrill/EAC/GOV

cc

bcc

Subject Fw: Eagleton letter in response to the Chairman

Paul DeGregorio  
Chairman  
US Election Assistance Commission  
1225 New York Ave, NW  
Suite 1100  
Washington, DC 20005  
1-866-747-1471 toll-free  
202-566-3100  
202-566-3127 (FAX)  
pdegregorio@eac.gov  
www.eac.gov

----- Forwarded by Paul DeGregorio/EAC/GOV on 06/15/2006 03:24 PM -----

Karen Lynn-Dyson/EAC/GOV

06/15/2006 11:26 AM

To twilkey@eac.gov, Bert A. Benavides/EAC/GOV@EAC

cc

Subject Eagleton letter in response to the Chairman

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K



Wilkey Eagleton close out letter.doc  
Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

026046

June 15, 2006

John Weingart:  
Eagleton Institute of Politics  
Rutgers University

Dear John:

During its bi-weekly meeting the four EAC Commissioners met, discussed and reviewed possible next steps with the provisional voting and voter identification studies as well as the Eagleton contract which is scheduled to conclude on June 30, 2006.

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Sincerely,

Thomas Wilkey

026047



Paul DeGregorio /EAC/GOV  
10/12/2006 05:20 PM

To Caroline\_C.\_Hunter@who.eop.gov  
cc  
bcc  
Subject Report

Caroline,

You may have read some news articles regarding a "report" we did not release publicly regarding a study we are conducting on vote fraud/voter intimidation issues. The report in question is a May 17 status report on the study that was given to our Advisory and Standards Boards at a meeting they had in Washington. Someone obviously leaked it to the media and some have now made suggestions that it was not released to keep its contents quiet. We had to give it to the media because it was a public document that we shared with our boards at a public meeting. I have attached a copy of the report and a letter that I sent today to Barbara Arnwine of the Lawyer's Committee for Civil Rights that explains what this is all about (she was quite misinformed in the letter she sent to the EAC last Friday). Staff and counsel are now reviewing more information, data and feedback that has come in since the May 17 status report and we are not likely to issue any final report on the initial study on this issue for a month or so.

Paul



10.12.06 response to B. Arnwine ltr.pdf 10.6.06 ltr from B. Arnwine re VF.I report.pdf Voting Fraud.Voter Intimidation.pdf

026048



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

OFFICE OF THE CHAIRMAN

October 12, 2006

Ms. Barbara R. Arnwine  
Executive Director  
Lawyers' Committee for Civil Rights Under Law  
1401 New York Avenue, NW  
Suite 400  
Washington, DC 20005-2124

RE: October 6, 2006 Letter

Dear Ms. Arnwine:

Your letter of October 6, 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, a group of which you are now a member, 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, the working group meeting transcript, and data sources provided by the consultants as a part of their working papers. 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. Please continue to contact us with any concerns that you may have. You and your colleagues on the Board of Advisors are important to the EAC process. As such, you can be assured that as soon as a final report on the fraud and intimidation study is available, a copy will be provided to all members of the EAC Board of Advisors.

Sincerely,

A handwritten signature in cursive script that reads "Paul DeGregorio".

Paul S. DeGregorio, Chairman  
Designated Federal Officer, EAC Board of Advisors



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

1401 New York Avenue, NW  
Suite 400  
Washington, DC 20005-2124



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

**Co-Chairs**

Robert E. Harrington  
Marsha E. Simms

**Secretary**

Robert A. Murphy

**Treasurer**

William L. Robinson

**Counsel**

Nicholas T. Christatos

**Executive Director**

Barbara R. Arnwine

**Regional Vice-Chairs**

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Teresa J. Kinker

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Gregory P. Mansel  
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**Mid-Atlantic Region**

Brooks R. Burdette  
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**Southeastern Region**

Paul W. Reubin  
Michael W. Tyler

**Western Region**

Nora Cregan  
Bradley S. Phillips  
Paul F. Fekstein

**Chesapeake Region**

Jonathan L. Greenblatt  
Kiri 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



**U.S. ELECTION ASSISTANCE COMMISSION**

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

**May 17, 2006**

026052

## 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.

## 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,

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.

### **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;

- 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.

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



Amie J. Sherrill/EAC/GOV

10/18/2006 11:03 AM

To Paul DeGregorio/EAC/GOV@EAC

cc

bcc

Subject Phone msg. - Jerry Reynolds of the U.S. Comm. on Civil Rights

He called regarding the voter fraud and intimidation report. He may be reached at (816) 556-2789.

Amie J. Sherrill  
Special Assistant to Chairman Paul S. DeGregorio  
U.S. Election Assistance Commission  
1225 New York NW - Suite 1100  
Washington, DC 20005  
(202) 566 3106

026064

Jeannie Layson /EAC/GOV

10/18/2006 11:46 AM

To pdegregorio@eac.gov

cc asherrill@eac.gov, bwhitener@eac.gov

bcc

Subject Interview request

Mr. Chairman,

Chuck McCutchen of Newhouse News Service wants to interview you tomorrow at 11:30 regarding absentee voting, and your thoughts about whether this presents more opportunities for fraud. He asked for and I sent him the status report on fraud, but he's focused on the absentee voting angle. He knows you were a former elections official and have first hand experience with this issue. The interview would last about 15 min. Newhouse owns about 25 newspapers scattered throughout the nation. Please let me know if you can accomodate him. If so, we are to call him at 202-383-7801.

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)

026065



Amie J. Sherrill/EAC/GOV  
10/20/2006 04:26 PM

To Paul DeGregorio/EAC/GOV@EAC  
cc  
bcc  
Subject Fw: Letter to Mr. Reynolds Re: Voter Fraud Report

History: This message has been replied to

Attached is a draft letter from Julie to Mr. Reynolds of the Comm. on Civ Rights. It contains the same language as the other letters we have sent. Please let me know if you would like for me to use your e-signature and get it faxed to them this afternoon.

Amie J. Sherrill  
Special Assistant to Chairman Paul S. DeGregorio  
U.S. Election Assistance Commission  
1225 New York NW - Suite 1100  
Washington, DC 20005  
(202) 566 3106

----- Forwarded by Amie J. Sherrill/EAC/GOV on 10/20/2006 04:23 PM -----



DeAnna M. Smith/EAC/GOV  
10/20/2006 04:02 PM

To Amie J. Sherrill/EAC/GOV@EAC  
cc  
Subject Letter to Mr. Reynolds Re: Voter Fraud Report



draft letter to Mr Reynolds.doc

DeAnna M. Smith  
Paralegal Specialist  
Office of the General Counsel  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, D.C. 20005  
202-566-3117 (phone)  
202-566-1392 (fax)  
www.eac.gov

025066

October 20, 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 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

026067



Amie J. Sherrill/EAC/GOV  
10/18/2006 11:03 AM

To Paul DeGregorio/EAC/GOV@EAC  
cc  
bcc

Subject Phone msg. - Jerry Reynolds of the U.S. Comm. on Civil Rights

He called regarding the voter fraud and intimidation report. He may be reached at (816) 556-2789.

Amie J. Sherrill  
Special Assistant to Chairman Paul S. DeGregorio  
U.S. Election Assistance Commission  
1225 New York NW - Suite 1100  
Washington, DC 20005  
(202) 566 3106

026068

Margaret Sims /EAC/GOV  
09/27/2006 12:18 PM

To pdegregorio@eac.gov  
cc  
bcc  
Subject Last Submission from Vote Fraud-Voter Intimidation  
Consultants

History:  This message has been replied to

Dear Mr. Chairman:

The last submission from the Vote Fraud-Voter Intimidation Study consultants is dated August 8. At this time, EAC staff are reviewing all items submitted for the report to the Commission with an eye toward the best way of presenting the information to the Commissioners for their consideration. There has been some delay in this staff review process, for which I take full responsibility.

Peggy Sims  
Election Research Specialist

026069



**Paul DeGregorio /EAC/GOV**

09/27/2006 12:36 PM

To Margaret Sims/EAC/GOV

cc

bcc

Subject Re: Last Submission from Vote Fraud-Voter Intimidation Consultants 

No big deal--and no big delay. Don't worry about it.

Paul DeGregorio  
Chairman  
US Election Assistance Commission  
1225 New York Ave, NW  
Suite 1100  
Washington, DC 20005  
1-866-747-1471 toll-free  
202-566-3100  
202-566-3127 (FAX)  
pdegregorio@eac.gov  
www.eac.gov

Margaret Sims/EAC/GOV

**Margaret Sims /EAC/GOV**

09/27/2006 12:18 PM

To pdegregorio@eac.gov

cc

Subject Last Submission from Vote Fraud-Voter Intimidation Consultants

Dear Mr. Chairman:

The last submission from the Vote Fraud-Voter Intimidation Study consultants is dated August 8. At this time, EAC staff are reviewing all items submitted for the report to the Commission with an eye toward the best way of presenting the information to the Commissioners for their consideration. There has been some delay in this staff review process, for which I take full responsibility.

Peggy Sims  
Election Research Specialist

026070

Juliet E. Hodgkins/EAC/GOV  
09/27/2006 01:43 PM

To Paul DeGregorio/EAC/GOV@EAC, Gracia Hillman/EAC/GOV@EAC, "Davidson, Donetta" <ddavidson@eac.gov>, Thomas R. Wilkey/EAC/GOV@EAC  
cc  
bcc  
Subject Fw: Media request - USA Today

Commissioners,

I wanted to make sure that you were aware of this request. Information that has previously been distributed to the Board of Advisors and Standards Board or otherwise publicly released will be provided to the requestor. This includes a status report on voter fraud and the information that was distributed to the SB and BOA regarding the provisional voting study.

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

— Forwarded by Juliet E. Hodgkins/EAC/GOV on 09/27/2006 01:41 PM —

Bryan Whitener/EAC/GOV  
09/22/2006 05:10 PM

To Margaret Sims/EAC/GOV@EAC, Karen Lynn-Dyson/EAC/GOV@EAC, Thomas R. Wilkey/EAC/GOV@EAC, Juliet E. Hodgkins/EAC/GOV@EAC, Gavin S. Gilmour/EAC/GOV@EAC  
cc Jeannie Layson/EAC/GOV@EAC  
Subject Media request - USA Today

All

Richard Wolf of USA Today called and asked for the following. Jeannie and I ask that you consider this carefully and let us know ASAP what to provide .

- (1) The status report on voter fraud and consultant update that was presented to the advisory boards in May, 2006.
- (2) The status of the required guidance document on provisional voting and voter ID that is referenced in the following passage in today's Electionline Weekly by Doug Chapin.

In addition to the EAC's considerable election management responsibilities (especially in the area of voting equipment certification and testing), the agency has key policy issues to resolve in the immediate to near-term future, including a required guidance document on provisional voting and voter ID (now nearly two years overdue) and continued regulatory oversight over state implementation of "motor voter". This latter issue will almost certainly involve questions about the intersection of state and federal laws on voter registration - questions which divided the Commission when applied to Arizona, and could divide it again as Republicans and Democrats continue their traditional struggle to balance access to the franchise with concerns about the potential for fraud at the polls.

Thanks,  
Bryan

026071

Bryan Whitener /EAC/GOV  
09/27/2006 04:39 PM

To Paul DeGregorio/EAC/GOV@EAC, Donetta L.  
Davidson/EAC/GOV@EAC, Gracia Hillman/EAC/GOV@EAC  
cc Juliet E. Hodgkins/EAC/GOV@EAC, Thomas R.  
Wilkey/EAC/GOV@EAC  
bcc

Subject draft text for USA Today

History

 This message has been replied to.

Commissioners,

As you requested, I provided Tom and Julie a draft response to USA Today to accompany the docs requested by Richard Wolf . Julie revised it as follows and Tom agrees. Please let me know ASAP if you concur.

Rich,

As we discussed, here are the docs you asked about that were presented at the board meetings in May and links to the meeting agenda. There are two reports: (1) a draft report produced by Eagleton Institute concerning provisional voting; and (2) a status report produced by EAC contractors regarding research being conducted on voter fraud and intimidation. The reports were presented by the contractors to the Standards Board and Board of Advisors for their input. This type of input is required for any guidance issued by EAC and is desired for any product that we provide to the election community and the public. Based on the input that was received from these boards, particularly regarding the questionable information contained in Eagleton's provisional voting report, EAC has not issued the Eagleton draft report as a final EAC document. As for the voter fraud and intimidation status report, it is merely an update on the status of the research conducted by the EAC contractors. A report and recommendations on future actions regarding this topic will be produced after EAC review of the preliminary research.

###

026072

Karen Lynn-Dyson/EAC/GOV

05/25/2005 12:55 PM

To Paul DeGregorio/EAC/GOV@EAC, Raymundo  
Martinez/EAC/GOV@EAC

cc Juliet E. Thompson/EAC/GOV@EAC

bcc

Subject Job Description for a Voter Fraud Project Consultant

Commissioners-

Attached please find a first draft of a short job description outlining EAC's expectations for a project consultant on voter fraud.

As you are aware, Julie has shared with me the resume of someone with an interest in the position. Ray has indicated that he participates in a legal list-serve group that has recently focused on voter fraud issues. This list-serve is probably a good place to "advertise" the consultant opportunity.

Let me know your thoughts on next steps. I look forward to getting this project up and running.

Regards-

K



vote fraud project manager.doc

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

026073

**Job Description****U.S. Election Assistance Commission (EAC) Voter Fraud Project Consultant**

The U.S. Election Assistance Commission (EAC) seeks to identify a senior-level project consultant to assist with the oversight and development of a study and possible project examining U.S. election voter fraud.

The consultant must of have a knowledge of voter fraud and an understanding of the complexities, nuances and challenges which surround the topic. The EAC is particularly interested in candidates with experience in elections, with public policy and the law. The consultant must be able to demonstrate an ability to approach the issue of voter fraud in a balanced, nonpartisan fashion.

This consultant, whose contract would run for the period June-November, 2005, would be responsible for conceptualizing a project scope of work around the issue and from that, developing a statement of work for a research project around the topic.

In consultation with EAC staff, EAC Commissioners, and other key EAC stakeholders, the consultant will develop a project plan around voter fraud. The consultant will recommend certain EAC project activities related to voter fraud and will develop a scope of work for an EAC research study on voter fraud. The consultant will oversee and manage various processes related to EAC contracts awarded for work related to voter fraud.

EAC's consultant fees are competitive and are awarded based on the candidates' relevant background and experience.

Karen Lynn-Dyson/EAC/GOV

To Paul DeGregorio/EAC/GOV@EAC

06/06/2005 01:03 PM

cc

bcc

Subject Project documents for your consideration

Paul-

Enclosed please find my revisions to the job description for the Voter Fraud and Voter Intimidation Project Consultant who would work with us to help us define our work around these issues. Please revise/edit and you see fit.

Also enclosed is a draft Statement of Work for EAC project work related to vote counts and vote recounts. I'm hoping that you will be willing to serve as lead Commissioner on this project, since I believe this is an area you have expressed an interest in and are concerned about.

Let me know your thoughts on these documents and how you would like me to proceed.

Hope the weekend was restful, and look forward to seeing you tomorrow.

Regards-

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123



Vote Count and Recount SOW.doc voterfraud project manager.doc

026075

Karen Lynn-Dyson/EAC/GOV  
05/09/2005 12:24 PM

To Juliet E. Thompson/EAC/GOV@EAC, Gavin S.  
Gilmour/EAC/GOV@EAC, Gaylin Vogel/EAC/GOV@EAC  
cc Paul DeGregorio/EAC/GOV@EAC, Carol A.  
Paquette/EAC/GOV@EAC

bcc

Subject Meeting with Craig DonSanto

Hi-

I've scheduled a meeting with Craig DonSanto for Tuesday, May 17th at 10:00 am in his offices.

We'll be discussing voter fraud and what the EAC might do regarding research on the issue. As you may know, Craig's office is issuing a major report/manual on the topic. He will share the draft of this effort with us at the meeting next week.

As you know, I'm hoping one of our interns will be working on this project for us this summer. In the meantime, I'm hoping at least one of the folks from the EAC legal team can come tho this meeting. BTW, Craig's office is just down the street.

Let me know your availability, and which intern you can assign to this effort.

Thanks

K

Karen Lynn-Dyson  
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U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

026076

**Job Description****U.S. Election Assistance Commission (EAC) Voter Fraud and Voter Intimidation Project Consultant**

The U.S. Election Assistance Commission (EAC) seeks to identify a senior-level project consultant to develop various project activities and studies related to U.S. election voter fraud and voter intimidation.

The consultant must have knowledge of voter fraud and intimidation along with an understanding of the complexities, nuances and challenges which surround the topics. The EAC is particularly interested in candidates with experience in elections, with public policy and the law. The consultant must be able to demonstrate an ability to approach the issues of voter fraud and intimidation in a balanced, nonpartisan fashion.

This consultant, whose contract would run for the period June-November, 2005, would be responsible for:

- Identifying and convening a working group of key individuals and organizations knowledgeable about the topics of voter fraud and intimidation;
- Developing a project scope of work and a project work plan related to voter fraud and intimidation;
- Authoring a report summarizing the key findings of this preliminary study of voter fraud and intimidation. The report will also include suggestions for specific activities the EAC may undertake around these topics.

From this initial research and exploration of these topics the consultant may be retained to help oversee research projects and contracts EAC may develop on the topics of voter fraud and intimidation.

EAC's consultant fees are competitive and are awarded based on the candidate's relevant background and experience.

Jeannie Layson /EAC/GOV  
06/10/2005 12:57 PM

To ghillman@eac.gov, rmartinez@eac.gov,  
pdegregorio@eac.gov  
cc klynndyson@eac.gov, cpaquette@eac.gov,  
jthompson@eac.gov  
bcc

Subject Eagleton draft press release

Commissioners,

Below is a draft of a press release Eagleton wants to distribute regarding the EAC contract. (It's also attached.) Please let me know if you have edits/changes. Also, take a close look at the language regarding the scope for the voter ID study to make sure it is acceptable.

DRAFT FOR APPROVAL

## **EAGLETON INSTITUTE OF POLITICS WINS \$560,000 CONTRACT FROM U.S. ELECTION ASSISTANCE COMMISSION**

### **Rutgers Institute to Study Provisional Voting, Voter Identification Procedures**

NEW BRUNSWICK/PISCATAWAY, N.J. – The U.S. Election Assistance Commission (EAC) has awarded the Eagleton Institute of Politics at Rutgers, The State University of New Jersey, a \$560,000 contract to study provisional voting and voter identification procedures based on experiences from the 2004 election.

Under the national contract, the institute will develop recommendations for EAC to issue as guidance to the states to use in 2006, according to Eagleton Director Ruth B. Mandel, the study's principal investigator. She added that the Moritz College of Law at Ohio State University, Eagleton's partner in the contract application, will be responsible for the legal analysis of the competitively bid, seven-month project.

Eagleton already is home to an extensive civic education and political participation program, with several projects aimed at increasing voter turnout, political participation and Americans' involvement in civic life.

EAC was established by the Help America Vote Act (HAVA) of 2002. It is an independent, bipartisan agency and provides federal funds to states to upgrade voting systems and improve election administration. It publishes voluntary guidelines for the states and serves as a national clearinghouse of information regarding election administration.

The Eagleton project team, led by Mandel, includes Ingrid W. Reed, John Weingart and consultant Thomas O'Neill, retired president of the Partnership for New Jersey, who will serve as project director. The project will address key questions related to provisional voting and voter identification in the context of effective election administration, voter access and ballot security.

Questions include:

- Did the states have in place clear and uniform written procedures, guidelines and instructions to govern the casting and counting of provisional ballots?

026078

- Did local procedures reflect the state's uniform procedures?
- Did all states and election jurisdictions make these procedures available to the public, political parties and candidates before the election?
- To what extent were poll workers appropriately trained on how to administer provisional ballots, including establishing the identity of the potential voter seeking a provisional ballot?
- How were federal funds under the Help America Vote Act used to educate voters about their rights to cast a provisional ballot and where such provisional ballots must be cast to be counted?
- In states where a provisional ballot had to be cast at the voter's assigned polling place or precinct, was information available to poll workers to allow them to determine the voter's assigned precinct and polling place?
- Did states have mechanisms in place to inform voters casting provisional ballots whether their vote was counted and whether they are now registered for subsequent elections?

Eagleton will address these questions by examining the nation's experience with provisional voting and voter identification requirements and practices in 2004 through extensive research including a survey of local election officials across the country. In addition, the work will be informed by scrutiny from a panel of peer reviewers as well as by comments offered at public hearings to be held in conjunction with the project.

At the contract's conclusion, the team will present a narrative on both topics, indexed databases of major articles on provisional voting and voter identification requirements, summaries of case law on each subject, analyses of provisional voting procedures from around the country and of voter participation and vote fraud under various voter ID requirements, and a report of alternatives to existing practices and procedures.

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) Eagleton release.doc

026079

# Rutgers

News  
Office of Media Relations

Contact: [REDACTED]

June 13, 2005

DRAFT FOR APPROVAL

**EDITOR'S NOTE:** ATTENTION POLITICAL, ASSIGNMENT EDITORS

**EAGLETON INSTITUTE OF POLITICS WINS \$560,000 CONTRACT  
FROM U.S. ELECTION ASSISTANCE COMMISSION**

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Carol A. Paquette/EAC/GOV  
06/10/2005 02:09 PM

To Gracia Hillman/EAC/GOV@EAC  
cc Jeannie Layson/EAC/GOV@EAC, Juliet E. Thompson/EAC/GOV@EAC, Karen Lynn-Dyson/EAC/GOV@EAC, Paul  
bcc  
Subject Re: Eagleton draft press release

Made essentially the same comment to Jeannie regarding the guidance language in paragraph two. We had no input to the creation of this release, so there is no EAC intent to use this as a trial balloon.

Carol A. Paquette  
Interim Executive Director  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov  
Gracia Hillman/EAC/GOV



Gracia Hillman /EAC/GOV  
06/10/2005 02:00 PM

To Jeannie Layson/EAC/GOV@EAC, Raymundo Martinez/EAC/GOV, Paul DeGregorio/EAC/GOV, Karen Lynn-Dyson/EAC/GOV, Carol A. Paquette/EAC/GOV,  
cc Juliet E. Thompson/EAC/GOV, "Tom Wilkey" <twilkey@nycap.rr.com>  
Subject Re: Eagleton draft press release

I have some concerns about the press release. In paragraph two, I am not comfortable with the following language in what I believe is paragraph two: Under the national contract, the institute will develop recommendations for EAC to issue as guidance to the states to use in 2006.

It seems to me that EAC will develop the guidance based on Eagleton's findings.

Also, I do not think the press release should contain the list of questions. Are they/we trying to float a trial balloon and elicit initial reaction at this early stage of the study??

-----  
Sent from my BlackBerry Wireless Handheld

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

**From:** Jeannie Layson  
**Sent:** 06/10/2005 12:57 PM  
**To:** Gracia Hillman; Raymundo Martinez; Paul DeGregorio  
**Cc:** Karen Lynn-Dyson; Carol Paquette; Juliet Thompson  
**Subject:** Eagleton draft press release

Commissioners,  
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026082

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DRAFT FOR APPROVAL

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Questions include:

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- To what extent were poll workers appropriately trained on how to administer provisional ballots, including establishing the identity of the potential voter seeking a provisional ballot?
  
- How were federal funds under the Help America Vote Act used to educate voters about

their rights to cast a provisional ballot and where such provisional ballots must be cast to be counted?

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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)

Jeannie Layson /EAC/GOV  
06/13/2005 12:05 PM

To pdegregorio@eac.gov, rmartinez@eac.gov,  
ghillman@eac.gov  
cc cpaquette@eac.gov, jthompson@eac.gov,  
twilkey@nycap.rr.com  
bcc

Subject Eagleton press release

History: This message has been replied to.

Following is the Eagleton press release including revisions from the chair and Carol. If anyone else has changes or edits, please let me know by tomorrow morning so Eagleton can get this out. Thank you.

DRAFT FOR APPROVAL

**EDITOR'S NOTE: ATTENTION POLITICAL, ASSIGNMENT EDITORS**

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026085

election officials across the country. In addition, the work will be informed by scrutiny from a panel of peer reviewers as well as by comments offered at public hearings to be held in conjunction with the project.

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Jeannie Layson  
U.S. Election Assistance Commission  
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Phone: 202-566-3100  
[www.eac.gov](http://www.eac.gov)



academia or related fields. We have a conference call with our partners at Moritz planned for tomorrow or Friday to decide a) if former officials should be included in the PRG and b)if so, who they should be. I'll keep you informed of our thinking as it develops.

Tom



PROPOSED MEMBERS OF PEER REVIEW GROUP.doc

## PROPOSED MEMBERS OF PEER REVIEW GROUP

### **R. Michael Alvarez, Ph.D.**

Professor of Political Science  
California Institute of Technology  
[REDACTED]

Alvarez has taught political science at Caltech since 1992. He received his B.A. in political science from Carleton College; his M.A. and Ph.D. from Duke University. Alvarez focuses on the study of electoral politics. He has published many articles on electoral behavior and public opinion. Support for his research has come from the National Science Foundation, The IBM Corporation, the Carnegie Corporation, of New York, and the Knight Foundation. Alvarez edits the Analytical Methods for Social Research book series and is on the editorial boards of a number of academic journals. He is Co-Director of the Caltech-MIT Voting Technology Project

### **Deborah Goldberg, Ph.D**

Program Director, Democracy Program  
Brennan Center for Justice at NYU School of Law  
161 Avenue Of The Americas, 12th Floor  
New York, NY 10013  
[REDACTED]

Goldberg supervises the Democracy Program's litigation, scholarship, and public education. She was the principal author of *Writing Reform: A Guide to Drafting State & Local Campaign Finance Laws*, and was lead counsel to the intervenor in the Supreme Court case *Nixon v. Shrink Missouri Government PAC*. She serves on the Steering Committee of a coalition to restore voting rights to persons with past felony convictions. Goldberg is a graduate of Harvard Law School. Before joining the Brennan Center, she was in private practice. She holds a Ph.D. in philosophy and taught ethics at Columbia University.

### **Martha E. Kropf, Ph.D.**

Assistant Professor of Political Science  
University of Missouri-Kansas City  
[REDACTED]

Kropf has been on the faculty at Missouri since 1999. She received her BA Summa Cum Laude, Phi Beta Kappa from Kansas State University and her PhD in Political Science from American University. Her work concentrates on Research Methods, Urban Politics, American Government, and Political Behavior. Before joining the faculty at Missouri, she was Project Coordinator at the University of Maryland Survey Research Center. She has published recent on undervoting in presidential elections, and on invalidated ballots in the 1996 presidential election, and on the incremental process of election reform in Missouri.

### **Wade Henderson, Esq.**

Executive Director  
Leadership Conference on Civil Rights  
1629 K Street, NW, 10<sup>th</sup> Floor  
Washington, DC 20006

Wade Henderson is the Executive Director of the LCCR and Counsel to the Leadership Conference on Civil Rights Education Fund (LCCREF), and leads the organizations' work on issues involving nationwide election reform. He is a graduate of Howard University and the Rutgers University School of Law. During its over 50 years of existence, LCCR has worked to redefine civil rights issues in broad and inclusive ways. Today, it includes over 180 national organizations. Previously Henderson served as Washington Bureau Director of the NAACP. He began his career as a legislative counsel of the ACLU.

### **Kay Maxwell**

President  
League of Women Voters of the U.S.  
1730 M Street NW, Suite 1000

Washington, DC 20036-4508  
[REDACTED]

Kay J. Maxwell has been a member of the League since 1976. She attended Smith College and earned a B.A. in International Relations from the University of Pennsylvania. She has conducted civic participation training for women leaders in Bosnia, Israel, the West Bank, Rwanda, Kuwait and Jamaica. She has also served as vice president at the International Executive Service Corps (IESC), an international economic development organization. She is a board member of DC Vote, and the New Voters Project.

**Tim Storey**

Program Principal  
Legislative Management Program  
National Conference of State Legislatures  
7700 East First Place  
Denver, CO 80230

[REDACTED]

or  
444 North Capitol Street, N.W., Suite 515  
Washington, D.C. 20001  
[REDACTED]

**Peter G. Veniero, Esq.**

Counsel  
Sills, Cummis, Epstein and Gross, PC  
One Riverfront Plaza  
Newark, New Jersey 07102  
[REDACTED]

Veniero chairs the firm's Appellate Practice Group. He earned his B.A. at Drew University, Phi Beta Kappa, and his J.D. (with honors) at the Duke University School of Law. In 1999, he was appointed a justice of the New Jersey Supreme Court, where he served for 7 years before re-entering private practice. Before his appointment to the Supreme Court, he served as New Jersey's Attorney General, and in that capacity oversaw the state's election laws. He also served as Chief of Staff and Chief Counsel to Governor Christine Todd Whitman.

Karen Lynn-Dyson/EAC/GOV  
07/01/2005 11:02 AM

To "Job Serebrov"  
[REDACTED]  
cc Juliet E. Thompson/EAC/GOV@EAC, Thomas R.  
Wilkey/EAC/GOV@EAC  
bcc Paul DeGregorio/EAC/GOV  
Subject Re: project [REDACTED]

Job-

Thanks ever so much for following up. Indeed, the Commissioners have reviewed the issue and have agreed in principle, to an approach that would entail hiring a consultant or consultants to help the EAC study and frame the issues of voter fraud and intimidation.

The idea would be that after a period of time, the consultants, and, perhaps, a working group of the EAC, would make a series of recommendations on next steps for the agency to take regarding voter fraud and intimidation.

Thanks for your patience; I hope to have a definitive answer for you by mid-July at the latest.

Regards-

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

026091

Karen Lynn-Dyson/EAC/GOV  
07/21/2005 01:35 PM

To "Job Serebrov"  
[REDACTED]  
cc Thomas R. Wilkey/EAC/GOV@EAC  
bcc Paul DeGregorio/EAC/GOV  
Subject Re: project 

Job-

I write to see if you might be available to come to Washington on Monday, August 1 to meet with several EAC staff and Commissioners to discuss the voter fraud/voter intimidation project and your possible work as a consultant on the project.

I'd like to schedule this 1-2 hour meeting for sometime between 1 and 3 in the afternoon.

Might you be available to come to Washington for this ?

Regards-

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

026092

Karen Lynn-Dyson/EAC/GOV  
08/01/2005 06:12 PM

To "Tom O'neil" [REDACTED]  
cc Thomas R. Wilkey/EAC/GOV@EAC, Juliet E.  
Thompson/EAC/GOV@EAC, Adam  
Ambrogi/EAC/GOV@EAC  
bcc Paul DeGregorio/EAC/GOV  
Subject RE: Meeting with EAC [REDACTED]

Tom-

I will be in touch shortly with possible dates in very late August or early September, when EAC staff might be available to meet with Eagleton to discuss the project's research results and next steps.

In the meantime, I thought it was important to follow up on the issues Vice Chair DeGregorio raised while we were in Pasadena.

To be certain that I have the latest information, could you send to me the final list of the Eagleton/Moritz Peer Review Group and the list of organizations that Eagleton will be contacting for input?

Regards-

Karen

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

026093

Karen Lynn-Dyson/EAC/GOV  
08/04/2005 05:44 PM

To Paul DeGregorio/EAC/GOV@EAC  
cc  
bcc

Subject Re: List of centrist/conservative groups 

Thanks for this list, Vice Chair. I've passed it along to Eagleton

Regards-

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

026094

Karen Lynn-Dyson/EAC/GOV  
08/16/2005 01:39 PM

To Gracia Hillman/EAC/GOV@EAC, Paul  
DeGregorio/EAC/GOV@EAC, Raymundo  
Martinez/EAC/GOV@EAC, Juliet E.  
cc Sheila A. Banks/EAC/GOV@EAC, Amie J.  
Sherrill/EAC/GOV@EAC, Adam Ambrogio/EAC/GOV@EAC,  
Nicole Mortellito/CONTRACTOR/EAC/GOV@EAC  
bcc

Subject Fw: Sept 6th EAC meeting

Commissioners-

As mentioned in this morning's meeting, Eagleton/Moritz project staff are scheduled to come to Washington in early September to brief EAC staff on the project's progress to date.

Let me know if you would like to attend or if you will send someone in your place.

Regards-

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

— Forwarded by Karen Lynn-Dyson/EAC/GOV on 08/15/2005 01:34 PM —



Nicole  
Mortellito/CONTRACTOR/EA  
C/GOV  
08/16/2005 11:51 AM

To [REDACTED]  
cc Karen Lynn-Dyson/EAC/GOV@EAC  
Subject Sept 6th EAC meeting

Mr. O'Neill,

Just a quick note to remind you that your meeting with EAC is confirmed for September 6 at 1 p.m. in Washington. The purpose of this meeting will be to review the draft of your analysis and alternatives paper with EAC and discuss the outline and direction of the Preliminary Guidance Document.

Regards,

Nicole K. Mortellito  
Assistant to the Executive Director - Thomas R. Wilkey  
U.S. Election Assistance Commission  
1225 New York Avenue - Suite 1100  
Washington, DC  
202.566.3114 phone  
202.566.3127 fax

026095



"Hans.von.Spakovsky@usdoj.  
gov"  
<Hans.von.Spakovsky@usdoj.  
gov>

08/18/2005 03:40 PM

To "jthompson@eac.gov" <jthompson@eac.gov>,  
"ddavidson@eac.gov" <ddavidson@eac.gov>,  
"twilke@eac.gov" <twilke@eac.gov>,  
cc "jthompson@eac.gov" <jthompson@eac.gov>,  
"ddavidson@eac.gov" <ddavidson@eac.gov>

bcc

Subject Research Contracts

Dear Commissioners:

At the meeting of the Board of Advisors in Portland, Oregon, our notebooks included an EAC Information Research Update, dated July 18, 2005. The Update indicates that the EAC has awarded a contract to the Eagleton Institute / Moritz College of Law ("Moritz") to conduct research into "Provisional Voting / ID Requirements."

Obviously, the duty of the EAC as outlined in Section 241 to conduct research on election issues is a very important one. That is why it is clearly an absolute necessity that the researchers who are awarded contracts to conduct that research be objective and nonpartisan in their work. It would be inappropriate and potentially very damaging and embarrassing to the EAC (and the Board of Advisors) if this research is conducted by entities that have a preconceived opinion or bias on the issue being researched or are, in fact, advocates on the issue. Any findings or recommendations such biased entities put in their final report would be open to question and could cause great harm.

Unfortunately, hiring the faculty at Moritz to conduct research on provisional balloting and voter identification provisions calls into question whether the research can be conducted in an objective manner and reach conclusions that are not pre-determined by the public and pre-existing views of the researchers. This is crystal clear from an easily-conducted review of the Moritz website.

The Associate Director of the Election Law program at Moritz, Daniel Tokaji, is an outspoken opponent of voter identification requirements and commentator on provisional voting. Here is a brief summary of some of his recent comments, taken from the Moritz website:

It's therefore questionable at best whether an ID requirement is really necessary to combat voting fraud. Supporters of the ID requirement have yet to make a convincing case that existing methods of discouraging and punishing fraud are insufficient. While the anti-fraud benefits of stricter ID laws are dubious, there is evidence that an ID requirement would impose a severe burden on many voters, particularly those of low income....In their present form, the ID bills presently on the table are likely unconstitutional.... (ID and the Right to Vote, April 12, 2005)

"Ohio's election reform is a mixed bag. Establishing a clear rule for provisional ballots is a good idea, but I don't think there's a good reason for refusing to count provisional ballots cast out of precinct, given that a statewide registration database (which should allow for easy verification of eligibility) has to be in place by 2006. It would be much better to move to in-precinct early voting than mail-in absentee voting, but it seems that Ohio doesn't want to spend the money." (Reform Comes to Ohio, May 20, 2005).

"Nevertheless, DOJ seems likely to sign off on this [Arizona's proposition 200

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implementing rules], given that they've take the position - quite clearly an erroneous one, in my view - that voters need not even be given a provisional ballot if they lack ID." (Arizona Voter ID, July 18, 2005).

"It remains to be seen, of course, whether DOJ will rigorously enforce Section 5 of the Voting Rights Act, when it comes to practices - like the Georgia ID law - that threaten to result in the denial of minority votes...." (Preclearance, Preclearance, Preclearance, July 20, 2005).

"...I tend to doubt that the preclearance process will prove to be an effective remedy for measures like the Georgia ID law. Even though this law will have a "retrogressive" effect, by serving as a barrier to minority voters' participation...." (The Voting Rights Act, Then and Now, July 31, 2005)

"We should remember that, at the turn of the 20th Century, allegations of "good government" were used by white Democrats in a remarkably successful strategy to suppress the black vote. The result of those very successful efforts was to impose barriers like the literacy test, which excluded African Americans from voting throughout the South for the better part of the century, until after the Voting Rights Act of 1965. If you go back and read some of the documents from the late 1800's and early 1900's, as I've recently been doing, the similarity to the sort of arguments being advanced now in support of photo ID laws is frightening. It is beyond unfortunate to see the same sort of tactics, albeit dressed up in more respectable garb, being employed at the start of the 21st Century." (Vote Suppression, Fraud and Voter ID, August 3, 2005)

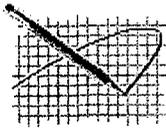
In addition to these postings, Dr. Tokaji is acting as an advocate on voter identification issues, having submitted a comment letter to the Department of Justice dated August 18, 2005, along with a number of other professors, urging an objection to a voter identification provision currently before the Department for review under Section 5 of the Voting Rights Act. Obviously, this advocacy is occurring after the EAC awarded this contract and during the pendency of the research work.

The issue here is not whether Dr. Tokaji's opinions are correct or incorrect, or the appropriateness of his submitting a comment letter to the Department of Justice. The point is the strongly held, pre-existing notions about both provisional balloting and voter identification espoused by the Associate Director of Moritz's election law program and his advocacy on these issues. This raises serious concerns about the propriety of Moritz being provided with federal tax dollars to conduct non-partisan and impartial research into such a sensitive and high profile area of election law. We cannot be certain that data collected and conclusions reached by this research project will not be predetermined to comport with the views of Moritz's officials.

I would strongly recommend that this contract be reconsidered by the EAC. Under these circumstances, any report issued by Moritz will be open to serious questions as to its validity and objectivity.

Hans A. von Spakovsky  
Counsel to the Assistant Attorney General  
Civil Rights Division - Room 5539  
U.S. Department of Justice  
950 Pennsylvania Avenue  
Washington, D.C. 20530

026097



Raymundo  
Martinez/EAC/GOV  
08/19/2005 01:02 AM

To "Hans.von.Spakovsky@usdoj.gov"  
<Hans.von.Spakovsky@usdoj.gov>@GSAEXTERNAL  
cc Juliet E. Thompson/EAC/GOV@eac.gov, Donetta L.  
Davidson/EAC/GOV@eac.gov, "twilke@eac.gov"  
<twilke@eac.gov>, Paul DeGregorio/EAC/GOV@eac.gov,  
bcc

Subject Re: Research Contracts

Hans:

I'm currently at the Seattle airport awaiting a return flight to D.C., so I apologize if my response below is somewhat incomplete. I think the issue you raise certainly deserves our full consideration, so I will look forward to additional responses and dialogue from others included in this distribution list.

A couple of quick points in response to your concerns (and I am speaking for myself below, and not for the entire commission):

- (1) The RFP that was issued by the EAC pertaining to the research on provisional voting and voter ID requirements was widely advertised (as all our RFP's are). We did so because we wanted to receive a wide range of possible contractors to conduct this important research. This was a competitive RFP process which, if my memory serves me correct, produced a good number of responses from interested entities.
- (2) Carol Paquette assembled a review panel (I'm not sure how many persons were involved in the review panel) to score the responses to this RFP...the submission by the Eagleton Institute included, as a part of their proposal, the Moritz School of Law at Ohio State University as a partner in conducting the legal research required for Eagleton to provide a final report (due in October) to the EAC. The review panel scored the Eagleton submission as best, considering a variety of factors.
- (3) The lead entity in this project is the Eagleton Institute. While the project manager's name from Eagleton escapes me right now, the lead from Moritz is not Dan Tokagi, but Ned Foley, who directs the election law section (or something to that effect) at Moritz. Certainly it is true that Professor Tokagi is contributing to the work product being assemble by Moritz, which consists primarily of reviewing election and administrative codes from all 50 states to ascertain how each state deals with provisional voting and voter ID requirements.
- (4) As is the case with all federal contractors, both Eagleton Institute and Moritz are contractually obligated to produce objective, sound and unbiased research and analysis on this project. While it is certainly prudent to consider the potential bias of any prospective contractor(s), after receiving the recommendation from the review panel and Carol Paquette (at the time, the acting EAC Executive Director), we unanimously agreed among the commissioners that the recommendation was worthy of support. At the time, we were aware, for example, that the Eagleton Institute had been involved last year in some litigation involving provisional ballots. We were also aware, as you point out, of Professor Tokagi's personal views regarding the issue of voter ID and provisional voting. Nevertheless, there was unanimous agreement in supporting the staff (and review panel) recommendation to move forward with the proposal submitted by Eagleton Institute.
- (5) Finally, to ensure that the final workproduct from both Eagleton and Moritz is objective and representative of all view points on these important issues, Eagleton proposed early in the process -- and we enthusiastically agreed -- to the formation of a balanced peer review panel which will review the work, on an on-going basis, of Eagleton and Moritz. All EAC commissioners have had an opportunity to provide names to Eagleton to ensure appropriate political balance on this peer review panel and Eagleton has been responsive to our various suggestions.

026099

By way of summary, let me say that I believe we have an obligation to closely scrutinize the conduct of all of our federal contractors. If things come to light that bring into question the objectivity of any of our contractors, I believe the EAC ought to conduct its due diligence and deal with such matters accordingly, including the possibility of contract termination.

I would be happy to conduct such due diligence with regard to this particular contract. However, I must say, with all due respect, that I do not think any breach has occurred, either by Eagleton or Moritz, which would necessitate termination of this contract. I think appropriate checks and balances have been accounted for in this contract, and I believe these checks and balances will ensure an objective and sound final product from Eagleton.

I welcome your continued feedback, Hans.

Kindest regards,

RAY MARTINEZ III  
Commissioner  
U.S. Election Assistance Commission  
1225 New York Avenue, N.W., Suite 1100  
Washington, D.C. 20005

(202) 566-3100 (W)  
(202) 566-3127 (FAX)  
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Paul DeGregorio /EAC/GOV

08/19/2005 11:06 AM

To Gracia Hillman, Raymundo Martinez, d davidson@eac.gov,  
Tom Wilkey, Juliet Thompson, Karen Lynn-Dyson, Carol  
Paquette

cc

bcc Amie J. Sherrill/EAC/GOV

Subject Eagleton

In his note regarding the Eagleton contract, Hans has raised some of the same concerns I raised from the beginning of any discussions I had regarding this contract with our staff, and at our first formal meeting with Eagleton. In reviewing their work product from time to time, I continue to have concerns about a lack of balanced input and have repeatedly voiced them with staff and with Eagleton. I did this when the initial peer review group was proposed and again during their presentation at our meeting in Pasadena (the outreach slide in their public presentation showed outreach to seven groups, of which only one could be considered conservative-leaning). Now, as I have just had the opportunity to read their July progress report, it appears that Eagleton seems to be going into a larger analysis of the voter fraud issue than was authorized in the contract. My suspicion is that Dan Tokaji is injecting his views into this to dismiss or diminish the concerns some people may have about voter fraud. I could be wrong, but his previous writings lead me to believe otherwise.

I only found one mention of voter fraud in the contract with Eagleton. It is in Section 3.5 regarding provisional voting, where it discusses "minimizing opportunity for voter fraud." Yet, on page 4 of the July progress report from Eagleton, in describing their work plan for the next month it states: "we will expand upon vote fraud research and examine further the relationship between instances of vote fraud and ensuing election reforms." This clearly seems to be going beyond the mandate we gave them as I thought they were going to be looking at voter fraud relating to provisional voting (as the contract calls for), not voter fraud as it relates to election reforms. While voter fraud was never mentioned in the contract regarding the voter ID issue, page 5 of their July report indicates that their narratives "will include an appraisal of the prevalence and nature of vote fraud." In addition to this, page 6 describes a look into the "relationship between voter ID regime and vote fraud."

Voter fraud is clearly an issue that is perceived differently from the Right and from the Left. I have struggled with determining what a clear definition of voter fraud is myself, and therefore want to obtain various perspectives and good analysis on this issue before I formulate a solid conclusion in my mind. It has been my understanding all along that the whole voter fraud/voter intimidation issue is going to be studied by the EAC using a balanced group of consultants--not Eagleton and Moritz, who are likely to focus on just on the number of prosecutions of voter fraud, rather than the complaints made or the fact that many election officials are frustrated that some prosecutors don't take their complaints about voter fraud seriously. I am not convinced at this point that we will get a balanced and objective study from Eagleton/Moritz on voter fraud. I am puzzled on why they seem to be expending a significant portion of their time on this and would want to know if we somehow authorized them to do more research into the voter fraud issue.

On page 7 of their July report Eagleton indicates that communications with the EAC on the Peer Review Group "were not clear or timely." I would like to know what this refers to. Also, I may have missed it, but I do not recall seeing the final list of who is serving as the Peer Review group.

The August 15th copy of the July report that I received from Karen did not include the attachment of the financial report of expenses incurred. I would like to see that attachment.

Outside of our NIST work, this contract represents our largest single outside expenditure of our operational funds. Any single expenditure of \$500,000+ needs to be closely monitored. I, for one, am not going to sign off on any report that appears to have been written from a biased viewpoint, especially one that doesn't appear to be interested in hearing from conservative organizations or right-leaning researchers, or seems to minimize any input from them. I've already had questions from congressional staff and others on why we picked Eagleton and Moritz, as they are perceived by some as biased against

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Republicans. I assured the critics that we have insisted all along on an objective study from Eagleton. An unbalanced or biased study from them will not only hurt my credibility, but also that of the EAC. I'm not suggesting that we stop their work, but I do want Tom and Julie to inform them in no uncertain terms that we will not accept a report that does not seriously consider all viewpoints on provisional voting and the voter ID issue, and that any study or interpretations they present to us reflect a diversity of opinions on these subjects. We also need for staff to determine whether their considerable work into the voter fraud area is authorized in the contract. We should not be paying for and receiving work we did not authorize.

The contract clearly calls for "alternative approaches" on voter ID requirements and "alternatives" on provisional voting. I agreed to support this contract to Eagleton because I was assured that we would receive a variety of approaches from their work, and not just those from a liberal perspective.

**Paul DeGregorio**  
Vice Chairman  
US Election Assistance Commission  
1225 New York Ave, NW  
Suite 1100  
Washington, DC 20005  
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202-566-3100  
202-566-3127 (FAX)  
pdegregorio@eac.gov  
www.eac.gov



Gracia Hillman/EAC/GOV

08/19/2005 12:06 PM

To Thomas R. Wilkey/EAC/GOV@EAC

cc "Paul DeGregorio" <pdegregorio@eac.gov>, "Ray Martinez" <rmartinez@eac.gov>, "Karen Lynn-Dyson" <klynn-dyson@eac.gov>, Juliet E.

bcc

Subject Fw: Eagleton

Tom: Please put this on the agenda for discussion when we get together on Friday in Denver.

-----  
Sent from my BlackBerry Wireless Handheld  
Paul DeGregorio

**From:** Paul DeGregorio  
**Sent:** 08/19/2005 11:06 AM  
**To:** Gracia Hillman; Raymundo Martinez; Donetta Davidson; twilkey@nycap.rr.com; Juliet Thompson; Karen Lynn-Dyson; Carol Paquette  
**Subject:** Eagleton

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**Paul DeGregorio**  
Vice Chairman  
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Washington, DC 20005  
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Raymundo  
Martinez/EAC/GOV  
08/19/2005 02:37 PM

To Paul DeGregorio/EAC/GOV@EAC  
cc Gracia Hillman/EAC/GOV@EAC, Donetta L.  
Davidson/EAC/GOV@EAC, Raymundo  
Martinez/EAC/GOV@EAC

bcc

Subject Eagleton

Paul:

I am directing this email only to the commissioners, because I don't think we should air our disagreements among staff until we have at least had a chance to discuss controversial issues with each other in person. It appears from Gracia's email that we will have a chance do so next week in Denver.

In the meantime, I feel compelled to respond to your email regarding Eagleton.

(1) As I stated last night in my email to Hans, we have an on-going responsibility to monitor the expenditure of all our federal funds, including to government contractors who are contractually obligated to deliver unbiased research. However, I will remind you that we did not contract with Eagleton merely to provide a compilation of state laws and procedures. Rather, we contracted with Eagleton (and indirectly with Moritz through Eagleton) to provide both research AND analysis of provisional voting and voter ID. Invariably, the analysis portion of their final product will be from a professional (and institutional) perspective, and will NOT represent any one researcher's personal point of view. If it does, then Eagleton and Moritz risk damaging their credibility not just with the EAC, but with other federal government agencies which undoubtedly contract with their respective institutions on other projects. I doubt seriously that either institution would risk such damage and allow one team member to inject bias into the work. Moreover, the peer review group that is (or has) been assembled by Eagleton is designed to cure any lingering concerns about potential insitutional or personal bias...Eagleton has been responsive to your feedback on this issue, to the point where they have removed all perspective representatives of the advocacy community on the peer review group (because they felt they could not achieve political "balance" from the advocacy groups). If there is some person (or persons) which you would like to see Eagleton include in the review group, it is my understanding that such inclusion is but a mere phone call away.

(2) You will recall that at our meeting last week, I raised the exact same concern about the Eagleton progress report, and asked for clarification from staff regarding the details of this particular work (i.e., fraud) on the part of Eagleton. I expect staff (or us directly) to ask questions of Eagleton (as we would any contractor) and determine if their work in this area is within the scope of work (and contract) we all agreed to. If it isn't then we re-direct them, just as we have done, for example with Kim Brace and EDS.

(3) Finally, I must express my disappointment, Paul, regarding your comments on Professor Tokagi that you chose to include in your email. While I may disagree with Hans on his particular analysis of the perceived personal bias of this contract, at least his allegations regarding Professor Tokagi's potential bias are grounded in fact (and he recited them as such in his email). You, on the other hand, have chosen to accuse Professor Tokagi of manipulating the work on this project based on your "suspicion." With all due respect, that unfortunate accusation borders, in my view, on a breach of professional decorum and I cannot let it go without response.

We clearly have some political issues that are increasingly being injected into nearly every discussion at the EAC table. I have stated both to you and Gracia individually that I believe this trend in part represents a "maturation" of the EAC and I am not uncomfortable with it. However, if we are going to bring accusations of subjectivity and bias to the table, then I will expect that such a filter will be applied across the board to ALL projects undertaken by the EAC, and that such a filter will be based solidly on fact, and not on innuendo, personal hunches or suspicions.

026105

I send this email, as always, with the highest degree of respect and friendship toward you. And yet, my disappointment is evident in your comments regarding an esteemed and respected member of the legal academic community (and someone whom I regard as a personal friend.)

I look forward to our continued discussion on this matter. And as for the substance of Hans' concern regarding Moritz, I stand by my email which I sent to everyone last night.

Regards,

RAY MARTINEZ III  
Commissioner  
U.S. Election Assistance Commission  
1225 New York Avenue, N.W., Suite 1100  
Washington, D.C. 20005

(202) 566-3100 (W)  
(202) 566-3127 (FAX)  
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Karen Lynn-Dyson/EAC/GOV  
08/19/2005 03:41 PM

To "Tom O'neill" [REDACTED]  
cc  
bcc Paul DeGregorio/EAC/GOV  
Subject Re: Peer Review Group [REDACTED]

History: This message has been forwarded

Tom-

Thank you for sharing this list of your Peer Review Group members, to-date. I will share this list with the Commissioners and will be certain to let your know of their feedback, if any.

I will also be back in touch regarding Eagleton's research around voter fraud and the research project EAC will be undertaking, this fall, around voting fraud and voter intimidation. The EAC is presently in the process of finalizing a work and staff plan for this project and once it is completed, I will be certain to brief you on it.

In the meantime, EAC staff and several of the Commissioners looks forward to meeting with the Eagleton/Moritz team on September 6 at 1:30 PM.

Regards-

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

"Tom O'neill" [REDACTED]



"Tom O'neill"  
[REDACTED]  
08/19/2005 02:20 PM

To klynndyson@eac.gov  
cc  
Subject Peer Review Group

Karen,

Attached is a report on the status of recruitment of members of the Peer Review Group. We extended 9 invitations. We have four confirmed members, one reluctant turn-down, one who has yet to respond to an initial inquiry, and are awaiting confirmation from 3 others who initially agreed. Please let me know if you need additional information.

Tom O'Neill

026107



RecruitmentStatus.doc

**STATUS OF PEER REVIEW GROUP RECRUITMENT**

(As of August 17, 2005)

<b>R. Michael Alvarez, Ph.D.</b> Professor of Political Science California Institute of Technology	<b>YES/CONFIRMED</b>
<b>Guy-Uriel Charles</b> Associate Professor, School of Law University of Minnesota [REDACTED]	<b>YES*</b>
<b>Brad Clark</b> Professor of Law George Washington University School of Law	<b>NO</b>
<b>Pamela Susan Karlan</b> Montgomery Professor of Public Interest Law Stanford Law School [REDACTED]	<b>YES</b>
<b>Martha E. Kropf, Ph.D.</b> Assistant Professor of Political Science University of Missouri-Kansas City [REDACTED]	<b>YES/CONFIRMED</b>
<b>Daniel H. Lowenstein</b> Professor of Law UCLA [REDACTED]	<b>YES</b>
<b>John F. Manning</b> Professor Harvard Law School	<b>NO RESPONSE</b>
<b>Tim Storey</b> Program Principal Legislative Management Program National Conference of State Legislatures	<b>YES/CONFIRMED</b>
<b>Peter G. Verniero, Esq.</b> Counsel Sills, Cummis, Epstein and Gross, PC (Former NJ Attorney General and Supreme Court Justice)	<b>YES/CONFIRMED</b>

Karen Lynn-Dyson/EAC/GOV  
08/19/2005 04:38 PM

To Paul DeGregorio/EAC/GOV@EAC  
cc  
bcc  
Subject Fw: Requested Documents

Commissioner-

I thought you would find of particular interest, the attached short description that one of our consultants who will be working on the voting fraud, voter participation issues, has provided.

I think Job will be a wonderful addition to our group of consultants and will bring a wealth of practical knowledge and political balance to our review of the voting fraud and voter intimidation issue. Job is very, very excited about working on this topic and looks forward to meeting the EAC staff, when we bring them together for a meeting in early September.

Best-

K  
Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

----- Forwarded by Karen Lynn-Dyson/EAC/GOV on 08/18/2005 04:32 PM -----



"Job Serebrov"

[Redacted]

08/19/2005 04:14 PM

To klynndyson@eac.gov  
cc

Subject Re: Requested Documents

Karen:

I enjoyed the discussion too. I really think that this project will be of national importance and can positively affect elections administration while providing an answer to the handling of the vote fraud problem for the future.

Regards,

Job

Summary of Election Activities of Job Serebrov

Background to Election Problems in Arkansas

Ever since Reconstruction, Arkansas has had a history of election problems. The election fraud that gave

026110

rise to the Brooks-Baxter War in Arkansas in the 1870s involved people from both sides of the aisle voting more than once, the dead rising to cast a ballot or two, destroying ballots, creating ballots and making ballot boxes disappear. A strong one-party system perpetuated this tradition into modern times.

In 1995, I met with Arkansas Supreme Court Justice Tom Glaze to discuss voting issues and my efforts to clean up the electoral process. Although supportive, Justice Glaze encouraged me to proceed with caution. Before being elected to the Supreme Court, Justice Glaze had been employed in the 1960s by Gov. Win Rockefeller to clean up ballot fraud throughout Arkansas. He was nearly disbarred in the process by those involved in ballot fraud in a small, rural county.

Shortly after my discussion with Justice Glaze, I discovered how pervasive the election problems were in the state. For instance, ballot boxes were stuffed or disappeared into the night only to return altered. Contrary to state law, county sheriffs running in contested elections maintained custody of the ballot boxes. In one instance, 20 voted ballot boxes were found in the attic of a sheriff's deputy after he died.

#### Attorney (1991-2004)

In my private practice as an attorney, I represented numerous clients in county election contests throughout Arkansas. I also represented clients in matters before the Federal Election Commission. I have never lost an election case. Finally, I was hired as a consultant to a major nonprofit legal organization to review and summarize the 2002 amendments to federal election laws and apply the new law to 10 scenarios.

#### Member, Washington County Board of Election Commissioners, Fayetteville, Arkansas (1990-1996)

This board consisted of three commissioners; I was the lone Republican. We were charged with supervising the training of poll workers, evaluating voting systems and then purchasing an optical scan system to be used countywide, preparing and justifying our annual budget before the Washington County Quorum Court, hiring and supervising staff and sitting as an administrative tribunal.

When I first came on the board, Washington County was primarily a one-party county and the Democrats were used to running elections according to tradition rather than the law. I had to battle with the two Democrats on the board to enforce election laws within the county. As I started to force the issue in the courts, the Republican Party gained strength. Four years later and after outlasting eight Democrat commissioners, I was able to work with new Democrat

commissioners who recognized the need to enforce the law. At this point, the commission requested that I draft administrative regulations for the board. These remain in place today.

Founder, President, General Counsel; Arkansans for Fair Elections (1994-1999)

In 1994, Gov. Mike Huckabee (R), then a candidate for lieutenant governor, asked me to serve as his general counsel for ballot fraud protection. Thinking it best to act independently of any candidate, I formed Arkansans for Fair Elections. I served as the organization's president and, later, general counsel. This group launched a statewide educational campaign to train poll watchers to recognize irregular or fraudulent electoral procedures; this included the creation of literature and a video. Our extensive public relations campaign brought media attention to the issue. We also organized a statewide team of citizen poll watchers and attorneys to ensure that the election laws were fairly enforced. We were so successful in the lieutenant governor's race that Arkansans for Fair Elections was asked to continue the effort until 1999 when I moved to Louisiana.

General Counsel - Ballot Fraud Protection Committee, Republican Party of Arkansas (1995-1999)

In late 1995, Asa Hutchinson, chairman of the Republican Party of Arkansas, appointed me as general counsel for the newly formed Ballot Fraud Protection Committee of the state party. I retained this position until 1999. I was responsible for coordinating statewide enforcement efforts and directing a legal team to respond to problematic situations prior to and on election day.

(Through my role with Arkansans for Fair Elections and the Ballot Fraud Protection Committee, I successfully sued or negotiated a settlement in more than two-thirds of the 75 counties in Arkansas over electoral irregularities.)

Legal Consultant to Republican Members of the Arkansas General Assembly (1994-1996)

Republicans in the General Assembly requested that I review and draft suggested changes to Arkansas election law. Based on my personal experience as an election commissioner and as an election attorney, I identified a number of areas of concern and drafted new statutes modeled on the best examples that I could find from other states. My proposal was not passed by the Democrat-controlled General Assembly as a package, however, several of its components were passed into law.