

Consultant to the Arkansas Court of Appeals
Redistricting Commission (1996-1999)

I drafted five redistricting bills and maps for the constitutionally required redistricting of the Arkansas Court of Appeals. These bills were based on current U.S. Supreme Court precedent regarding gerrymandering. I had to present each bill and give supporting testimony to the commission.

Director of International Development - Louisiana
State University, Baton Rouge, Louisiana (2000-2003)

Part of my duties as director was to develop international cooperative projects. The theme of several of these proposals was democratization. In each case, I required review of the national election code of the country involved.

My activities in Namibia led to a request by the director of the Namibian Election Commission, Joram Rukambe and the Speaker of the Namibian National Assembly, Dr. Mose Tjitendero to review and suggest changes to the Namibian election code. This review took three months and resulted in proposed alterations a number of code sections. These suggestions were considered by the Namibian National Assembly and a number were incorporated into the code revisions. Additionally, I drafted legislation for the Speaker to guarantee voting rights to agricultural workers that were being denied by the owners of the farms. This legislation also was passed into law.

During this time, I was qualified as an election expert and placed on an election consultant list by the United Nations, IFES and the Electoral Institute of Southern Africa.

Related Memberships

- Republican Party of Arkansas (1990-1999)
- Benton County, Arkansas, Republican Committee (1996-1999)
- Washington County, Arkansas, Republican Committee (1990-1996)

(When we moved to Louisiana in 1999, the party was in such turmoil that it was difficult to get involved. This past year, I have been prohibited by the Hatch Act from participating in partisan politics. This prohibition ends August 19 when my judicial clerkship ends.)

Related Education

- Graduate certificate in electoral governance, Griffith University, Queensland, Australia (2003)

Thomas R. Wilkey/EAC/GOV
08/19/2005 04:44 PM

To Karen Lynn-Dyson/EAC/GOV@EAC, Paul
DeGregorio/EAC/GOV
cc
bcc

Subject Re: Requested Documents

Yes I believe he will make a great addition to this project and will bring a wealth of experience on dealing with voter fraud . He even makes me look like raving moderate.

Sent from my BlackBerry Wireless Handheld
Karen Lynn-Dyson

From: Karen Lynn-Dyson
Sent: 08/19/2005 04:38 PM
To: Paul DeGregorio
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 klyndyson@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.

026114

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 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

026115

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.

Consultant to the Arkansas Court of Appeals Redistricting Commission (1996-1999)

I drafted five redistricting bills and maps for the constitutionally required redistricting of the Arkansas Court of Appeals. These bills were based on current U.S. Supreme Court precedent regarding gerrymandering. I had to present each bill and give supporting testimony to the commission.

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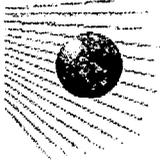
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- Washington County, Arkansas, Republican Committee (1990-1996)

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Related Education

- Graduate certificate in electoral governance, Griffith University, Queensland, Australia (2003)



Paul DeGregorio/EAC/GOV
08/22/2005 02:49 PM

To Amie J. Sherrill/EAC/GOV
cc
bcc
Subject Fw: Peer Review Group

Amie,

I need for you to do research into every identified on this Peer Review Group to identify their politics and/or political leanings. You can go to www.opensecrets.com to determine if they have given to political candidates. Thanks.

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

----- Forwarded by Paul DeGregorio/EAC/GOV on 08/19/2005 10:52 PM -----

Karen Lynn-Dyson/EAC/GOV
08/19/2005 03:41 PM

To "Tom O'Neill" [REDACTED]
cc
Subject Re: Peer Review Group 

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

026119

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



RecruitmentStatus.doc

026120



Paul DeGregorio /EAC/GOV

08/30/2005 02:31 PM

To Karen Lynn-Dyson

cc Thomas R. Wilkey/EAC/GOV

bcc ddavidson@eac.gov

Subject Eagleton Peer Review Group

Karen,

I have reviewed the Eagleton Peer Review Group recruitment list that you recently provided. Based on what I or Amie can determine from the bio's provided or an Internet search, it appears that at least 4 of the 7 people who have said yes to be on the group seem to have a liberal perspective, or have had a history of working on that side of the political spectrum. I could only identify one as being a Republican, and a moderate one at that (Verniero). Mike Alvarez has conducted a lot of research into election issues and generally seems to do it in a neutral way. I have been unable to obtain a bio or background information on Tim Storey, who is not an academic. The only person that I could identify on their list as being conservative was Brad Clark, who has declined to participate.

Therefore, based on this information regarding the Peer Review Group, I am not satisfied that they will provide Eagleton with the balanced review that I thought they would receive from such a group. I would urge you to ask them to seek the input of more conservative academics so that whatever study we receive from them will have the benefit of a balanced review. I am going to have Amie provide you with the background sheet on Professor Tim O'Rourke of Salisbury University in Maryland, whom they may want to consider for this panel. We have some calls into others who could suggest some conservative academics for this review panel.

Thanks.

Paul DeGregorio
Vice Chairman
US Election Assistance Commission
1225 New York Ave, NW
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pdegregorio@eac.gov
www.eac.gov

026121



Amie J. Sherrill/EAC/GOV
09/17/2005 11:22 PM

To Paul DeGregorio/EAC/GOV
cc
bcc
Subject Fw: Tally Vote voter fraud

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

From: Nicole Mortellito
Sent: 09/16/2005 03:29 PM
To: Amie Sherrill; Sheila Banks
Subject: Tally Vote voter fraud



Tallyvote Ballot Voter Fraud.doc Tally vote Memo - voter fraud.doc

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

026122



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: _____ **SIGNATURE:** _____

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

026123



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

TALLY VOTE MEMORANDUM

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

Background

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

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

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

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

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

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

Recommendation

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

026124



Paul DeGregorio /EAC/GOV

09/18/2005 04:38 PM

To Amie J. Sherrill (EAC)

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 Serebrov and Tova Wang in developing a EAC Voting Fraud and Voter Intimidation Project
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
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pdegregorio@eac.gov
www.eac.gov

026125

Thomas R. Wilkey/EAC/GOV
09/19/2005 01:30 PM

To Paul DeGregorio/EAC/GOV@EAC
cc
bcc
Subject Couple of Items

Paul; I know I relayed this message to you through Aimee but just double checking to let you know that Eagleton put from FEC Commissioner Brad Smith on the peer review group. We have had a devil of a time getting anyone someone to return are calls from FEMA and have tried several places including the woman you recommended. I am having Donetta call her contact at the White House to see what he can do. We also extended an invitation to them to attend. And finally did you know you are a celebrity now. If you received the Carter/Baker report look under the section on Administration and there is a picture of a couple of guys from the EAC Safe Travels
Tom

Thomas R. Wilkey
Executive Director
US Election Assistance Commission
1225 New York Ave, NW - Suite 1100
Washington, DC 20005
(202) 566-3109 phone
TWilkey@eac.gov

026126

Karen Lynn-Dyson/EAC/GOV

10/17/2005 03:29 PM

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

cc Gracia Hillman/EAC/GOV@EAC, Donetta L.
Davidson/EAC/GOV@EAC

bcc

Subject Fw: Eagleton's September Progress Report

Commissioners-

Attached please find a copy of the September Eagleton/Moritz progress report.

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 10/16/2005 03:25 PM —



jdobrich@eden.rutgers.edu

10/17/2005 03:14 PM

To klynndyson@eac.gov

cc

Subject Eagleton's September Progress Report

Dear Ms. Karen Lynn Dyson:

My name is Johanna Dobrich and I have taken over the responsibility of sending the Eagleton Institute of Politics Monthly Progress Reports to you, in place of Lauren Vincelli.

Attached in this email you will find the Eagleton Institute of Politics monthly Progress Report for September 2005. Also attached, is a document called "PRG Summary Comments" which is an attachment to September's Progress Report.

Please email me at jdobrich@eden.rutgers.edu to confirm that you have received this email. If you prefer I send a hard copy of these documents, in addition to the electronic version, please let me know.

Sincerely,

Johanna Dobrich



ProgressReport_SEPTEMBER2005_EagletonInstitute.doc PRG Summary Comments 10.17.05.doc

026137



Deliberative Process
Privilege

EAGLETON INSTITUTE OF POLITICS

*Contract to Provide Research Assistance to The EAC
For the Development of Voluntary Guidance on
Provisional Voting and Voter Identification Procedures*

MONTHLY PROGRESS REPORT
September 2005

For
UNITED STATES ELECTION ASSISTANCE COMMISSION
1225 New York Avenue N.W., Suite - 1100
Washington, DC 20005

September 14, 2005

Prepared by:
Eagleton Institute of Politics
Rutgers, The State University of New Jersey
191 Ryders Lane
New Brunswick, NJ 08901-8557

026128

OUTLINE

- Introduction
- Provisional Voting
 - Task 3.5
- Voter Identification Requirements
 - Task 3.10
 - Task 3.11
- Project Management
 - Task 3.1
- Financial Report

INTRODUCTION

This report describes our progress from September 1 through September 30, 2005. It includes brief descriptions of key tasks; progress made; challenges encountered or anticipated; milestones reached; and projections for work to be completed in the coming month.

We focused in September on refining our Provisional Voting research. This refinement was necessary to prepare a strong final analysis paper and develop alternative approaches to Provisional Voting based on the analysis. An important part of this refinement involved reconciling sometimes conflicting data on Provisional Voting from different sources, including the Election Day Study, which finally became available in September. With a clearer understanding of our data, we began the critical work of selecting alternatives to recommend to the EAC as guidance or best practices responsive to both our research and the needs of the Commission.

Three meetings this month helped us accomplish the necessary refinement. We briefed the EAC on our work on September 6, held the first meeting of the Peer Review Group (PRG) on September 21, and gained the benefit of the EAC's reaction to the September 6 briefing in a conference call on September 30.

The completion of our work on Provisional Voting has been delayed by the time needed to absorb and incorporate the findings of the EAC Election Day Study, to recruit and receive the comments of the PRG, and to receive the Commission's comments on the September 6 briefing. The schedule called for the release of the Election Day Study last spring, the submission of the Preliminary Guidance Document to the EAC's advisory boards in mid-September, and a public hearing on the Guidance Document in late October. We now plan to submit to the EAC a final draft of our report, a preliminary guidance document, and draft

best practices before the end of October. And we understand that after review of those materials, the EAC will decide whether to issue a guidance document or recommend best practices. Projecting a late November date for those decisions seems reasonable. If the EAC does decide to issue a Guidance Document on Provisional Voting, the time needed for a review by the advisory boards is likely to delay a public hearing until January.

While we have made a good start on the Voter ID sections of our research, most time and resources this month were dedicated to resolving issues involved in Provisional Voting.

This report is divided into 3 sections: Provisional Voting, Voter Identification Requirements, and Project Management. Each section references specific tasks described in paragraph 3 of the contract. The Financial Report will be sent separately by the Rutgers Division of Grant and Contract Accounting.

Please direct questions or comments about this report to Tom O'Neill at: tom_oneill@verizon.net or (908) 794-1030.

PROVISIONAL VOTING

Tasks 3.4 – 3.9 in our contract relate to Provisional Voting. Work on the first of these must be complete before proceeding to later tasks. Task 3.4 was completed in August, and Task 3.5 is well underway.

Task 3.5: Analysis and Alternative Approaches. Assess the potential, problems, and challenges of Provisional Voting and develop alternative means to achieve the goals of Provisional Voting.

LEGISLATION, REGULATIONS, AND LITIGATION

The research team at the Moritz College of Law has the lead responsibility for the collection and analysis of legislation, administrative procedures and litigation. This information constitutes the compendium of legislation, administrative regulations, and case law called for under this task. It has provided a base of understanding for the analysis of states' actual experience with Provisional Voting in 2004, for which the Eagleton team has lead responsibility.

Description: The Moritz team has created a 50-state chart to summarize information on Provisional Voting, compiled statutes, case law and administrative procedures regarding Provisional Voting and is near completion with this research.

Progress: We have completed the memorandum outlining Provisional Voting legislative changes since the 2004 election and we are continuing to clarify the laws prior to these changes.

Challenges: The variety in the form and frequency of Provisional Voting legislation from state to state makes creating a snap-shot view across states a challenge.

Work Plan: The analysis of the information, data, and survey results concerning Provisional Voting was completed in September, on schedule. We are now revising it in response to comments by the Peer Review Group (PRG). We are also revising the alternatives document to reflect the critique of the PRG and the guidance from the EAC in response to the September 6 briefing.

PREPARATION FOR AND EXPERIENCE WITH PROVISIONAL VOTING

The Eagleton team has researched and compiled a narrative of each state's experience with Provisional Voting in 2004. The report findings from the survey of 400 local election officials are now complete. The survey results have proven to be instrumental in shaping our



understanding of actual practice in administering Provisional Voting, including the steps local officials took to prepare for the election.

PROVISIONAL VOTING NARRATIVES

Description: To construct the narratives, a researcher examined newspaper accounts, state websites, and reports from third-party organizations to gather information on the experience with Provisional Voting in the 2004 election. To organize the information derived from this examination, we created an information system that catalogues information about the states (i.e. whether a state was new to Provisional Voting, the percentage of provisional votes counted, the method of notifying voters if their vote was counted, etc.) and combined it with Moritz's collection and analysis of statutes, regulations and litigation.

Progress: We completed a state-by-state narrative of developments in Provisional Voting and distributed it to the EAC and the PRG. This work has been helpful in understanding the context of the data collected on provisional voting from the states.

Challenges: The primary obstacle to constructing the narratives was difficulty in communicating and obtaining necessary information from various state officials. As a result, the narratives underwent several revisions to incorporate up-to-date and reliable information. Now that so many other analyses, including the Election Day Survey, have been released, we were challenged by different interpretations of the same basic facts. But the reconciliation of interpretation and data collection has been invaluable in establishing rigor in our report.

Work Plan: We completed revisions of the narratives incorporating comments from the PRG.

PROVISIONAL VOTING STATISTICAL ANALYSIS

Description: Throughout September the Eagleton research team revised and clarified its statistical analysis, and worked to reconcile the classifications of this analysis (such as states counting only those provisional ballots cast within the proper precinct versus states that counted ballots cast within the proper county) with the classification made in other parts of this study or in other studies (such as the Election Day Study or *Electionline* reports).

Progress: In response to comments from the PRG, we have clarified and sharpened the presentation on the methods used and results achieved in the statistical analysis. We have double checked the classification of variables upon which the study is based and reconciled differences in various areas of the overall study. This effort is nearing completion.

Challenges: The difficulties encountered have been a result of communication delays and time constraints. Overall, these are not problems or hindrances, but simply slow down the process.

026132

Work Plan: In mid-October we aim to complete a final revision of the statistical analysis and a full reconciliation of all data within the study.

SURVEY OF COUNTY ELECTION OFFICIALS

Description: The Eagleton Center for Public Interest Polling (CPIP) conducted a national survey of county election officials to measure several aspects of Provisional Voting.

Progress: The analysis of the survey results and findings report is complete. As a result of the critique by the PRG, the research team is revising and clarifying the descriptions of the survey design and sample selection process to make the research methods more transparent.

Work Plan: We used the information from the survey in drafting the analysis and alternatives document required under Task 3.5. We will include necessary clarifications regarding survey design and sample selection in the final analysis and alternatives document.

Peer Review Group

Most members of the PRG met by telephone conference on September 21 to comment on all the research described above. Participating in the meeting were Michael Alvarez, Martha Kropf, Dan Lowenstein, Peter Verniero, Brad Smith, and Tim Storey. Timothy O'Rourke contributed his comments separately. The group provided a detailed critique of our approach, methods, and conclusions, and we are now revising each document in response to the comments and suggestions. It praised the quality of the work and the rigor of much of the analysis. A summary of the suggestions from the members of the PRG is attached to this report.

Challenges and Work Plan

Making arrangements for review of drafts by the PRG and by the EAC has taken longer than anticipated by the Work Plan. The schedule called for all research and analysis to have been completed and incorporated into a Draft Preliminary Guidance Document by mid September. The review process by the EAC and PRG took longer than contemplated by the Work Plan. And we now understand that the EAC will make a separate decision—that will require additional time—whether to issue a Guidance Document or recommendations for best practices. It has not, therefore, been possible to schedule a public hearing or arrange for review of our work by the EAC's advisory boards, as called for in the Work Plan. We now aim to complete our reports and recommendations for guidance by the end of October, and to then await a response from the EAC before scheduling submission to the advisory boards or making arrangements for a hearing.

026133

VOTER IDENTIFICATION REQUIREMENTS

The contract lists 7 tasks (3.10 – 3.16) related to Voter Identification Requirements. The research on Voter ID requirements is proceeding concurrently with our work on the experience of Provisional Voting, and is becoming the principal focus of our research.

Task 3.10: Legislation, regulations, and litigation

The research team at the Moritz College of Law has the lead responsibility for the collection and analysis of legislation, administrative procedures and litigation with regard to Voter Identification Requirements. This collection of material is nearing completion. It will constitute the compendium of legislation, administrative regulations, and case law called for under this task.

Description: The Moritz team has compiled statutes on Voter Identification, and will provide a summarized analysis of this research to the project team for review.

Progress: The 50 State (plus the District of Columbia) chart has been completed, the voter identification statutes have been collected for all states and D.C., and summaries of the existing voter identification statutes have been written for all states and D.C.

Challenges: Identifying the relevant statutes has been challenging because of the different terminology used from state to state to codify voter identification issues, and because many states have scattered election law provisions throughout their codes. This variety from state to state makes creating a snap-shot view across states a challenge.

Work Plan: Analysis of voter identification data will begin now.

SUPPLEMENTS TO LEGAL ANALYSIS

To supplement the legal analysis, the Eagleton team is undertaking two research efforts: First, compiling information on the debate over voter ID in the states; and second, estimating the effect on turnout of different voter ID regimes. Tracking the continuing political debate over voter identification reveals that the relatively narrow HAVA requirements for voter identification have apparently sparked in many states a broader concern and a sharp political debate over rigorous identification requirements for all voters. The research follows these developments both to monitor possible secondary effects of HAVA on voter ID, and to provide a rich collection of alternative approaches for consideration.

Individual narratives for the states with significant activity in voter ID will provide a resource for understanding the wide range of experience in the 2004 election. The narratives will include an appraisal of the prevalence and nature of vote fraud, a focus of the concern with increasing the rigor of voter ID requirements. We understand that the EAC has issued a

research contract that will focus on vote fraud and vote suppression. Our research in this area will be limited to developing an understanding of the tradeoffs between ballot security and access to the ballot. We have completed the basic database on voter identification issues has been completed, and the next key step will be drafting the first narratives.

VOTER ID AND TURNOUT ANALYSIS

The second supplemental analysis will provide objective information on a contentious feature of the debate over voter ID in the states: the effects of more rigorous voter ID regimes on voter turnout and the relationship between the voter ID regime and vote fraud. As part of this effort, Eagleton is undertaking a statistical analysis to gauge the effect of a state's voter ID regime on turnout, especially turnout by minority and elderly voters.

Description: We have created a database and gathered statistics on the effects of state-level voter identification requirements on voter turnout at the county-level in the 2004 election.

Progress: The collection of data for the Voter ID-Turnout analysis is complete. The assembled database contains population demographic data, voter registration data and voter turnout data from all 50 states, 3113 Counties, and the District of Columbia. We have also utilized exit poll data collected on Election Day 2004 as a resource for understanding the demographics of voter turnout.

Challenges: The analysis of these data has been postponed until the data reconciliation of Provisional Voting is complete. The main challenge now is an issue of time management. As a result of the extensive revision and data reconciliation efforts aimed at the Provisional Voting section of our work VID has been temporarily placed on hold.

Work Plan: The analysis of the impact that voter identification requirements have upon voter turnout should be completed by early November.

026135

PROJECT MANAGEMENT

PEER REVIEW GROUP

Description: A feature of our proposal was the creation of a PRG. It reviews our research and methodology and provides valuable feedback and suggestions for the direction of our work.

Progress: The research team held its first conference call with PRG members on September 19, 2005. The research team will hold a workshop meeting on October 19, 2005 to address the PRG's comments.

Challenges: To date we still have not heard back from two PRG Members.

Projections: Revisions and clarifications to our reports on Provisional Voting will be resolved by the end of October. We will need to schedule a second conference call to review our research with regard to Voter Identification Requirements in late November. As noted earlier, a summary of the comments we have received from the PRG is attached to this report.

COORDINATION AND INFORMATION MANAGEMENT

Collecting and merging information and data from myriad sources is a demanding requirement of this research. We have developed two principal mechanisms to facilitate the analysis of the material collected or created in the project: an information system and an internal website for easy access to drafts and reports.

INFORMATION SYSTEM

Description: The statutory data and reports prepared by the Moritz College of Law is being merged with the political and procedural data and analysis prepared by the Eagleton Institute of Politics to provide a cohesive final product to the EAC, which will include a compendium of case law and statutes regarding Provisional Voting and voter identification.

Progress: At this point in the research process, many documents are complete after a lengthy process of circulating drafts among team members. We have reorganized our system by separating final drafts from earlier versions of documents, discarding dated files contained in the Information System, and updating the system as a whole.

Projections: The entire project team continues to use the Information System which contains the above referenced research, in working toward the preparation for our final reports to the EAC.

INTRANET

026136

Description: All project team members have signed on to the Intranet site. The Intranet facilitates the exchange of information and collaboration among project participants.

Progress: Project team members regularly post drafts, completed materials and spreadsheets online for internal review. The intranet has helped team members and serves as an internal website with announcements and important documents readily available to all team members.

FINANCIAL REPORT

The financial reporting for this project is supervised and prepared by the Division of Grant and Contract Accounting (DGCA) at Rutgers. Financial reporting on grant accounts is limited to actual expenses that have been incurred during the reporting period. Our contact at DGCA is: Constance Bornheimer, (732) 932-0165, EXT. 2235.

A detail of expenses incurred from project September 1- September 30, 2005, will be sent under separate cover to: Ms. Dianna Scott, Administrative Officer at the EAC.

026137

*Peer Review Group
Summary of Comments
To the Eagleton/Moritz Group
Under Contract to Provide Research Assistance to the EAC*

October 15, 2005

The Peer Review Group (PRG) met by telephone conference on September 21. Those participating included: Michael Alvarez, John C. Harrison, Martha Kropf, Dan Lowenstein, Peter Verniero, Brad Smith, and Tim Storey. This summary also includes additional written remarks submitted by Martha Kropf and additional remarks from a follow-up phone call with Timothy O'Rourke. We are now addressing all the comments including, in some cases, returning to members of the group to seek further elaboration or clarification.

We encouraged the members of the PRG to comment about any aspect of the project. We furnished them with these materials before the meeting.

1. Survey of local (mainly county) officials conducted in June 2005.
2. State-by-state narrative of developments in provisional voting
3. Statistical Analysis of state provisional voting
4. Memorandum on Provisional Voting Litigation
5. Memorandum on Provisional Ballot Litigation by State
6. July Memorandum on Provisional Ballot Litigation by Issue

We suggested that PRG members rank our draft responses to each of the six key questions posed by the EAC along these lines:

- 1- Research supports conclusions well.
- 2- Research supports some conclusions. Specific questions are:
- 3- Research does not support conclusions. Major problems are:

On the Alternatives paper, we asked PRG members to list up to three items they found questionable in light of the research and their own knowledge of provisional voting and election administration and to give us their thoughts on alternative policies that we had no included.

General Suggestions

1. Make transparently clear the meaning of 'old' versus 'new' states. It is not enough to categorize the states as such, we need to determine why specific states were considered 'old' or 'new' (i.e. clarify what conditions were met by old states).

2. Be **clear** in our report about the **data that we were unable to obtain** and perhaps speculate on why that data was not available. (For example, do we have the documentation the state election boards gave the localities regarding counting practices? If not, why not? Indicate the states for which it was difficult to obtain data.

3. Prescribe less and **describe more** (tell what voters/administrators have done, not what they should have done or ought to do).

4. Questioned our assumption about public trust – How do we know that decreases in disputes/challenges signify an increase in public trust? We need to explain this assertion.

Specific Review by Area of Analysis/Document

Response to Statistical Review:

- Challenged our emphasis on the number of provisional ballots counted as a percentage of those cast as an indication of success of Provisional Voting. Suggested alternative relationships to consider (PB v. Turnout, PB v. Registered Voters, and PB v. Voting age Population).
- Wanted the inclusion of variation within states among counties (and geographical considerations).
- The report needs to address the quality and validity of the data used in the analysis.
- On Page 8, cautioned using the estimate of 280,000 disenfranchised voters who would have voted if outside precinct voting was permitted.

Response to Question Four:

- Remove the comments in the footnote (p. 1) that offers an alternative way of analyzing the question relating to the possible increase in voter participation as a result of provisional voting because the margin of error in the Census survey does not support a conclusion at this level of significance.
- Address the alternative explanation for why old states may enfranchise more voters than new states (i.e. Kropf 's Failsafe option).
- Include a statistical summary of the relationship between the length of time a state has had PV and the rate at which votes are counted.

Response to Question Five:

- Is it possible to draw any conclusions about the local differences within and among states broken down by county (presumably 20 states worth)?

- Clarify what is meant by “design” and say how many states have/had provisional ballots that are designed differently and look different. Why is design important?
- Page 17 indicates that states with statewide voter databases end up validating fewer PVs. This is important & should be addressed in more detail.

Response to Question Six:

- On the usefulness of instructions, 98% said the instructions were useful. Make it clear that this represents 98% of the officials who got instruction.
- Is the passive voice the best means to communicate this information (for ex. "Second, objectively how well did the process appear to be managed?")

Response to State Narratives:

- When in doubt about whether we have data to support a sentence it is important to be careful about the language we use (say ‘doing XYZ would have revealed’ as opposed to ‘most of what we know about XYZ revealed’ ...)
- Clarify for the readers what is meant by "provisional vote/total vote". Does that mean provisional votes cast? Counted? Make it clear right at the beginning of every document?
- Footnote states that do not list poll sites or tell people where to vote with the fact that many cities/counties do have a poll finder.

Election Official Survey

- Clarify how we determined who to include in the sample and how we developed the questions in the survey (was a focus group an initial step?) Why were 3,800 election officials deemed eligible to participate (out of how many? 5,000 or so?)
- Clarify old and new states on pg. 2 in National Survey. Comment on how to assess fraud in provisional voting? What is the relationship between PV and turnout?
- Explore more issues about citizenship (18% non-citizen voting in CA)?
- Appendix A says survey was random, but it’s not. How was the data weighted for small, medium and large counties, and for other issues? Clarify this in the report.

- Why doesn't the total of new and old states equal 50 (25 and 18) and why does the National Survey of Election Officials have different numbers? Is FL an 'old' state?
- Are the New England states underrepresented in the survey? If so, why?
- Report should offer more information about the response rate.

. Alternatives Document

- The importance of clarity in state processes for both administrators and voters needs to be better articulated.
(Better training of poll workers, clarity whether failure to check boxes disqualifies voters, access to better info. at polling locations)
- Cautions the use of definitive statements (such as A-3, perhaps say "This raises the question of...").
- Have other EAC Guidelines been tested in court yet?
- On page 3: the 'tracking number' in # 6 is not feasible. Also, "the information" in # 12 should be changed to "the website and 800 numbers" for clarification.
- Page 6, there were disagreements about # 1 and # 2 of options in Sec. F regarding the installation of a separate body to rule on PV for the integrity process; a motion was made to get rid of them.
- Page 6, Sec. E option # 1 should be eliminated or clarified
- Add to Sec. F a '# 5' requiring states to provide detailed public info. on PV



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

10/18/2005 03:45 PM

To "gmhillman@eac.gov" <gmhillman@eac.gov>,
"rmartinez@eac.gov" <rmartinez@eac.gov>,
"pdegregorio@eac.gov" <pdegregorio@eac.gov>,
cc "christopher [REDACTED]"
<christopher [REDACTED]>, "bkaufma [REDACTED]"
<bkaufma [REDACTED]>, "dlewis [REDACTED]"
bcc

Subject Research Grants

History:

This message has been replied to and forwarded.

Dear Commissioners:

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I have just learned that a similar situation has occurred. I understand that another research grant has been awarded to Tova Wang for research into "voter fraud and voter intimidation." Ms. Wang has an even more pronounced partisan and one-sided view of these issues than was present in the situation involving Moritz College. She has many posted opinions available on the Internet that make it clear that she will not be able to conduct research in an objective fashion on these issues. Just a few examples illustrate this:

"It is truly shocking how, given all the problems in the voting system and continued disenfranchisement, the terms of the debate have shifted to that of so-called 'ballot integrity.' It is reminiscent of how conservatives have misappropriated the concept of patriotism and the American flag, and used the power of language and messaging to distort the discussion, by using terms such as 'partial birth abortion' or death tax.'"

"This stands in stark contrast to the entire tenor of the Carter-Baker report, which presumes that fraud committed by voters is the biggest problem confronting our election system. There is simply no strong evidence of this, and some of the remedies proposed will take us backwards in the fight to increase voter participation."

"...voters are individually disenfranchised by continued, often race based, voter intimidation and deceptive practices..."

Carter-Baker Report: Some Bad Fixes for the Wrong Problem, 9/19/2005

"The data is also mounting that identification requirements have disproportionately disenfranchising impacts on certain communities...Given all this piling on of negative evidence, both in terms of the efficacy of ID requirements in fulfilling the goal their advocate's claim and their impact on voting rights, it is somewhat mind boggling that so many state officials, as well as other groups working on this issue, are still vigorously pushing for greater expansion of what seems to be a rather useless yet dangerous tool. Shouldn't the burden of proof now shift to the advocates of more voter ID to demonstrate the value of their cause?"

Voter ID and Fraud: Prove It, 7/28/2005

There are numerous more examples of her partisan opinions and attacks and demonstrably false claims against Republicans and election officials in general, such as her baseless charge in another article that

026142

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Whatever procedures the EAC has set up to screen individuals and entities applying for research grants is obviously not working. I have no doubt that I could today, based on reading Ms. Wang's prior opinions, predict exactly what her report will conclude on the issues of voter fraud and voter intimidation. This situation needs to be corrected so that research is not being conducted by partisan individuals with preset opinions and views on issues. As with my prior email, I strongly recommend that the EAC reconsider the awarding of this contract.

Hans A. von Spakovsky
Counsel to the Assistant Attorney General
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Washington, D.C. 20530

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026143



Paul DeGregorio /EAC/GOV
10/18/2005 04:56 PM

To Juliet Thompson, Thomas R. Wilkey (EAC)
cc
bcc
Subject Fw: Research Grants

I am not sure you received this e-mail from Hans (it wasn't clear on the to: list).

Paul DeGregorio
Vice Chairman
US Election Assistance Commission
1225 New York Ave, NW
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Washington, DC 20005
1-866-747-1471 toll-free
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202-566-3127 (FAX)
pdegregorio@eac.gov
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— Forwarded by Paul DeGregorio/EAC/GOV on 10/18/2005 04:56 PM —



"Hans.von.Spakovsky@usdoj.gov"
<Hans.von.Spakovsky@usdoj.gov>
10/18/2005 03:45 PM

To "gmhillman@eac.gov" <gmhillman@eac.gov>,
"rmartinez@eac.gov" <rmartinez@eac.gov>,
"pdegregorio@eac.gov" <pdegregorio@eac.gov>,
"eac.gov" <jthompson@eac.gov/twilke>,
"ddavison@eac.gov" <ddavison@eac.gov>
cc "christophert [REDACTED]"
<christophert [REDACTED]>, "bkaufma [REDACTED]"
<bkaufman [REDACTED]>, "dewis [REDACTED]"
<dewis [REDACTED]>, "tjsthree [REDACTED]"
<tjsthree [REDACTED]>, "wrklinerjr [REDACTED]"
<wrklinerjr [REDACTED]>
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Counsel to the Assistant Attorney General
Civil Rights Division - Room 5539
U.S. Department of Justice

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026146

Juliet E. Thompson/EAC/GOV
10/18/2005 05:02 PM

To Paul DeGregorio/EAC/GOV@EAC
cc
bcc
Subject Job Serebrov

Voter Fraud experience

Worked for Mike Hucaby (sp??) in his Lieutenant Gov's race as counsel for ballot fraud protection

Formed and worked for Arkansans for Fair Elections (non-profit -- unofficial effort of the Rep. party) working on voter fraud issues (approximately 8 years). That included organizing a state ballot protection campaign, a video and written materials protection plan, and working on a variety of fraud issues (ballot stuffing, voting system fraud, counting issues), and handling legal issues.

Appointed by Asa Hutchinson to be counsel for ballot issues.

Federal election attorney for Fay (sp) Bozeman in the failed campaign.

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

026147



Paul DeGregorio /EAC/GOV
10/18/2005 05:17 PM

To "Hans.von.Spakovsky@usdoj.gov"
<Hans.von.Spakovsky@usdoj.gov>@GSAEXTERNAL
cc
bcc Juliet E. Thompson/EAC/GOV
Subject Re: Research Grants

Hans,

I wish you would have shown us the decency to have spoken to someone at the EAC before you sent this e-mail. Had you done so, you might have discovered that Ms. Wang was paired with Job Serebrov, a conservative attorney who, like you, has served on a local election board (Washington, Co, AK -Fayetteville). He has also worked on voting issues and election law in his practice, including voter fraud. He was counsel to the Arkansas GOP on ballot integrity issues and was the ballot protection specialist for Mike Huckabee in his campaign for Lt. Governor. In addition, Job formed and ran "Arkansans for Fair Elections", a non-partisan group that looked to investigate and prevent voter fraud issues. He headed that group for 8 years. Job served the Republican Party of Arkansas as the Chairman of the Committee for the Revision of the State Constitution.

Thor Hearne called me last week to indicate that Job had called him to be on the working group that Job and Ms. Wang are putting together to look at the voter fraud/voter intimidation issues.

Job was recommended to the EAC for this work by Julie Thompson. His references included two US 8th Circuit judges appointed by GOP presidents: Morris Arnold and Lavenski Smith.

You may recall that the Advisory Board made it clear to the EAC that they thought the Voter Fraud/Voter Intimidation issues should be studied together. That's why Ms. Wang has been paired with Mr. Serebrov to do this study.

Julie tells me that she had a wide-ranging discussion with you last week but you never brought this issue up. It's too bad, as it may have prevented you from sending an e-mail to so many people that contains only half the story.

Paul DeGregorio
Vice Chairman
US Election Assistance Commission
1225 New York Ave, NW
Suite 1100
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"Hans.von.Spakovsky@usdoj.gov" <Hans.von.Spakovsky@usdoj.gov>



"Hans.von.Spakovsky@usdoj.gov"
<Hans.von.Spakovsky@usdoj.gov>
10/18/2005 03:45 PM

To "gmhillman@eac.gov" <gmhillman@eac.gov>,
"rmartinez@eac.gov" <rmartinez@eac.gov>,
"pdegregorio@eac.gov" <pdegregorio@eac.gov>,
"eac.gov" <jthompson@eac.gov/twilke>,
"ddavison@eac.gov" <ddavison@eac.gov>
cc "christopher [REDACTED]"

026148



<christopher@...>, "bkaufman@..."
<bkaufman@...>, "dewis@..."
<dewis@...>, "tjstree@..."
<tjstree@...>, "wrkliner@..."
<wrkliner@...>

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026149

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U.S. Department of Justice
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Facsimile (202) 307-2839

026150



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

10/19/2005 09:49 AM

To "pdegregorio@eac.gov" <pdegregorio@eac.gov>

cc

bcc

Subject RE: Research Grants

History

This message has been forwarded.

perhaps if the Board of Advisors were kept better informed, I would not have been put into this position.

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

From: pdegregorio@eac.gov [mailto:pdegregorio@eac.gov]
Sent: Tuesday, October 18, 2005 5:18 PM
To: von Spakovsky, Hans (CRT)
Subject: Re: Research Grants
Importance: High

Hans,

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Paul DeGregorio
Vice Chairman
US Election Assistance Commission
1225 New York Ave, NW
Suite 1100

026151

Washington, DC 20005
1-866-747-1471 toll-free
202-566-3100
202-566-3127 (FAX)
pdegregorio@eac.gov
www.eac.gov

"Hans.von.Spakovsky@usdoj.gov" <Hans.von.Spakovsky@usdoj.gov>
10/18/2005 03:45 PM

To

"gmhillman@eac.gov" <gmhillman@eac.gov>, "rmartinez@eac.gov"
<rmartinez@eac.gov>, "pdegregorio@eac.gov" <pdegregorio@eac.gov>,
"eac.gov" <jthompson@eac.gov/twilke>, "ddavison@eac.gov"
<ddavison@eac.gov>

CC

"christopher" <christopher>,
"bkaufman" <bkaufman>,
"dlewis" <dlewis>,
"tjsthree" <tjsthree>, "wrklinerjr@" <wrklinerjr@>

Subject

Research Grants

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"This stands in stark contrast to the entire tenor of the Carter-Baker report, which presumes that fraud committed by voters is the biggest problem confronting our election system. There is simply no strong

026152

evidence of this, and some of the remedies proposed will take us backwards in the fight to increase voter participation."

"...voters are individually disenfranchised by continued, often race based, voter intimidation and deceptive practices..."

Carter-Baker Report: Some Bad Fixes for the Wrong Problem, 9/19/2005

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Voter ID and Fraud: Prove It, 7/28/2005

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

Telephone (202) 305-9750
Facsimile (202) 307-2839

026153



Paul DeGregorio /EAC/GOV
10/25/2005 05:07 PM

To Karen Lynn-Dyson
cc
bcc
Subject Fw: Research Grants

see e-mail traffic below

— Forwarded by Paul DeGregorio/EAC/GOV on 10/25/2005 05:07 PM —



"Hans.von.Spakovsky@usdoj
.gov"
<Hans.von.Spakovsky@usdoj
j.gov>
10/19/2005 09:49 AM

To "pdegregorio@eac.gov" <pdegregorio@eac.gov>
cc
Subject RE: Research Grants

perhaps if the Board of Advisors were kept better informed, I would not have been put into this position.

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

From: pdegregorio@eac.gov [mailto:pdegregorio@eac.gov]
Sent: Tuesday, October 18, 2005 5:18 PM
To: von Spakovsky, Hans (CRT)
Subject: Re: Research Grants
Importance: High

Hans,

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026154

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10/18/2005 03:45 PM

To

"gmhillman@eac.gov" <gmhillman@eac.gov>, "rmartinez@eac.gov"
<rmartinez@eac.gov>, "pdegregorio@eac.gov" <pdegregorio@eac.gov>,
"eac.gov" <jthompson@eac.gov/twilke>, "ddavison@eac.gov"
<ddavison@eac.gov>

CC

"christopher [REDACTED]" <christophert [REDACTED]>,
"bkaufman [REDACTED]" <bkaufman [REDACTED]>,
"dlewis [REDACTED]" <dlewis [REDACTED]>,
"tjsthree [REDACTED]" <tjsthree [REDACTED]>, "wrklinerjr [REDACTED]"
<wrklinerjr [REDACTED]>

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026156

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950 Pennsylvania Avenue
Washington, D.C. 20530

Telephone (202) 305-9750
Facsimile (202) 307-2839

026157

Karen Lynn-Dyson/EAC/GOV
10/25/2005 05:36 PM

To Paul DeGregorio/EAC/GOV@EAC
cc
bcc
Subject Re: Fw: Research Grants

So, did he "retract" his statement to his colleagues on the Board of Advisors, or have they, at least, been informed that Tova has been teamed with Job?

Also- does Hans know how to say " mea culpa"
:-)

Thanks for passing this on.

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

Paul DeGregorio/EAC/GOV



Paul DeGregorio /EAC/GOV
10/25/2005 05:07 PM

To Karen Lynn-Dyson/EAC/GOV
cc
Subject Fw: Research Grants

see e-mail traffic below

— Forwarded by Paul DeGregorio/EAC/GOV on 10/25/2005 05:07 PM —



"Hans.von.Spakovsky@usdoj.gov"
<Hans.von.Spakovsky@usdoj.gov>
10/19/2005 09:49 AM

To "pdegregorio@eac.gov" <pdegregorio@eac.gov>
cc
Subject RE: Research Grants

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Importance: High

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10/18/2005 03:45 PM

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<rmartinez@eac.gov>, "pdegregorio@eac.gov" <pdegregorio@eac.gov>,
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<ddavison@eac.gov>

026159

cc

"'christophert[REDACTED]v'" <christophert[REDACTED]>,
"'bkaufman[REDACTED]'" <bkaufman[REDACTED]>,
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"'tjsthree[REDACTED]'" <tjsthree[REDACTED]>, "'wrklinerjr[REDACTED]m'"
<wrklinerjr[REDACTED]om>

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Voter ID and Fraud: Prove It, 7/28/2005

026160

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950 Pennsylvania Avenue
Washington, D.C. 20530

Telephone (202) 305-9750
Facsimile (202) 307-2839

026161



Paul DeGregorio /EAC/GOV

11/09/2005 11:28 AM

To Gracia Hillman, Donetta Davidson (EAC), Raymundo
Martinez, Juliet Thompson, Thomas R. Wilkey (EAC)
cc Karen Lynn-Dyson/EAC/GOV

bcc

Subject Call from Paul Vinovich

I took a telephone call this morning from Paul Vinovich. He had attempted to reach Gracia, but since she was not here, he asked Sheila if I was in the office so he spoke to me.

Paul was very upset with comments that Tova Wang had made at yesterday's AEI's meeting in which she basically indicated that voter fraud did not exist in the USA. He asked how a person who believes that voter fraud does not exist--or not seem at least willing to listen to both sides--can be hired by the EAC to do a study on voter fraud/voter intimidation. I explained to Paul (as I have now had to explain to many others) that Tova was "balanced" on the study with Job Severbrov. He did not know Job but was well-aware of Tova's positions and was concerned that her public comments indicate that she will not be fair in looking at this issue. I explained to Paul that we were monitoring the work of our consultants on this study and no report would be issued publicly without the support of at least three commissioners. I sent him some background information on Job. I think this study will need close monitoring.

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202-566-3127 (FAX)
pdegregorio@eac.gov
www.eac.gov

026162



Gracia Hillman/EAC/GOV

11/09/2005 12:40 PM

To Paul DeGregorio/EAC/GOV@EAC, Donetta L. Davidson/EAC/GOV, Raymundo Martinez/EAC/GOV, Juliet E. Thompson/EAC/GOV, Thomas R. Wilkey/EAC/GOV
cc Karen Lynn-Dyson/EAC/GOV

bcc

Subject Re: Call from Paul Vinovich

What Paul V said is NOT at all an accurate statement of what Tova said. I was there. This is very dissappointing to read. I may call Mr. V myself.

I watched and heard what was said and by whom. I will be glad to brief you tomorrow morning.

Sent from my BlackBerry Wireless Handheld
Paul DeGregorio

From: Paul DeGregorio
Sent: 11/09/2005 11:28 AM
To: Gracia Hillman; Donetta Davidson; Raymundo Martinez; Juliet Thompson; Thomas Wilkey
Cc: Karen Lynn-Dyson
Subject: Call from Paul Vinovich

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026163

Karen Lynn-Dyson/EAC/GOV
05/16/2006 04:50 PM

To Paul DeGregorio/EAC/GOV@EAC, Raymundo
Martinez/EAC/GOV@EAC, Gracia Hillman/EAC/GOV@EAC,
Donetta L. Davidson/EAC/GOV@EAC, twilkey@eac.gov
cc Amie J. Sherrill/EAC/GOV@EAC, Sheila A.
Banks/EAC/GOV@EAC, Elieen L. Collver/EAC/GOV@EAC,
Adam Ambrogi/EAC/GOV@EAC, Bert A.
bcc
Subject Receipt of Eagleton Voter Identification paper by tomorrow at
9:00 AM

Commissioners-

I just received a call from Tom O'Neill, Project Manager for the Eagleton/Moritz contract, indicating that the peer review team has not completed their final review of the Voter Identification paper. They are scheduled to have a conference call at 9:00 PM tonight to go over the final review.

I am told I will receive the final Voter Id paper by 9:00 AM, tomorrow morning .

Regards-

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

026164



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

RESOLUTION 2006-01

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

RESOLVED that the Standards Board recommends—

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

026165



Gracia Hillman/EAC/GOV

10/30/2006 01:48 PM

To Thomas R. Wilkey/EAC/GOV@EAC

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

bcc

Subject The "Fraud/Intimidation" Report

Tom:

In light of your announcement this morning about Peg's continued illness, I am asking who has taken the responsibility to complete EAC internal review of the information that was submitted to us by the consultants and what is the timeline for completion of that review?

I am taking far too much criticism on this to just idly sit by saying "I don't know" when EAC will release the information.

Thank you,
Gracia

026166



Gracia Hillman /EAC/GOV
10/30/2006 03:59 PM

To pdegregorio@eac.gov

cc Ddavidson@eac.gov

bcc

Subject Meeting with EAC Staff

History

This message has been replied to

FYI - Donetta and I had a good session with EAC staff this morning. We took the liberty of saying that our comments reflected your sentiments as well.

We thanked the staff for its hard work and continued dedication. We discussed the need for EAC to have a rapid response capability when issues arise that warrant an EAC response. We talked about how details matter; the importance of all press calls being routed to Jeannie (or Bryan) and all inquiries from Congress being routed to Julie; and not reporting or answering questions on another staff person's area of responsibility. We also discussed that everything we do is governed by HAVA and EAC policies and procedures and that staff should be diligent to check this information as they work on their projects.

We briefed about the Fraud Report firestorm; the news reports of Sequoia; and asked Tom to make sure that staff receive copies of the information that we are sending to Election Officials about the Sequoia story.

We emphasized that we know that the commissioners set the culture for the staff's work environment and that we wanted them to know what we are saying and how and why we respond the way we do to various inquiries.

I also briefed about upcoming changes in the members of the commission, explaining that while we know there will be changes, we don't know exactly when the new commissioners will come on board. I explained that I am in hold over status.

I think this summary covers the main points pretty well. The feedback I received is that the session was appreciated and well received by staff

026167

Calendar Entry

Meeting Invitation Juliet E. Hodgkins has invited you to a meeting

Subject	Draft Fraud and Intimidation Report Briefing	Chair	Juliet E. Hodgkins/EAC/GOV
When	Date: Wednesday 11/29/2006 Time: 10:30 AM - 11:30 AM (1 hour)	Invitees	Required (to) Donetta Davidson, Gracia Hillman/EAC/GOV@EAC, Paul Bert A. Optional (cc) Benavides/EAC/GOV@EAC, Eliéen L.
Where	Small Conference Room		

026168

Karen Lynn-Dyson/EAC/GOV

11/29/2006 03:28 PM

To EAC Personnel

cc

bcc

Subject Urgent-- FOIA Request Eagleton materials

All-

As everyone knows, we have a FOIA request which involves, in part, materials from the Eagleton/Moritz contract.

In an effort to pull these materials together I have gone to the EAC Contracts file (located outside of Tom's office) only to discover one of the binders is missing. The binder was there last week and is now missing.

If you have this Eagleton Contract Binder 1 (4 inches thick) please return to me ASAP.

Thanks

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

026169

Bryan Whitener /EAC/GOV
12/06/2006 03:15 PM

To Paul DeGregorio/EAC/GOV@EAC, Donetta L.
Davidson/EAC/GOV@EAC, Gracia
Hillman/EAC/GOV@EAC, Thomas R.
cc Jeannie Layson/EAC/GOV@EAC,
genny.lamboley [REDACTED], harrison.keith [REDACTED],
jennifer.roseutley [REDACTED], kate.houston [REDACTED]
bcc

Subject For your approval - News Releases, Fact Sheet & Letter

Commissioners / Tom:

With your approval, we would like to issue the following two news releases at the conclusion of Thursday's public meeting. Also attached is a draft Q&A sheet on the certification program for internal reference. I have attached them here and pasted the text below. I've also copied Burson-Marsteller. Please let us know if any changes should be made.

Draft Press Release - EAC Releases Findings of Voting Fraud and Voter Intimidation Study



EAC News Release (12-7-06) Fraud Report Adopted - 2.doc

Draft Press Release - EAC Approves Voting System Testing & Certification Program Standards



EAC News Release (12-7-06) Cert Program Adopted - 1.doc

Draft Q&A - EAC's Testing and Certification Program for Voting Systems (internal reference only)



Revised Certification QA v2 (BH rev).doc

###

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No consensus on the regularity of voting fraud and voting intimidation found
Agency accepts recommendations to conduct a comprehensive study on elections crimes

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The recommendations accepted by EAC today include:

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026170

- **Survey State Election Crime Investigation Units Regarding Complaints Filed and Referred:** EAC will gather information on the numbers and types of complaints that have been received by, investigated, and ultimately referred to local or state law enforcement by election crime investigation units since January 1, 2004.
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In order to arrive at the findings, EAC consultants reviewed existing studies, articles, reports and case law on voting fraud and intimidation and conducted interviews with experts in the field regarding their experiences and research. According to the findings, while there is currently no consensus on the frequency of voting fraud and voter intimidation, most participants agreed that absentee balloting is subject to the greatest proportion of fraudulent acts, followed by vote buying and voter registration fraud.

Following today's vote to approve the survey recommendations, EAC will begin a comprehensive survey and subsequent study on voting fraud and voter intimidation based on hard data. Section 241 of the Help America Vote Act of 2002 (HAVA) mandates that EAC research and study various issues related to the administration of elections. During Fiscal Year 2006, EAC in consultation with the Standards Board and Board of Advisors selected voting fraud and voter intimidation from a list of potential research topics that serve to improve the administration of elections for federal office.

For the EAC's full report on the Voting Fraud and Voter Intimidation Study or to view testimony from today's hearing, visit www.eac.gov.

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New Program is First for Federal Government

WASHINGTON - The United States Election Assistance Commission (EAC) today voted to approve a new voluntary program for the testing and certification of voting systems. Today's approval marks the first time that the Federal Government will have the authority to provide certification, decertification and recertification of voting system hardware and software used during the federal election process, and the accreditation of testing laboratories. The new program is scheduled for implementation beginning in January 2007.

"Election reform has made great improvements since the enactment of the Help America Vote Act in 2002," said Paul DeGregorio, Chairman of the Election Assistance Commission. "EAC's new testing and certification program is one more step in the federal election process to ensure the integrity and reliability of voting system operation."

A webcast of today's meeting can be accessed Friday at www.eac.gov.

The new program which provides information and procedures to manufacturers for the testing and certification of voting systems consistent with the requirements of the Help America Vote Act (HAVA), also supports state certification programs and provides information and support to state elections officials for acceptance testing and pre-election system verification, and increased quality control in voting system manufacturing and increased voter confidence in the use of electronic voting systems.

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Under the new program the National Institute of Standards and Technology (NIST) will assist EAC through the National Voluntary Laboratory Accreditation Program (NVLAP), which will provide recommendations to EAC for final determination regarding the accreditation of laboratories used to test voting systems.

While participation in EAC's new voting system testing and certification program is voluntary, states and manufacturers are encouraged to send their machines through the new program to ensure an added layer of security and protection against voting irregularities. States and voting system manufacturers that choose to participate in the program must comply with the program's mandatory procedural requirements, which will include random reviews and spot checks of voting systems currently used in the field through EAC's Quality Monitoring Program to ensure that those systems match the records of systems certified by EAC.

Voting systems that do not meet the requirements of the EAC Voluntary Voting System Guideline standards risk being decertified and will be removed from EAC's list of certified voting systems. Additionally, laboratories will be held accountable under the accreditation requirements and international lab standards and could risk losing accreditation by both EAC and NVLAP if a violation of those standards occurs.

Prior to the passage of HAVA, voting systems were assessed and qualified by the National Association of State Elections Directors (NASSED), a non-partisan association consisting of elections directors nationwide. EAC developed the new voting system testing and certification program in response to required mandates under HAVA, which was enacted in 2002. To date, approximately 40 states currently require voting systems to be certified at the national level.

###

Draft Q&A - EAC's Testing and Certification Program for Voting Systems (internal reference only)

EAC's Testing and Certification Program for Voting Systems

Prior to the passage of The Help America Vote Act (HAVA), voting systems were assessed and qualified by The National Association of State Election Directors (NASSED), a nonpartisan association consisting of election directors nationwide. These voting systems were tested against the 1990 and 2002 voting system standards.

In 2005, the Election Assistance Commission (EAC) adopted the first set of voluntary voting system guidelines, as mandated under HAVA. HAVA also requires that EAC provide certification, decertification, and recertification of voting systems and the accreditation of testing laboratories, marking the first time the federal government will be responsible for these activities. Under HAVA, NIST will assist the EAC with the certification program through its National Voluntary Laboratory Accreditation Program (NVLAP), and will provide recommendations to the EAC regarding laboratory accreditation. EAC will make the final decision to accredit laboratories based upon the information provided by NVLAP. Participation by states in EAC's certification program is voluntary; however, most states currently require national certification for the voting systems used in their jurisdictions.

EAC's Voting System Testing and Certification Program

In July 2006, EAC adopted a two phase implementation of its Voting System Testing and Certification Program. The two phases consist of (1) the pre-election or interim phase, and (2) the full testing and certification program. The interim phase began in July, and covers only modifications to voting systems. EAC Commissioners will vote today to approve adoption of the full program. If approved, implementation of the full program will begin in January 2007.

The purpose of EAC's national voting system certification program is to independently verify that voting systems comply with the functional capabilities, accessibility, and security requirements necessary to

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ensure the integrity and reliability of voting system operation.

Frequently Asked Questions

Q: How long has the federal government tested voting equipment?

A: The Help America Vote Act (HAVA) ushered in federal assistance for the certification of voting equipment for the first time, tasking EAC and the National Institute of Standards and Technology (NIST) to partner in implementing and administering the program.

Q: Who had the authority to certify voting equipment in the past?

A: In the past, voting systems have been reviewed and certified by the National Association of State Election Directors (NASSED). NASSED performed this service on a volunteer basis and received no federal funding. Most of the voting systems in use today were qualified by NASSED.

Q: How will the certification process work?

A: Under HAVA, NIST and the EAC are jointly responsible for creating the voluntary voting system guidelines. These guidelines include a set of specifications and requirements against which voting systems can be tested to determine if the systems provide all of the basic functionality, accessibility and security capabilities required of these systems. In addition, the guidelines establish evaluation criteria for the national certification of voting systems. NIST assists the EAC with the certification program through its National Voluntary Laboratory Accreditation Program (NVLAP), which will provide recommendations to the EAC regarding laboratory accreditation. After EAC receives the recommendations from NVLAP, the agency's executive director will make the final determination regarding test lab accreditation.

Q: Why will manufacturers be allowed to pay test labs directly?

A: EAC does not have the legal authority to collect money from voting system manufacturers to pay for the testing of voting systems. (see 31 U.S.C. §3302(b), Miscellaneous Receipts Act). However, if Congress grants the EAC statutory authority to collect and use such funds, we would certainly consider alternative approaches.

Q: Why will manufacturers be allowed to choose which test lab to use?

A: Regardless of which lab conducts the work, all labs will be held accountable under the accreditation requirements and international lab standards. If a lab violates either EAC policy or the international standards, it could risk losing its accreditation by both EAC and NVLAP. The concept of manufacturers contracting with independent test labs is consistent with numerous other federal government and private sector testing programs.

Q: Will the source code be available to the public?

A: EAC will make all information available to the public consistent with federal law. EAC is prohibited under the Trade Secrets Act (18 U.S.C. §1905) from making the source code information available to the public. However, as necessary, the test labs and EAC's technical reviewers will examine the source code to ensure compliance with the voluntary voting system guidelines.

Q: What does EAC's interim accreditation program cover?

A: EAC's interim program issued temporary accreditation to test labs to check modifications to voting systems currently in use. In order to participate in the program, labs applying for interim certification had to attest to a set of EAC required laboratory conditions and practices. EAC requirements for these labs included certifying the integrity of personnel; no conflicts of interest, which covers not only personnel but also their immediate family; as well as the financial stability of the laboratory. EAC hired a NVLAP-trained assessor to verify that these labs successfully met the 17025 standards set by the International Standards Organization. Interim accreditation was necessary to ensure there was no interruption in this process leading up to the November 2006 elections, as NVLAP is currently completing the process of accrediting labs under the HAVA-required program.

Q: Will EAC track problems that occur in the field?

A: Absolutely. EAC's certification program establishes accountability through its Quality Monitoring Program which ensures, through various check points, that the voting systems used in the field are in fact the same systems EAC has certified. For instance, under the program, EAC has the ability to conduct site visits to production facilities to determine whether systems produced are consistent with those that have received EAC certification. EAC will collect reports from election officials regarding voting system anomalies. After reviewing the reports, EAC will share credible information with election officials. In addition, upon invitation or with permission from election officials, EAC will conduct reviews of systems that are in use in the field.

Q: Did EAC track problems that occurred during the November 2006 election?

A: EAC's full certification program will be implemented in early 2007; however, EAC did work with elections officials throughout the country to track potential issues and concerns. As we move forward with implementation of the full program, we will continue to work with election officials to share information and provide assistance.

Q: Why didn't EAC vote to adopt the full certification program prior to the November 2006 election?

A: EAC began its first year of operation in 2004, and the first priority under HAVA was the adoption of voluntary voting system guidelines. EAC adopted the guidelines in 2005, meeting the HAVA-mandated deadline. Resources and staff allocation dictated that EAC begin developing the certification program immediately following the adoption of the guidelines.

Q: Will EAC make test reports available to the public?

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Q: Under the EAC certification program, will there be any repercussions for a manufacturer that misrepresents its product or refuses to address valid system failures?

A: For the first time, manufacturers will be held accountable through not only the Quality Monitoring Program, but also under the decertification process, which would be the ultimate sanction against a manufacturer. If a system is decertified, the manufacturer may not represent the system as being certified, may not label the system as certified, and the system will be removed from the EAC's list of certified voting systems. Election officials will be notified about the decertification.

Q: Do states have to use voting systems that have been certified by the EAC?

A: According to HAVA, participation in EAC's certification program is voluntary. However, approximately 40 states have required that voting systems used in their jurisdictions to have a national certification.

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

For Immediate Release
December 7, 2006

Contact: Jeannie Layson
Bryan Whitener
(202) 566-3100

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*No consensus on the regularity of voting fraud and voting intimidation found
Agency accepts recommendations to conduct a comprehensive study on elections crimes*

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In order to arrive at the findings, EAC consultants reviewed existing studies, articles, reports and case law on voting fraud and intimidation and conducted interviews with experts in the field regarding their experiences and research. According to the findings, while there is currently no consensus on the frequency of voting fraud and voter intimidation, most participants agreed that absentee balloting is subject to the greatest proportion of fraudulent acts, followed by vote buying and voter registration fraud.

Following today's vote to approve the survey recommendations, EAC will begin a comprehensive survey and subsequent study on voting fraud and voter intimidation based on hard data. Section 241 of the Help America Vote Act of 2002 (HAVA) mandates that EAC research and study various issues related to the administration of elections. During Fiscal Year 2006, EAC in consultation with the Standards Board and Board of Advisors selected voting fraud and voter intimidation from a list of potential research topics that serve to improve the administration of elections for federal office.

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"Bryan Whitener"
<bwhitener@eac.gov>
12/07/2006 02:42 PM

To pdegregorio@eac.gov
cc
bcc
Subject EAC Releases Findings of Voting Fraud and Voter
Intimidation Study, 12-07-06

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

For Immediate Release

December 7, 2006

Contact:

Jeannie Layson
Bryan Whitener
(202) 566-3100

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026183

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026184



"Douglas W. Jones"
<jones@ [REDACTED]>
12/12/2006 12:56 PM

To "Marcus Brand" [REDACTED]
cc tarvi@ [REDACTED], rates@ [REDACTED],
i_shyrokova@ [REDACTED], pdegregorio@eac.gov,
irena_hadziabdic@ [REDACTED], kamen@ [REDACTED]
bcc

Subject Vote fraud in NL

There is one topic that we did not mention in the report in any depth that is probably worth mentioning. It leads me to wonder if we overstated our positive confidence in the system.

Irina Shirokova and I met with Robert Loeb, member of the Council of State. He said that there is fraud in the Netherlands but that it is usually at the municipal level. He said that in 20 years, electronic voting had never led to any judicial questions.

However, that same day, Irina and I met with people from the Netherlands Committee of Jurists for Human Rights. There, we heard the story of a case that is currently being prosecuted. My notes from that meeting on this subject read as follows:

> They began with a comment on Rop Gonggrijp's work. Then they
> presented a case of municipal corruption, in which a member
> of the council in the town of Zeeland in Brabant was a polling
> place worker and spent the election day standing not behind
> but in front of the voting machine at the polling place. At
> the end of the day, with about 1000 votes cast on that machine,
> the totals showed 181 votes for him. A journalist from a
> small local paper was suspicious and phoned a number of voters.
> Only one admitted to voting for the man in question. The
> prosecution of this case began in August, all voters were asked
> how they voted, and 800 to 800 responded to the reply, few
> indicating a vote for the man. A paper trail might have helped
> in this case. TNO and Nedap have both checked the computer and
> concluded that there is nothing wrong with it. One speculation
> is that the man used the key switch to force the machine to
> indicate "voting complete" (or some such) prematurely, allowing
> him to slip into the booth and cast extra votes. The court
> case will not mention the man's name unless he is convicted,
> but in newspaper reports, the name is Mr. Te Meerman.

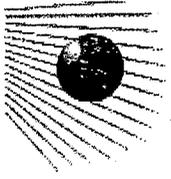
I did a web search on keywords from this incident and found significant coverage, all in Dutch. The keywords I used in Google were: zeeland brabant 181 meerman.

http:// [REDACTED]
Brabants Dagblad
(there are a total of 12 articles in this paper)

http:// [REDACTED]
BITS OF FREEDOM Nieuwsbrief -- item 2 in this blog
discusses this case, with several links.

Doug Jones
jones@ [REDACTED]

026186



Paul DeGregorio /EAC/GOV
12/13/2006 10:03 AM

To "GEORGE, Bruce"
<GeorgeB@...>
cc
bcc

Subject EAC Fraud Report 

Dear Bruce,

I hope this note finds you well. I wanted you to know that the EAC recently released our initial study on voter fraud and intimidation. I have attached it to this e-mail. It can also be found, along with the four appendices, at our website: www.eac.gov

As you will see, the report brings the focus to a discussion of election crimes, along with some definitions. It also begs for more study in this area. I thought you might find the report and the appendices useful in your research on this topic.

I recently spent a two weeks in the Netherlands on an OSCE EAM mission to the Netherlands. Our leader was your good friend Julian Peel Yates. He did a fantastic job as head of the delegation.

Please give my best wishes to your wife. If the holidays take you to St. Louis, please let me know so that



we can meet again. [EAC Voter Fraud and Intimidation Report Dec 2006.pdf](#)

All the best,

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

026187



Paul DeGregorio /EAC/GOV
02/09/2007 10:03 AM

To Paul Vinovich, Matt Peterson
cc
bcc
Subject FYI-another "non-partisan" conference on election reform

Please join the Leadership Conference on Civil Rights, Common Cause, the Center for American Progress Action Fund, and the Century Foundation for the first comprehensive review of problems that plagued voters in the 2006 election and a discussion of potential legislative solutions.

ELECTIONS: LOOKING AHEAD

During the 2006 elections, more than 50,000 voters called national election hotlines with troubles, while the press reported hundreds of additional voting problems, ranging from 18,000 missing votes in a Florida congressional race still being litigated, to long lines and voter intimidation tactics. Following on the heels of similar crisis-ridden elections of 2000 and 2004, voting problems in 2006 have created a public outcry for reform.

Election reform advocates will talk about the problems and release an agenda of solutions endorsed by numerous national organizations representing millions of voters.

Monday, February 12, 2007

Program: 9:00am to 12:00pm

Admission is free.

Breakfast will be served at 8:30 a.m.

Program:

Introduction 9:00am - 9:15

Wade Henderson, President and CEO, The Leadership Conference on Civil Rights

Panel 1: Reporting on Problems in 2006 9:15am - 10:30am

Moderator: Cassandra Butts, Senior Vice President for Domestic Policy, Center for American Progress

Ralph Neas, President and CEO, People for the American Way

Findings from the Election Protection Hotline

Melanie Campbell, Executive Director and CEO, Coalition for Black Civic Participation

Findings from 1-866-MY VOTE1 Voter Alert Line

Efrain Escobedo, Director of Voter Engagement, National Association of Latino Elected and Appointed Officials

Election Day Problems in the Latino Community

Dan Seligson, Editor, Electionline.org

Review of the 2006 Election

Heather Smith, Executive Director, Young Voter Strategies

Election Day Problems Among Young Voters

Second Panel - Critical Election Reform Issues for the 110th Congress 10:45am - 12:00pm

Moderator: Tova Wang, Democracy Fellow, The Century Foundation

Jonah Goldman, Director of the National Campaign for Fair Elections, Lawyer's Committee for Civil Rights Under Law

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Resisting Restrictive Voter Identification Laws and Proof of Citizenship Requirements
Kristin Clarke-Avery, Assistant Counsel in the Political Participation Group, NAACP Legal
Defense and Education Fund

Deterring and Punishing Voter Intimidation and Suppression
Lillie Coney, Associate Director, Electronic Privacy Information Center

Insuring Accessible, Accurate, and Secure Voting Systems
Wendy Weiser, Deputy Director of Democracy Program, Brennan Center

Insuring a Fair and Accurate Voter Registration System
Barbara Burt, Vice President and Director of Election Reform, Common Cause
Preventing Conflicts of Interest in Election Administration

Closing 12:00pm - 12:05pm

The Honorable Rush Holt (D-NJ)

This forum is in the Capitol; therefore, photo ID is required. Enter at the southern most part of the Capitol building.

The US Capitol

Room HC-5

Washington, DC 20515

Map & Directions

Nearest Metro: Blue line to Capitol South or Red Line to Union Station

RSVP for this Event

For more information, please call 202.741.6246.

026189



"Thad Hall"
>
02/15/2007 12:29 AM

To "pdegregorio@eac.gov" <pdegregorio@eac.gov>
cc
bcc

Subject Re: Fraud Book Introduction

History This message has been replied to

Paul: That is great. I am also curious to know if you are going to Estonia for their election.

Thad

On 2/14/07, pdegregorio@eac.gov <pdegregorio@eac.gov> wrote:

Thad,

Thanks for your note and reminder on the introduction to the book. I'd be happy to do one with Ray if our ethics officer says it's OK to do so. I'll check.

Paul DeGregorio
Commissioner
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

"Thad Hall" <thadhall@gmail.com>
>

02/13/2007 01:58 PM

To "pdegregorio@eac.gov" <pdegregorio@eac.gov>, "Ray Martinez" <raymartinezlaw@msn.com>
cc
Subject Fraud Book Introduction
t

026190

At the fraud conference in Salt Lake City, I mentioned to both of you that Mike, Susan Hyde and I would be very interested in having the two of you co-author a relatively short introduction to the book. We think that this will help to show the interest that exists among policy makers in the topic and help to bring the book to the center of the debate over election fraud. Would you both be able to do this? We can give you a draft copy of the volume to work with while the book is being reviewed at Brookings Institution Press so you would not need to have anything to us for probably 2 months.

Let me know if you have any questions.

Thanks to you both!

Thad

--

Thad Hall, Assistant Professor
Dept. of Political Science, University of Utah

[REDACTED]

[REDACTED]

contributor to [http://\[REDACTED\]](http://[REDACTED])

--

Thad Hall, Assistant Professor
Dept. of Political Science, University of Utah

[REDACTED]

[http://\[REDACTED\]](http://[REDACTED])

contributor to [http://\[REDACTED\]](http://[REDACTED])

Bryan Whitener /EAC/GOV
02/16/2007 05:24 PM

To Donetta L. Davidson/EAC/GOV@EAC, Gracia Hillman/EAC/GOV@EAC, Paul DeGregorio/EAC/GOV@EAC
cc Bert A. Benavides/EAC/GOV@EAC, Bola Olu/EAC/GOV@EAC, Brian Hancock/EAC/GOV@EAC, Curtis Crider/EAC/GOV@EAC, DeAnna M.
bcc

Subject FYI - Today's media inquiries (2-16-07, Frid)

Commissioners:

Today we had the following media inquiries:

(1) The chair was interviewed by Rich Wolfe of USA Today about the voter ID research. She said we discussed the initial findings about voter ID at a public meeting b/c this is such an important issue that impacts voters in every corner of this country. She noted that the new voter ID laws have been enacted in many states in just a few short years, and that the initial work done by Eagleton only covered one election cycle, and she believed we must study this issue over at least two like elections (presidential) to determine if these new laws have had any impact. The chair said based on the initial work conducted by Eagleton, I've instructed staff to present to the commission w/n 30 days a plan for moving forward to continue studying the impact of voter ID. We will immediately release this plan to the public. He then asked about some of the election reform bills in Congress, specifically the points brought up during Sen. Feinstein's hearing. The chair pointed out that we need to make sure timelines are realistic -- election officials need to have time to make sure new laws will work. Implementation doesn't happen overnight. She said we need to make sure we can actually accomplish initiatives within the timeframes prescribed. She said states are always aware that they must first meet certification requirements, conduct mock elections and train staff before introducing new equipment.

(2) Dick Smolka of Election Administration Reports asked if EAC's meeting with voting equipment vendors on Tuesday was in response the Board of Advisors Resolution that EAC collect certain information from them. Brian Hancock replied that this was not the topic of the meeting and that he had not yet been instructed to collect the information requested in the resolution.

(3) Cara Matthews of Gannett News in Albany called to ask the latest about the possible loss of HAVA 102 funds by New York. We said that we are continuing to review the responses from all the states in the order they were received.

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026192

Bryan Whitener /EAC/GOV
02/20/2007 05:33 PM

To Donetta L. Davidson/EAC/GOV@EAC, Gracia Hillman/EAC/GOV@EAC, Paul DeGregorio/EAC/GOV@EAC
cc Bert A. Benavides/EAC/GOV@EAC, Bola Olu/EAC/GOV@EAC, Brian Hancock/EAC/GOV@EAC, Curtis Crider/EAC/GOV@EAC, DeAnna M.
bcc

Subject FYI - Today's media inquiries (2-20-07, Tues)

Commissioners:

Today we had the following media inquiries:

(1) Ken Vogel of Politico.com had questions about the new commissioners. He asked for background info on how the appointment/nomination process works, their terms of service, and their salaries, which we provided. We also provided background on EAC and our role per HAVA. He interviewed the chair regarding her opinion whether Ms. Hunter should have election admin. experience. The chair explained that 3 out of the original 4 commishes did not have this experience, but that they certainly had extensive knowledge of elections, including registration issues and election laws. She said Ms. Hunter was very familiar with election laws at both state and national levels, and that knowledge plus her training as an attorney would be especially beneficial to EAC. He asked if they had resigned their positions, and we said Ms. Hunter left the White House in late Oct., and Ms. Rodriguez is still serving on the City Council, and she would step down when she officially comes on board. He wanted to know if Ms. Rodriguez had election admin. experience, and we said yes, as a former clerk. He requested an interview with them, and after conferring w/Ms. Hunter and Ms. Rodriguez, we told him they would be glad to speak with him after they are officially on board. He asked how long that would be, and we referred him to the WH. He asked if we were talking weeks or months, and we said probably weeks. He wanted to know why we decertified Ciber, and we said we had not decertified Ciber. We explained the process, both interim and full. We then recounted all of the public meetings we'd had on the subject, and said we would continue to notify the public about this process, just as we always have.

(2) The chair was interviewed by Chris Drew of the NYT about the status of the voter ID research. She explained that based upon the preliminary findings of Eagleton, she had directed the staff to provide recommendations to the commission about how to proceed. She reiterated that this was an important subject, and that it was imperative to take a more comprehensive look since there are so many new voter ID laws in the states.

(3) Dick Smolka of Election Administration Reports asked the following questions regarding the EAC Standards Board and Board of Advisors. Q&A as follows:

Standards Board - What attendance do we expect for the Standards Board meeting ? 87 members have RSVP'd. What kind of notice did we give the new chief state election officials about their responsibilities for appointing SB members ? A letter was sent on January 9, 2007 with a notification of representation form. If so, what kind of notice and when did we give it? We asked members to respond with New appointment(s) information or to indicate No Change by January 17. All changes coming in after that date have been honored. The latest to be received is from Nevada.

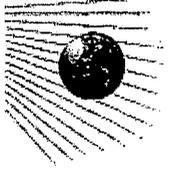
Board of Advisors - How will appointments to the Board of Advisors and their length of terms be affected by the change in congressional leadership ? The members of the board will serve their terms, as they were reappointed recently. Also the majority and minority have equal representation so even though there was a change in the Congressional makeup, the members appointed by the former majority leaders may be appointed by the new minority members. It is written in the charter of the Board of Advisors which designates the distribution of the members equally by minority and majority. Did EAC give a heads up to the new congressional leadership about their role and responsibilities in appointing members to the Board of Advisors ? All of the members of the Board of Advisors have been reappointed to date. Their terms are for two years. The leadership will be made aware of their

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new responsibilities to appoint. However, we also have another election coming up next year which could potentially change things again. But barring a power shift in Congress, the current members will retain their appointment responsibility. If so, what kind of notice and when did we give it? They will receive a letter from the office of the designated federal officer of the Board of Advisors, which is currently the Chair, Donetta Davidson.

####

026194



Paul DeGregorio /EAC/GOV
08/17/2004 10:45 AM

To Daniel Murphy/EAC/GOV
cc
bcc
Subject Fw: Best Practices Tool Kit on Voter ID, Polling Place Signage, etc.

Give me your feedback on this.

Sent from my BlackBerry Wireless Handheld
Diane Savoy

From: Diane Savoy
Sent: 08/17/2004 09:58 AM
To: DeForest Soaries Jr.; Gracia Hillman; Raymundo Martinez; Paul DeGregorio
Subject: Best Practices Tool Kit on Voter ID, Polling Place Signage, etc.

Attached below is the draft best practices document that Brian Hancock has drafted. He has informed me that Peggy is reviewing the administrative complaint procedure section so there may still be some additional edits from her. Brian has several examples of polling place signage that was sent to him in hard copy. They are all very large in size. He is checking to see if the states have an electronic copy and if they do not, he will prepare an electronic copy of many of them to add additional examples as links to the document. He will also draft a table of contents and introductory letter to go along with this document before it is finalized. Please review the attached and provide me any comments. Thank you.

L. Diane Savoy
Consulting Chief of Staff
U.S. Election Assistance Commission

e-mail: dsavoy@eac.gov
phone: 202-566-3100
fax: 202-566-1392



HAVA Toolkit Voter ID-Signage-Admin Complaint.doc

026195

HAVA Best Practices Tool Kit on Voter Identification, Polling Place Signage and State Administrative Complaint Procedures

Voter ID

Section 303(b) of the Help America Vote Act requires most individuals who register by mail and who have not previously voted in an election for Federal office in the state or who have not previously voted in such an election in the jurisdiction if the State is without a HAVA compliant statewide voter registration database, to present certain identification (ID) documents. Under this section, a voter may show either a current and valid photo identification to the appropriate election official when voting in person or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. If voting by mail, a copy of these documents must be submitted with the ballot.

Although state ID requirements vary somewhat, the 5 most common forms of photo identification required by states are:

1. a valid and current driver's license
2. a valid and current state ID card
3. a valid U.S. Passport
4. a valid and current Federal agency or military ID card
5. a valid student ID card

In addition, the 5 most common forms of non-photo ID required by states are:

1. a current utility bill with name and address
2. a current bank statement with name and address
3. a current paycheck with name and address
4. a Social Security Card
5. a valid voter registration card or certificate

States have also found a number of distinctive forms of identification which voters may show to meet the requirements of this section of HAVA. Ten (10) unique forms of ID documentation allowed by states are:

1. a valid tribal government ID card
2. a valid state license to carry a pistol or revolver
3. a valid pilots license
4. a certified copy of the electors birth certificate

5. a health club ID card
6. a public transportation authority senior citizens discount card issued by a government agency
7. a drug prescription issued by a government doctor or other government health care provider
8. a Buyer's Club ID card
9. a neighborhood association ID card
10. a retirement center ID card

Some states have also found other alternative methods of verifying a voter's identity. The state of Montana implemented their Voter Verification Service in the recent June 2004 Primary Election. Those individuals who arrived to vote without having the proper identification documentation were asked to fill out a form containing their last name, address, date-of-birth, driver's license number or the last 4 digits of their social security number. The election judge then calls the local election office which is able to access the State driver's services program via the internet to search the state drivers' database in order to find a match. State officials noted that over 600 individuals were able to vote a regular ballot after being verified by the system, and very few provisional ballots were required.

Many states report that they have not yet had enough experience implementing the voter ID provisions of HAVA to cite specific lessons learned. For those states that have had experience implementing these provisions, many of those who report no significant problems attribute their success to a proactive approach to collecting the required voter identification documentation. In New Mexico, individuals who failed to submit the proper ID documentation when they registered by mail are sent a letter reminding them of the required documentation and including a postage paid return envelope to enable the registrant to easily forward the required identification document prior to election day. A sample letter from San Juan County, New Mexico is included as *Attachment A* at the end of this report.

Maryland has also taken a proactive approach to collecting ID documentation by sending at least two letters about the new requirements to voters before the March 2004 Primary Election. The State Board of Elections also issued a press release and did some media outreach to inform the public of the new requirements.

Other states having experience implementing the voter ID requirements in recent state primary elections have observed some inconsistencies among their counties in the handling of voter ID documentation and with some poll workers asking all voters for ID documentation before voting. These states acknowledge that these types of issues can and will be addressed through more rigorous training for poll workers and through better communications between the state election office and the local election offices.

Polling Place Signage

Section 302(b) of the Help America Vote Act requires the appropriate State or local election official to publicly post certain voting information at each polling place on the day of each Federal election. This information includes a sample ballot, information regarding the date of the election and the hours polling places will be open, instructions on how to cast a vote and how to cast a provisional ballot, instructions for mail-in registrants and first-time voters under section 303(b) of HAVA, general information on voting rights under Federal and state laws, including how to contact the appropriate officials to report violations of these rights, and general information on Federal and state laws regarding voter fraud and misrepresentation.

Most states have implemented these provisions through the production of posters or wall hangings ranging in size from 1/2" x 14" to as large as 3' x 4'. Several states are quite specific not only in describing which documents must be posted at the polling place, but also how many of each document must be posted. Arizona, for example requires that the following informational items are posted at each polling place:

- Two sample ballots
- Two copies of instruction
- Names of and write-in candidates
- Three 75-foot limit signs
- Vote marking polling place sign
- Four "Vote Here" signs
- Three "Instructions for Voter" signs
- Five instructions to voters and election officials signs regarding the right to vote a provisional ballot

In most states, the office of the chief state election official produces the informational materials required under HAVA, while the local election officials ensure that these materials are posted at all polling places in their jurisdictions. Sample ballot information, unlike most of the other required postings, changes from election to election and generally requires local election officials to both produce and post this election specific information.

Readability experts as well as most election officials agree that it is not enough to simply post information on the walls of a polling place and hope the voters are able to read and understand the important messages that these materials convey. In order for voters to effectively utilize the posted information, the materials must be designed with readability and usability in mind.

The following general principals of good design and readability contribute significantly in getting the intended message read and understood by the voting public.

Document Layout

- Avoid producing a “sea of text.” A long uninterrupted page of text can be overwhelming for marginal readers and tiring for all readers.
- Break up the text with white space, headings and subheadings, space between paragraphs, bullets and numbering.
- Include wide margins at each side of your text to give the readers’ eye some “breathing room.”
- Avoid straight (“justified”) margins on both sides. With justified text every line is the same length and so they all look alike. “Ragged right” margins make it easier for readers to keep their place, and pace.

Type Styles

- Long stretches of *italic type* or of **boldface type** or of underlined type are harder to read than normal type. These are good treatments for words or phrases you want to emphasize, but don’t use either one too often or they become very distracting.
- Sentences that are written all in CAPITAL LETTERS are hard to read even for good readers because every capital letter has nearly the same height and shape.
- Use dark ink. Some readers may have trouble reading text that is screened or in light ink. Long lines of “reversed” type (white type on a black background) can also be hard on the eyes, and therefore difficult for persons who are not strong readers.

Readability

- Use shorter words. Use words with the least number of syllables, whenever you can. To marginal readers, there is a big difference between a two-syllable word and a four or five syllable word. For example, use *help* instead of *assistance*; use *copy* instead of *duplicate*; use *question* instead of *inquiry*.
- Use a word (or two) instead of a phrase. This practice is easier on all readers. For example use *about* instead of *with regard to*; use *if* instead of *in the event that*; use *under* instead of *in accordance with*.
- Keep sentences short. As a rule of thumb, fewer than ten words is ideal, up to fifteen words is more realistic, more than twenty words is too long. One way to keep sentences short is to cut needless words.
- Keep paragraphs to six or fewer sentences. In many instances, it is better to avoid formal paragraphs and instead turn text to a list of items with *bullets*, 1-2-3, or *a-b-c* order.
- Write in the active voice. Make the subject of your sentence do the action. For example, "*The application must be signed by the voter.*" is in the passive voice, while "*You must sign the application.*" is in the active voice. The active voice is shorter, more personal and more readable.

Additional information on how to improve the readability and usability of election forms and signage is available in *Innovations in Election Administration 13: Simplifying Election Forms and Materials*. This document was originally published by the Federal Election Commission in 1996, and is now available from the U.S. Election Assistance Commission by calling 1-866-747-1471.

Another resource for election officials seeking to improve the effectiveness of their polling place signage and election materials is the American Institute of Graphic Arts (AIGA). Through their initiative called Design for Democracy, AIGA has created a nonprofit organization dedicated to improving the quality, legibility and effectiveness of election materials. The design for Democracy team has worked extensively with election officials in Cook County, Illinois and with the state of Oregon to develop prototypes for improved ballot design, polling place signage, poll worker training and recruitment material, provisional voting documents and voter education materials.

A link to AIGA page on designing effective polling place signage can be accessed at: http://electiondesign.org/pdf/d4d_polling_place_signage.pdf

Several other steps are also worth considering when developing polling place signage.

- Any signs or similar materials produced in English must also be produced in the language of a qualified language minority group if the jurisdiction is covered by the bilingual election requirements of the Voting Rights Act. (42 U.S.C. 1973aa – 1a & 1973b(f)(4)).
- North Dakota notes that the posters they produce are also available in Braille to assist some blind voters, and some are available in an audio version through the State Library's Radio Reading Service.
- Washington State has also produced a video to supplement the information provided on poster size polling place signage. Each county has its own video filmed within that county explaining how to cast a ballot on the particular type of voting system used within that jurisdiction, and taking the voter through the entire voting process. These videos can also be accessed on the Washington Secretary of State's website at:
http://www.secstate.wa.gov/elections/voting_video.aspx

Links to examples of HAVA required polling place signage can be accessed at:

Minnesota = <http://www.sos.state.mn.us/election/PollingPlacePosters.pdf>

Indiana = <http://www.state.in.us/sos/whatsnew/ivbr.pdf>

Kansas = http://www.kssos.org/forms/elections/voter_rights.pdf

http://www.kssos.org/forms/elections/poster_spanish.pdf
(Spanish version)

Montana = <http://sos.state.mt.us/Assets/elections/VoterBroR4.pdf>

North Dakota = <http://www.state.nd.us/hava/education/doc/voters-rights.pdf>

Texas = <http://www.sos.state.tx.us/elections/forms/2003voterposter.pdf>

Vermont = http://vermont-elections.org/elections1/voter_rights.pdf

Administrative Complaint Procedures

Section 402 of the Help America Vote Act requires the establishment of specific State-based administrative complaint procedures to remedy grievances.

HAVA requires that:

- The procedures are uniform and non-discriminatory
- The procedures are limited to violations of title III of HAVA (unless expanded by the state)
- The complaint be in writing, notarized and signed and sworn by the individual filing the complaint
- The state hold a hearing on the records requested by the complainant
- The state provide the appropriate remedy if there is a violation
- The state dismiss the complaint and publish the results of the procedures if no violation is found
- The state shall make a final determination on the complaint within 90 days of the complaint being filed unless the complainant agrees to a longer period
- If the state fails to meet the 90 day deadline, the complaint shall be resolved within 60 days by alternative dispute resolution procedures containing all materials from any previous proceedings

Section 402 lists, in broad terms, what states must do to develop these procedures. States have initiated specific implementation strategies which add the necessary detail to the statutory requirements and allow these procedures to function as intended.

Hearings

If a complainant requests a hearing pursuant to the statute, a number of states have taken the prudent step of requiring that the hearing be recorded in some manner.

Nevada - State regulations state that: "The hearing will be recorded on audiotape by and at the expense of the Office of the Secretary of State. The recording will not be transcribed but the Secretary of State, a local board of elections or any party to the hearing may obtain a transcript of the hearing at its own expense. If

a board or party obtains a transcript of the hearing, the board or party shall file a copy of the transcript as a part of the record and any other interested party may examine the copy of the transcript on the record.”

New Mexico - State code provides that: “(t)he (elections) bureau shall provide a tape recording of any on-the-record hearing. If a party wants a court reporter, that party must pay the cost.”

Kentucky - State law requires that: “Hearings shall be tape recorded and a transcript of the hearing shall not be made except upon request of a party who shall bear the cost of transcription. Any other party may request a copy of the transcription at their own expense.” Kentucky law also provides that “Hearings may be held and testimony taken by teleconference or video conference with notice to the parties.” No mention is made as to the availability of the video for use by other parties.

Investigation

Although few states go into great detail as to what steps should be taken in investigating a complaint outside the hearing process, the *New Mexico* Bureau of Elections describes the steps to follow in an investigation as deemed appropriate under the circumstances:

- Sending an acknowledgment letter to the complainant
- Seeking a response from the election official against whom a complaint is made
- Providing the complainant with a copy of any response received from the election official against whom a complaint is made and give the complainant an opportunity to reply
- Engaging in informal resolution with the parties through a meeting, teleconference, or other means, or
- Dismissing the complaint based on its clear failure to allege a Title III violation

Determination

Once a final determination has been reached relating to a complaint, most states appear to favor an internet posting as the most cost effective and expeditions way of disseminating the results

Kentucky - The state requires that all final determinations be posted on the internet homepage of the State Board of Elections and be retained in the permanent archival records of the Board by attaching a copy of the determination to the minutes of the monthly meeting of the Board.

Michigan - State election law requires the Bureau of Elections to publish the results of its final determination on its website.

Nevada - Nevada law requires that the final determination be mailed to the complainant, each respondent and any interested person who has requested in writing to be advised of the final determination; posted on the website of the Secretary of State; and made available by the Secretary of State, upon request, to any interested person.

North Carolina - Procedures of the State Board of Elections require that the final determination be mailed, faxed, e-mailed, or otherwise delivered to the complainant and each respondent.

Remedy

State laws and procedures appear to give election authorities significant latitude when prescribing remedies for violations found through the administrative complaint process. One common element found in many state procedures is the specification that in no case shall the remedy involve the payment of money to the complainant and in no case shall the election official be subject to any type of civil penalty.

Kentucky - State regulations require that "the remedy awarded shall be directed at the improvement of processes and procedures governed by Title III, consistent with federal and state law. In addition, "(t)he remedy provided shall not include money damages, costs, or attorney fees and shall be limited to bringing the election practice or election system complained of into compliance with Title III."

Michigan - The remedy provided by the Bureau of Elections for any complaint may include, but is not limited to: "Sending a written finding of a Title III violation to the authority; requiring a written response from the election authority, detailing how it will remedy a Title III violation; additional election training for the election authority."

"A remedy shall not, under any circumstances, include a financial penalty."

New Mexico - "An appropriate remedy may include, but is not limited to any or all of the following: written finding that Title III has been violated; a plan for rectifying the particular violation; an assurance that additional training will be provided to election officials so as to ensure compliance with HAVA Title III and

the New Mexico Election Code; and a commitment to better inform voters of their rights.”

Alternative Dispute Resolution

As required by HAVA, states have also designed and implemented alternative dispute resolution procedures for those cases in which the state fails to render a determination within the statutorily mandated 90 day period after a complaint is filed.

Kentucky - “If a final determination of a complaint is not made within ninety (90) days of the filing of the complaint, and the complainant did not agree to an extension, then the complaint shall be referred to a review panel comprised of three (3) members of the (State) board (of Elections). The review panel shall issue a final determination on the complaint within sixty (60) days of the referral.

Michigan - “The Legal and Regulatory Services Administration shall appoint a hearing officer to review the record. The hearing officer shall render a final determination within sixty (60) days after receiving the record.”

Nevada - Alternative dispute resolution procedures are initiated by the Secretary of State by, “(r)etaining an independent professionally certified person to act as the arbitrator, if the complainant consents in writing to his appointment as the arbitrator at the time of his appointment.” In addition, the Secretary of State may “designate in writing to the complainant the name of an arbitrator to serve on an arbitration panel to resolve the complaint. If proceedings for alternative dispute resolution are initiated pursuant to this paragraph, not later than 3 business days after the complainant receives such a designation from the Secretary of State, the complainant shall designate in writing to the Secretary of State the name of a second arbitrator. Not later than 3 business days after such a designation by the complainant, the two arbitrators so designated shall select a third arbitrator to complete the panel.” The arbitrator or arbitration panel may review the record compiled in connection with the complaint, including, and without limitation, the audio recording of the hearing, any transcript of the hearing and any briefs or memoranda submitted by the parties but shall not receive any additional testimony or evidence unless the arbitrator or arbitration panel requests that the parties present additional briefs or memoranda.” “The arbitrator or arbitration panel shall issue a written resolution of the complaint not later than 60 days after the final determination of the Secretary of State was due pursuant to section 11 of this regulation. This period for issuing a written resolution will not be extended.”

North Carolina - State law requires that “(o)n or before the 5th business day after a final Board determination is was due, the Board shall designate in writing to the complainant the name of a proposed arbitrator, knowledgeable in election matters, to resolve the complaint. Within 3 business days after the complainant

receives this proposal, the complainant shall either agree to the proposed arbitrator or counter with the name of a different proposed arbitrator, also knowledgeable in election matters. Within 3 days the Board shall indicate if the proposed arbitrator of the complainant is acceptable. If it is not, then the names of both proposed arbitrators shall be placed in a container and the arbitrator shall be determined by lot drawn by the complainant. The Board shall be responsible for any reasonable costs (not to exceed the rate of \$75 per hour) and expenses generated by the arbitrator in determining the complaint. The arbitrator may review the record compiled in connection with the complaint and any briefs or memoranda previously filed in the action, but shall not receive any additional testimony or evidence. The arbitrator must issue a written resolution within 60 days after the final Board determination was due. This 60 day period may not be extended.....Under no circumstances may the final determination of an arbitrator order action to be performed except in the complaint at hand or order a change in state law, federal law or Board policies, procedures or rules."

In addition to these very specific procedural mechanisms, states must also be concerned with several more practical aspects of implementing their administrative complaint procedures.

Pre-Clearance

States covered under Section 5 of the Voting Rights Act must get the administrative complaint procedures pre-cleared by the Voting Section of the Civil Rights Division of the U.S. Department of Justice before they implement the procedures. In addition, those states and jurisdictions covered under the language minority provisions of the Voting Rights Act must make sure that all forms and materials provided for the administrative complaint process are also provided in the appropriate language of the minority group or groups. Arbitrators and any other individuals fluent in the appropriate languages should also be made available to those participating in the administrative complaint procedure hearing or alternative dispute resolution process.

Voter Education

Adopting and implementing administrative complaint procedures without informing the voting public on how to use these procedures is contrary to the spirit and intent of the Help America Vote Act. States should, at a minimum, post their administrative complaint procedures and forms prominently on their website and encourage all local election administrators with a web presence to do likewise.

Other methods for making these procedures available to the public include posting the information at each polling place, each "official" voter registration site in the jurisdiction and in the office of the local election official.

Delaware has developed brochures describing the “who, when, how, and why” of the administrative complaint process. These brochures are sized so that they can be included with sample ballot or other election mailings to voters, or they can be used as handouts at the polling places on election day in order to ease some of the burden of providing this information from the poll workers.

Transmission

If voters are given the option of filing an administrative complaint with a local election official, the state should establish a timely period for the transmission of these complaints from the local official to the state election office.

Delaware, for example, requires that if one of the county election departments receives a complaint, the county must forward it to the state Commissioner of Elections on the same business day that it is received.

Tracking

In order to meet the specific deadlines for responding to and making a determination on an administrative complaint, states should establish a tracking procedure to handle all complaints. *Delaware* is currently in the process of developing an internet based tracking system in which all complaints will be assigned a unique identifier number. The status of each complaint can then be tracked by the complainant via a secure login on the state website using the assigned number.

State Experiences Using the Administrative Complaint Procedure

Two states report having experience responding to administrative complaints as of the date of this report.

Maryland had two administrative complaints filed after their March 2, 2004 Primary Election. Both Maryland complaints dealt with whether the voters' provisional ballots should have been counted by the local board of canvassers. Both complaints requested a hearing on the record and final determinations can be accessed on the State Board of Elections' website at:

http://www.elections.state.md.us/pdf/hearing_liss.pdf

and

<http://www.elections.state.md.us/citizens/hava/Kolbe Howard Co final determination.pdf>

The State Board of Election stated that the hearings for these two complaints lasted over two hours and required significant amounts of staff time in preparation for the hearing and in drafting the final determination. These two initial complaints have led the State Board to conclude that the procedures have the potential to be administratively difficult if a high volume of complaints are filed as a result of a particularly large voter turnout in a high profile election.

The Colorado Secretary of State received an administrative complaint as a result of the November 2003 general election in Garfield County. The complaint questioned whether all ballots in the jurisdiction were counted in accordance with HAVA and state law, whether first time voters who registered by mail showed or submitted the proper ID, and whether the county central count optical scan tabulator was functioning properly.

The report and final determination from the Colorado complaints can be accessed at: <http://www.sos.state.co.us/pubs/hava/garfield.pdf>

As was the case in Maryland, the Colorado Secretary of State's office found that these procedures took significant amounts of staff time, particularly when drafting the final 248 page Garfield County report. Colorado intends to try and keep potentially costly and time consuming administrative complaints to a minimum by conducting thorough training and education programs for both election officials and the general public.

Links to examples of State administrative complaint forms and procedures can be accessed at:

California = <http://www.ss.ca.gov/elections/hava-complaint-procedure.htm>

Colorado = http://www.sos.state.co.us/pubs/hava/hava_complaint_1.pdf

Delaware = <http://www.state.de.us/election/publications/Complaints%20-%20PDF.pdf>

Kentucky = <http://www.lrc.state.ky.us/kar/031/006/010.htm>

Maryland =
Administrative Complaint Procedures:
http://www.elections.state.md.us/pdf/HAVA_Administrative_Complaint_Form_Instructions.pdf

Complaint Form:
http://www.elections.state.md.us/pdf/HAVA_Administrative_Complaint_Form.pdf

New Hampshire =
Administrative Complaint Procedures:
<http://www.doj.nh.gov/elections/32313.html>

Complaint Form: http://www.doj.nh.gov/elections/complaint_form.pdf

New Mexico =
Administrative Complaint Procedures:
<http://www.sos.state.nm.us/Election/ComplaintRule.pdf>

Complaint Form: <http://www.sos.state.nm.us/Election/AdminComplaintForm.pdf>

Oregon = <http://www.sos.state.or.us/elections/violations/oar165-001-0090.html>

South Carolina =

Administrative

Complaint

Procedures:

http://www.state.sc.us/scsec/t3comp_form.htm

Complaint Form: [http://www.state.sc.us/scsec/Title3 Complaint Form.pdf](http://www.state.sc.us/scsec/Title3_Complaint_Form.pdf)

Wyoming = <http://soswy.state.wy.us/election/hava/complain.pdf>

DRAFT

Dear Voter,

CONGRATULATIONS!!! You are now a registered voter in San Juan County, New Mexico.

Enclosed is your Voter Information Card. Please look it over carefully to make sure all the information is accurate. If it is not, please contact our office immediately so corrections can be made.

The information card shows your polling place. If you determine that you do not want to travel the distance to that polling place on election day, you can vote on a paper ballot in your home or go to an early voting site before election day. If you would like additional information about these methods of voting, please call our office.

The polling place listed is the one that is established for the precinct in which you live. It is your designated polling place for State and Federal elections. When cities, school districts, the college and the county have elections they often will combine precincts to cut down on the cost of elections. When this happens, your polling place may be different from the one listed on your information card. *Please do not be confused when this happens.* Look at the information provided about the election, find your precinct number and you will be at the correct polling place.

If our voter information card indicates that your party is DTS (Declined To State), it means that you have not chosen a party and will NOT be able to vote in the June primary election of even numbered years. You will, however, be able to vote in any other election.

Please be advised that a newly enacted Federal Law "Help America Vote Act" or "HAVA" requires that first-time registrants in our county, who register by mail, must provide a copy of their identification before voting.

As a new voter, who registered by mail, you must provide identification at the time you register to vote, prior to Election Day or at your polling place on Election Day.

The following forms of identification are acceptable:

1. Current and valid photo identification.
2. A current utility bill.
3. A current bank statement.
4. A current government check, or
5. Any other government document that shows your name and address.

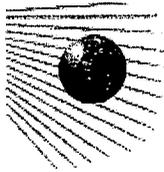
Enclosed for your convenience is a postage paid, return envelope for you to send a copy of your identification to our office. If you have any questions regarding your voter registration, upcoming elections or any other function of the County Clerk's office, please feel free to call or come by our office. It is located at 100 South Oliver in Aztec. Our office hours are 7 AM to 5:30 PM Monday through Friday.

As your County Clerk, I would like to encourage you to vote in all elections. Your vote **DOES** count and is important.

Sincerely,

Fran J. Hanhardt
San Juan County Clerk

DRAFT



Paul DeGregorio /EAC/GOV
09/01/2004 07:12 PM

To Gracia Hillman/EAC/GOV, Raymundo Martinez/EAC/GOV,
Diane Savoy/EAC/GOV, DeForest Soaries Jr./EAC/GOV
cc jsmith@impactstrategiesllc.com
bcc Adam Ambrogi/EAC/GOV; Daniel Murphy/EAC/GOV
Subject Best Practices ToolKit II

Attached is the 2nd draft of the Best Practice II document that Brian Hancock developed. Gracia asked me to review the first draft and what you see is the result of some recommendations I (and Dan Murphy) made. The document focuses on the key areas of Voter ID, Polling Place Signage and State Administrative Complaint Procedures. While I realize we may be approaching a time when election officials can't make any more changes for this election, it still is probably worth getting this information distributed. There are samples of ID's, signage and the State's complaint procedures with the document. It is hoped that by mid-October we can post on our website information on each State's complaint procedure and how a voter can file a complaint in their state. It could be a drop-down list like our "be a pollworker" site.

Diane has received a cost estimate of \$3600 from our web folks to have this posted on our web site.

If we are ready to move on this (and can afford the \$3600), the next step is to have Gracia run it by our Standards/Advisory Boards for comment. I assume that process can occur from Sept. 3-10 and we can get this on our web site by mid-September.

We can discuss on Thursday.



PSD Best Practices II document 2nd draft.doc

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HAVA Best Practices Tool Kit:

Voter Identification, Polling Place Signage and State Administrative Complaint Procedures

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