vote in either Virginia or Florida while they made their deadly preparations for 9/11.

The 2000 recount was more than merely a national embarrassment; it left a lasting scar on the American electoral psyche. A recent Zogby poll found that 38 percent of Americans still regard the 2000 election outcome as questionable. Many Republicans believe that Democratic judges on the Florida Supreme Court tried to hand their state to Al Gore based on selective partisan recounts and the illegal votes of felons and aliens. Many Democrats feel that the justices of the U.S. Supreme Court tilted toward Bush, and they refuse to accept his victory as valid. But this issue transcends "red state" vs. "blue state" partisan grievances. Many Americans are convinced that politicians can't be trusted to play by the rules and will either commit fraud or intimidate voters at the slightest opportunity.

Indeed, the level of suspicion has grown so dramatically that it threatens to undermine our political system. Nearly 10 percent of Americans believe their votes are not counted accurately, and almost as many worry that this is the case, according to a July 2004 poll by John Zogby. A Rasmussen Research poll in June found that 44 percent of Americans were either very or somewhat worried that a Florida-style mess could happen again in 2004. This growing cynicism diminishes respect for the nation's institutions and lowers voter participation. Only 11 percent of the 18- to 19-year-olds eligible to vote for the first time now bother to go to the polls. The United States ranks139th out of 163 democracies in the rate of voter participation. The more that voting is left to the zealous or self-interested few, the more we see harshly personal campaigns that dispense with any positive vision of our national future. "If this escalates, we're in horrendous shape as a country," says Curtis Gans, who runs the Committee for the Study of the American Electorate. "If election results are followed by lawsuits, appeals, fire and counterfire, many people who are already saying to hell with the process are going to exit."

The 2000 election resulted in some modest reforms, such as the federal Help America Vote Act, but the implementation has been so slow. Only $670 million of the promised $3.9 billion in grants to upgrade technology, cull voter rolls and enhance training had been dispersed to the states as of May 2004. This means that the nation's voting systems will be in no better shape this November than they were in 2000, when about 2 percent of all votes for

president nationwide weren't counted for one reason or another, the vast majority because of voter error or outdated machines.

America's election problems go beyond the strapped budgets of many local election offices. More insidious are flawed voter rolls, voter ignorance, lackadaisical law enforcement and a shortage of trained volunteers. All this adds up to an open invitation for errors, miscounts or fraud.

Reform is easy to talk about, but difficult to bring about. Many of the suggested improvements, such as requiring voters to show ID at the polls, are bitterly opposed. For instance, Maria Cardona, spokeswoman for the Democratic National Committee, claims that "ballot security and preventing voter fraud are just code words for voter intimidation and suppression." Even improved technology is controversial. This November, around fifty million Americans will be using electronic voting machines similar to ATM machines, and some computer scientists are alarmed by the possibility that hackers could change the software to cast multiple votes or do other kinds of mischief. Both Democratic senator Hillary Clinton and GOP representative Steve King of Iowa are backing separate pieces of legislation to require that machines issue paper receipts for voters to verify before casting their ballots. But the legislation hasn't even had a hearing and only Nevada will have paper receipts in place by the fall 2004 election.

Confusion and claims of fraud are likely this time around, especially if the election is as close as it was in 2000. Can the nation take another Florida-style controversy?

Indeed, we may be on the way to turning Election Day into Election Month through a new legal quagmire: election by litigation. Every close race now carries with it the prospect of demands for recounts, lawsuits and seating challenges in Congress. "We're waiting for the day that pols can just cut out the middleman and settle all elections in court," jokes Chuck Todd, editor of the political tip sheet *Hotline* . Such gallows humor may be entirely appropriate given the predicament we face. The 2000 election may have marked a permanent change in how elections can be decided, much as the battle over the Supreme Court nomination of Robert Bork changed, apparently forever, the politics of judicial appointments. On April 19, 2004, John Kerry campaigned in Florida with Senator Joe Lieberman, the 2000 Democratic vice presidential candidate, and vowed — six months

before a single ballot was cast, counted or disputed — that he was ready to take the 2004 election to court. "We are going to bring legal challenge to those districts that make it difficult for people to register. We're going to bring challenge to those people that disenroll people," he told a rally. "And we're going to challenge any place in America where you cannot trace the vote and count the votes of Americans. Period!" Democrats plan to have over ten thousand lawyers on the ground in all states this November, ready for action if the election is close and they see a way to contest it. "If you think of election problems as akin to forest fires, the woods are no drier than they were in 2000, but many more people have matches," says Doug Chapin of Electionline.org, an Internet clearinghouse of election news. If the trend toward litigation continues, winners in the future may have to hope not only that they win but that their margins are beyond "the margin of litigation."

Some of the sloppiness that makes fraud and foul-ups in election counts possible seems to be built into the system by design. The "Motor Voter Law," the first piece of legislation signed into law by President Clinton upon entering office, imposed fraud-friendly rules on the states by requiring driver's license bureaus to register anyone applying for licenses, to offer mail-in registration with no identification needed, and to forbid government workers to challenge new registrants, while making it difficult to purge "deadwood" voters (those who have died or moved away). In 2001, the voter rolls in many American cities included more names than the U.S. Census listed as the total number of residents over age eighteen. Philadelphia's voter rolls, for instance, have jumped 24 percent since 1995 at the same time that the city's population has declined by 13 percent. CBS's *60 Minutes* created a stir in 1999 when it found people in California using mail-in forms to register fictitious people, or pets, and then obtaining absentee ballots in their names. By this means, for example, the illegal alien who assassinated the Mexican presidential candidate Luis Donaldo Colosio was registered to vote in San Pedro, California — twice.

Ironically, Mexico and many other countries have election systems that are far more secure than ours. To obtain voter credentials, the citizen must present a photo, write a signature and give a thumbprint. The voter card includes a picture with a hologram covering it, a magnetic strip and a serial number to guard against tampering. To cast a ballot, voters must present the card and be certified by a thumbprint scanner. This system was

instrumental in allowing the 2000 election of Vicente Fox, the first opposition party candidate to be elected president in seventy years.

But in the United States, at a time of heightened security and mundane rules that require citizens to show ID to travel and even rent a video, only seventeen states require some form of documentation in order to vote. "Why should the important process of voting be the one exception to this rule?" asks Karen Saranita, a former fraud investigator for a Democratic state senator in California. Americans agree. A Rasmussen poll finds that 82 percent of Americans, including 75 percent of Democrats, believe that "people should be required to show a driver's license or some other form of photo ID before they are allowed to vote."

The reason for such support is that citizens instinctively realize that some people will be tempted to cut corners in the cutthroat world of politics. "Some of the world's most clever people are attracted to politics, because that's where the power is," says University of Virginia political scientist Larry Sabato. "So they're always going to be one step ahead of the law."

Election fraud, whether it's phony voter registrations, illegal absentee ballots, shady recounts or old-fashioned ballot-box stuffing, can be found in every part of the United States, although it is probably spreading because of the ever-so-tight red state/blue state divisions that have polarized the country and created so many close elections lately. Although most fraud is found in urban areas, there are current scandals in rural South Dakota and Texas. In recent years, Baltimore, Philadelphia, New Orleans and Milwaukee have all had election-related scandals. Wisconsin officials convicted a New York heiress working for Al Gore of giving homeless people cigarettes if they rode in a van to the polls and voted. The *Miami Herald* won a Pulitzer Prize in 1999 for uncovering how "vote brokers" employed by candidate Xavier Suarez stole a mayoral election by tampering with 4,740 absentee ballots. Many were cast by homeless people who didn't live in the city and were paid $10 apiece and shuttled to the elections office in vans. All of the absentee ballots were thrown out by a court four months later and Mr. Suarez's opponent was installed as mayor.

But such interventions are rare, even when fraud is proven. In 1997, the House of Representatives voted along partisan lines to demand that the Justice Department prosecute Hermandad

Mexicana Nacional, a group that investigators for the House Administration Committee say registered hundreds of illegal voters in a razor-thin congressional race in Orange County, California. But federal immigration officials refused to cooperate with the probe, citing "privacy" concerns, and nothing was done beyond yanking a federal contract that paid Hermandad to conduct citizenship classes. The same year, a U.S. Senate probe into fraud in a Senate race in Louisiana found more than 1,500 cases in which two voters used the same Social Security number. But further investigations collapsed after Democratic senators walked off the probe, calling it unfair, and then Attorney General Janet Reno removed FBI agents from the case because the probe wasn't "bipartisan."

A note about partisanship: Since Democrats figure prominently in the vast majority of examples of election fraud described in *Stealing Elections* , some readers will jump to the conclusion that this is a one-sided attack on a single party. I do not believe Republicans are inherently more virtuous or honest than anyone else in politics, and I myself often vote Libertarian or independent. Voter fraud occurs in both Republican strongholds such as Kentucky hollows and Democratic bastions such as New Orleans. When Republicans operated political machines such as Philadelphia's Meehan dynasty up until 1951 or the patronage mill pf Nassau County, New York, until the 1990s, they were fully capable of bending — and breaking — the rules. Earl Mazo, the journalist who exhaustively documented the election fraud in Richard Daley's Chicago that may have handed Illinois to John F. Kennedy in the photo-finish 1960 election, says there was also "definitely fraud" in downstate Republican counties "but they didn't have the votes to counterbalance Chicago."

While they have not had the control of local and administrative offices necessary to tilt the rules improperly in their favor, Republicans have at times been guilty of intimidation tactics designed to discourage voting. In the 1980s, the Republican National Committee hired off-duty policemen to monitor polling places in New Jersey and Louisiana in the neighborhoods of minority voters, until the outcry forced them to sign a consent decree forswearing all such "ballot security" programs in the future.

In their book *Dirty Little Secrets* , Larry Sabato and co-author Glenn Simpson of the *Wall Street Journal* noted another factor in why Republican election fraud is less common. Republican base

voters are middle-class and not easily induced to commit fraud, while "the pool of people who appear to be available and more vulnerable to an invitation to participate in vote fraud tend to lean Democratic." Some liberal activists that Sabato and Simpson interviewed even partly justified fraudulent electoral behavior on the grounds that because the poor and dispossessed have so little political clout, "extraordinary measures (for example, stretching the absentee ballot or registration rules) are required to compensate." Paul Herrison, director of the Center for American Politics at the University of Maryland, agrees that "most incidents of wide-scale voter fraud reportedly occur in inner cities, which are largely populated by minority groups."

Democrats are far more skilled at encouraging poor people — who need money — to participate in shady vote-buying schemes. "I had no choice. I was hungry that day," Thomas Felder told the *Miami Herald* in explaining why he illegally voted in a mayoral election. "You wanted the money, you were told who to vote for." Sometimes it's not just food that vote stealers are hungry for. A former Democratic congressman gave me this explanation of why voting irregularities more often crop up in his party's back yard: "When many Republicans lose an election, they go back into what they call the private sector. When many Democrats lose an election, they lose power and money. They need to eat, and people will do an awful lot in order to eat."

Investigations of voter fraud are inherently political; and because they often involve race, they are often not zealously pursued or prosecuted. Attorney General John Ashcroft did launch a Voter Integrity Program in 2002, which dramatically reduced both Republican allegations of fraud and Democratic complaints of suppressed minority votes. But many federal and state prosecutors remain leery of tackling fraud or intimidation. After extensive research, I can report that while voting irregularities are common, the number of people who have spent time in jail as a result of a conviction for voter fraud in the last dozen years can be counted on the fingers of one hand.

The U.S. attorney for northern Louisiana, Donald Washington, admits that "most of the time, we can't do much of anything [about ballot-box improprieties] until the election is over. And the closer we get to the election, the less willing we are to get involved because of just the appearance of impropriety, just the appearance of the federal government somehow shading how this election ought to occur." Several prosecutors told me they fear

charges of racism or of a return to Jim Crow voter suppression tactics if they pursue touchy fraud cases. Wade Henderson of the Leadership Conference on Civil Rights calls efforts to fight election fraud "a solution in search of a problem" and "a warmed-over plan for voter intimidation."

But when voters are disfranchised by the counting of improperly cast ballots or outright fraud, their civil rights are violated just as surely as if they were prevented from voting. The integrity of the ballot box is just as important to the credibility of elections as access to it. Voting irregularities have a long pedigree in America, stretching back to the founding of the nation — though most people thought the "bad old days" had ended in 1948 after pistol-packing Texas sheriffs helped stuff Ballot Box 13, stealing a U.S. Senate seat and setting Lyndon Johnson on his road to the White House. Then came the 2004 primary election, when Representative Ciro Rodriguez, a Democrat, charged that during a recount, a missing ballot box appeared in south Texas with enough votes to make his opponent the Democratic nominee by 58 votes.

Political bosses such as Richard Daley or George Wallace may have died, but they have successors. A one-party machine in Hawaii intimidates critics and journalists who question its vote harvesting among noncitizens. In 1998, a former Democratic congressman named Austin Murphy was convicted in Pennsylvania of absentee ballot fraud. The Democratic county supervisor who uncovered this scandal, Sean Cavanaugh, was so ostracized by his party that he re-registered as an independent.

Even after Florida 2000, the media tend to downplay or ignore stories of election incompetence, manipulation or theft. Allowing such abuses to vanish into an informational black hole in effect legitimates them. The refusal to insist on simple procedural changes, such as requiring a photo ID at the polls, combined with secure technology and more vigorous prosecutions accelerates our drift toward banana-republic elections.

In 2002, Miami election officials hired the Center for Democracy, which normally observes voting in places like Guatemala or Albania, to send twenty election monitors to south Florida. In 2004, there will be even more observers on the ground. Scrutinizing our own elections the way we have traditionally scrutinized voting in developing countries is, unfortunately, a step in the right direction. But before we can get the clearer laws and

better protections we need to deal with fraud and voter mishaps, we have to get a sense of the magnitude of the problem we face.

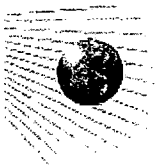
http://[redacted]/comment/fund200409130633.asp

Juliet E. Thompson/EAC/GOV
02/04/2005 05:05 PM

To Paul DeGregorio/EAC/GOV@EAC
cc
bcc
Subject Re: Panelists for Feb. 23

I am sure that we can accomodate Mr. Lott's schedule needs. Do you have a contact number for him? Or should I just send a letter of invitation?

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



Paul DeGregorio /EAC/GOV
02/02/2005 04:34 PM

To Juliet E. Thompson/EAC/GOV, Raymundo Martinez/EAC/GOV, Adam Ambrogi/EAC/GOV
cc
Subject Panelists for Feb. 23

I have spoken to John Lott of the American Enterprise Institute regarding folks who might be available to testify on provisional balloting at our Feb. 23rd hearing. Lott said that he is available to testify so long as we can get him on a plane to Philly by 4 PM (his son is graduating from scouts that night). Lott testimony is likely to cite laws/data which support the narrow approach to provisional voting. He would also probably talk about problems with fraud and provisional voting.

Lott recommended that we contact Bob Williams, who is President and senior research analyst with the Evergreen Freedom Foundation, a conservative think tank based in Seattle that has studied voting issues and made recommendations to the state legislature. Williams has done a lot of work on provisional voting and is just completing a survey from all the counties in Washington State on provisional voting regarding the Nov. 2004 election. He can cite statistics that show the inconsistency in one state when rules/procedures on provisional voting are not applied equally in every county (in Washington State the counting rate for provisionals ranged from 44% to 94%). Williams, who's testimony would probably fit better on the NGO panel, can be contacted at 360-956-3482. His web site is: http://www.effwa.org/

Lott said that Yoo of Berkeley was good but he did not know him to be an expert on provisional voting.

I'm waiting to hear back from another person on some other possibilities to consider for the academic panel.

As to the election officials panel, My preference for the 3 State/SOS positions would be Blackwell, Vigil-Giron, Hood, and then Cortes (in that order; I realize we are likely to only have 3 from this group but assume someone may decline); my preference for local would be: Clark (D) and Blevins (R), they could both talk about their experiences with provisional voting at the local level. I don't know Vu or Damschroeder but I there are liberal blogs that believe Damschroeder stole the election in Ohio (not based on provisional voting but on faulty voting machines). If we want another calm-speaking westerner then Helen Purcell might work (although she might be tired of traveling).

Paul DeGregorio

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

Paul DeGregorio /EAC/GOV
02/07/2005 05:49 PM

To Juliet E. Thompson/EAC/GOV
cc
bcc
Subject Re: First Choice Panelists for Provisional Voting Hearing

You should ask John Fund testify. I did not discuss his participation at the Feb. 23rd hearing because at the time he was not on the initial list we had agreed to. Thanks.

Juliet E. Thompson/EAC/GOV

Juliet E. Thompson /EAC/GOV
02/07/2005 04:54 PM

To Paul DeGregorio/EAC/GOV@EAC
cc
Subject Re: First Choice Panelists for Provisional Voting Hearing

I called and left a message for John Fund. Is your conversation with John Lott sufficient or do we need to follow up with another phone call?

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

Paul DeGregorio /EAC/GOV
02/07/2005 02:55 PM

To Juliet E. Thompson/EAC/GOV
cc
Subject Re: First Choice Panelists for Provisional Voting Hearing

I sat next to him at lunch today at NASS and failed to get his card. You can reach him at the Wall Street Journal at 212 416-2500.

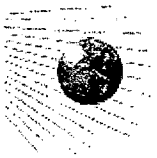
Juliet E. Thompson/EAC/GOV

Juliet E. Thompson /EAC/GOV
02/07/2005 02:47 PM

To Paul DeGregorio/EAC/GOV@EAC
cc
Subject Re: First Choice Panelists for Provisional Voting Hearing

I will be happy to call him. He was the original panelist. Do you have the number?

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



Paul DeGregorio /EAC/GOV
02/07/2005 02:34 PM

To Juliet E. Thompson/EAC/GOV
cc
Subject Re: First Choice Panelists for Provisional Voting Hearing

Julie,
Bob Williams cannot make the Feb. 23 hearing due to some meeting. What about John Fund of the WSJ?
Paul

Juliet E. Thompson/EAC/GOV

Juliet E. Thompson /EAC/GOV
02/04/2005 02:20 PM

To Gracia Hillman/EAC/GOV@EAC, Paul DeGregorio/EAC/GOV@EAC, Raymundo Martinez/EAC/GOV@EAC, DeForest Soaries Jr./EAC/GOV@EAC
cc
Subject First Choice Panelists for Provisional Voting Hearing

According to your comments, the following are the first choices for panelists at the Provisional Voting Hearing. We are attempting to find one more academic who would represent a middle ground position since the likelihood of Eagleton or any other contractor being on board and prepared for that hearing is not strong. I will begin making calls to invite these persons today. Some will be attending functions this weekend wherein I will offer an in-person invitation.

Provisional Voting Presentations (Introductions by Chair Hillman)

Panel 1: Election Officials

Secretary Kenneth Blackwell, Ohio
Secretary Glenda Hood, Florida
Secretary Rebecca Vigil-Giron, New Mexico
Bradley J. Clark, Alameda County, Registrar of Voters (CA)
Helen Purcell, Maricopa County Recorder (AZ)

Panel 2: Advocacy Organizations/Non-government Sector

Kay Maxwell, League of Women Voters
Bob Williams, President and Senior Research Fellow, Evergreen Freedom Foundation
Miles Rapoport, Demos

Panel 3: Academics

Professor Dan Tokaji, Moritz School of Law, Ohio State University
John Lott, Senior Fellow AEI
Professor Edward Foley, Moritz School of Law, Ohio State University

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

Karen Lynn-Dyson/EAC/GOV
04/08/2005 10:35 AM

To Paul DeGregorio/EAC/GOV@EAC
cc Holland M. Patterson/EAC/GOV@EAC
bcc
Subject Next steps on EAC's research agenda

Vice Chair-

I'm very excited to hear all about your trip. How extraordinary it must have been. My trip is now just three weeks away and I'm wondering if I'll be in the middle of the Consecration, when I arrive!

While next week is very busy for you in terms of the testifying on the Hill, I'd like to spend some time with you discussing ideas around research related to voter fraud. As you know, we have money we must spend, and I think this is an issue that you may want to take the lead on? I'd like to brainstorm with you regarding some ideas for EAC guidance we might issue around the subject matter, between May and September.

I'll ask Holland to find a time to meet.

Thanks

K

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

Karen Lynn-Dyson/EAC/GOV
04/12/2005 04:17 PM

To Paul DeGregorio/EAC/GOV@EAC
cc Holland M. Patterson/EAC/GOV@EAC
bcc
Subject Meeting to discuss research effort on Voter Fraud

Welcome Back!

Might you be available to meet this Friday afternoon or Monday at 10:00?

Regards-

K

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

"Schwarzwalder, Robert" <Robert.Schwarzwalder@mail.house.gov>
04/18/2005 04:44 PM

To '"pdegregorio@eac.gov"' <pdegregorio@eac.gov>
cc
bcc
Subject Question re: Bond bill

History: This message has been replied to.

Paul,

Thanks for all your help with our voter fraud project. Also, it sounds like Kerry and you had a fantastic time on your Italian vacation. Great to hear.

Question in re: the Bond-McConnell bill: I note that this measure includes a provision to require polling sites to have lists of those who already voted and those who requested an absentee ballot. In other words, in some states or jurisdictions, can people now come into a polling place and vote without being checked off a list (and thereby inviting repeated, and fraudulent, voting)? Amazing to me if this is the case.

Thanks, and best regards.

Rob Schwarzwalder

Chief of Staff

U.S. Rep. Todd Akin (R-MO)

117 Cannon House Office Building

Washington, D.C. 20515

PH: (202) 225-2561

FAX: (202) 225-2563

"The sacred rights of mankind are not to be rummaged for, among old parchments, or musty records. They are written, as with a sun beam, in the whole volume of human nature, by the hand of the Divinity itself; and can never be erased or obscured by mortal power." --Alexander Hamilton

Raymundo Martinez/EAC/GOV
04/29/2005 11:34 AM

To Paul DeGregorio/EAC/GOV@EAC
cc
bcc
Subject Interesting development...

Paul:

Adam just learned from Julie that Buster has abstained from the tally vote regarding the provisional contract to Rutgers University (Eagleton Institute) because he has been approached by Eagleton about assisting on that project. Kind of a curious development, don't you think?

Just thought you would want to know.

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

(202) 566-3100 (W)
(202) 566-3127 (FAX)
www.eac.gov

CONFIDENTIALITY NOTICE: This email message and all attachments, if any, are intended solely for the use of the addressee and may contain legally privileged and confidential information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this message is strictly prohibited. If you received this message in error, please notify the sender immediately by replying to this message and please delete it from your computer.

Paul DeGregorio /EAC/GOV
04/29/2005 11:43 AM

To Raymundo Martinez/EAC/GOV@EAC
cc
bcc
Subject Re: Interesting development...

Very curious development. I am not so sure how it would look if he got a contract from them after they got a contract from us. If Buster had a any hint of this he should have recused himself from our discusions on this paricular contract.

Sent from my BlackBerry Wireless Handheld

----- Original Message -----
From: Raymundo Martinez
Sent: 04/29/2005 11:34 AM
To: Paul DeGregorio
Subject: Interesting development...

Paul:

Adam just learned from Julie that Buster has abstained from the tally vote regarding the provisional contract to Rutgers University (Eagleton Institute) because he has been approached by Eagleton about assisting on that project. Kind of a curious development, don't you think?

Just thought you would want to know.

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

(202) 566-3100 (W)
(202) 566-3127 (FAX)
www.eac.gov

CONFIDENTIALITY NOTICE: This email message and all attachments, if any, are intended solely for the use of the addressee and may contain legally privileged and confidential information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this message is strictly prohibited. If you received this message in error, please notify the sender immediately by replying to this message and please delete it from your computer.

Carol A. Paquette/EAC/GOV
05/03/2005 05:28 PM

To Gracia Hillman/EAC/GOV@EAC, Paul DeGregorio/EAC/GOV@EAC, Raymundo Martinez/EAC/GOV@EAC
cc Juliet E. Thompson/EAC/GOV@EAC, Gavin S. Gilmour/EAC/GOV@EAC, Jeannie Layson/EAC/GOV@EAC
bcc
Subject Control of procurement sensitive information - FYI

History: This message has been replied to.

Commissioners -

I am very disturbed because I just listened to a voice mail from Dick Smolka that was left sometime after 3 p.m. today stating he had heard we had just awarded a contract to Eagleton Institute and he wants to know what for and the amount of the contract award. We have a legal obligation under the Federal Acquisition Regulations to not release any information about procurements until final decisions have been made and the parties duly notified. I haven't even received confirmation that the Tally vote has been completed and certified, much less completed the paperwork with Diana for contract award. I have repeatedly stressed with staff our obligation to not talk about procurements. I am disappointed that someone apparently does not understand that this is not optional.

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

Paul DeGregorio /EAC/GOV
05/03/2005 06:14 PM

To Carol A. Paquette/EAC/GOV
cc Gavin S. Gilmour/EAC/GOV@EAC, Gracia Hillman/EAC/GOV@EAC, Jeannie Layson/EAC/GOV@EAC, Juliet E. Thompson/EAC/GOV@EAC, Raymundo
bcc
Subject Re: Control of procurement sensitive information - FYI

Carol,

Mea culpa. I was the one who inadvertently gave Dick Smolka the information on the Eagleton Institute award. He called me about another matter this afternoon and then at the end of the conversation he switched to the subject of whether we were going to put out more RFPs for research work and whether we had made any recent awards, as he wanted to publicize it in his newsletter. I told Dick that he needed to contact you about this but in the process I told him I had just voted to award a contract to Eagleton for some of our research work, and that he could get the details from you once it was finalized (I gave him none).

I apologize for giving him this information and have just called Dick to ask him to not disclose to anyone what I told him until he heard from you that it was official. Dick said he would honor that request.

It won't happen again. Thanks for bringing it to our attention (especially mine!).

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

Carol A. Paquette/EAC/GOV

Carol A. Paquette/EAC/GOV
05/03/2005 05:28 PM

To Gracia Hillman/EAC/GOV@EAC, Paul DeGregorio/EAC/GOV@EAC, Raymundo Martinez/EAC/GOV@EAC
cc Juliet E. Thompson/EAC/GOV@EAC, Gavin S. Gilmour/EAC/GOV@EAC, Jeannie Layson/EAC/GOV@EAC
Subject Control of procurement sensitive information - FYI

Commissioners -

I am very disturbed because I just listened to a voice mail from Dick Smolka that was left sometime after 3 p.m. today stating he had heard we had just awarded a contract to Eagleton Institute and he wants to know what for and the amount of the contract award. We have a legal obligation under the Federal Acquisition Regulations to not release any information about procurements until final decisions have been made and the parties duly notified. I haven't even received confirmation that the Tally vote has been

completed and certified, much less completed the paperwork with Diana for contract award. I have repeatedly stressed with staff our obligation to not talk about procurements. I am disappointed that someone apparently does not understand that this is not optional.

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

Carol A. Paquette/EAC/GOV
05/05/2005 07:20 PM

To Gracia Hillman/EAC/GOV@EAC, Paul DeGregorio/EAC/GOV@EAC, Raymundo Martinez/EAC/GOV@EAC
cc Juliet E. Thompson/EAC/GOV@EAC, Gavin S. Gilmour/EAC/GOV@EAC, Jeannie Layson/EAC/GOV@EAC, Sheila A. Banks/EAC/GOV@EAC, Adam
bcc

Subject contract award to EAgleton Institute

Commissioners -

Just a note to clarify where we are on the Eagleton contract award. The Tally vote has been completed and certified. Julie and I are completing the contract documentation for signature by the Chair. Under the federal acquisition process, we cannot publish any information about the contract award until the contract is signed and accepted by the contractor. I have notified Eagleton that you have voted to award the contract to them and that paperwork is forthcoming. Asked them to get ready to begin work and to contact me to schedule a project kickoff meeting. Advised them that they may not make any announcements regarding contract award until after the EAC does, and that we would notify them when that occurs.

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

Carol A. Paquette/EAC/GOV
05/17/2005 06:34 PM

To Gracia Hillman/EAC/GOV@EAC, Paul DeGregorio/EAC/GOV@EAC, Raymundo Martinez/EAC/GOV@EAC
cc Karen Lynn-Dyson/EAC/GOV@EAC, Jeannie Layson/EAC/GOV@EAC, Juliet E. Thompson/EAC/GOV@EAC, Sheila A.
bcc

Subject project kickoff meeting with EAgleton Institute

Commissioners -

We have tentatively scheduled May 26 at 2:30 for a kickoff meeting here with Eagleton Institute. What will happen at this meeting is Eagleton will introduce their key people and make a brief presentation on their approach to performing the provisional voting and voter ID studies. It will be an opportunity to ask questions, raise any concerns, and/or provide guidance as they begin this work. Please advise if you wish to attend this meeting. I expect it will last about an hour.

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

Raymundo Martinez/EAC/GOV
05/26/2005 08:36 AM

To Margaret Sims/EAC/GOV@EAC
cc Adam Ambrogi/EAC/GOV@EAC, jthompson@eac.gov, Paul DeGregorio/EAC/GOV@EAC
bcc
Subject Re: meeting on CA

I'm sitting in on the provisional voting meeting this afternoon at 2PM with Eagleton and Moritz School of Law representatives. That meeting should go for an hour or so. Other than that, I'm free this afternoon.

Thanks, Peggy.

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

(202) 566-3100 (W)
(202) 566-3127 (FAX)
www.eac.gov

CONFIDENTIALITY NOTICE: This email message and all attachments, if any, are intended solely for the use of the addressee and may contain legally privileged and confidential information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this message is strictly prohibited. If you received this message in error, please notify the sender immediately by replying to this message and please delete it from your computer.

Deliberative Process Privilege

May 14, 2007

STATEMENT OF WORK

Research assistance to the Election Assistance Commission (EAC) for the development of voluntary guidance on vote count and recount procedures

0.0 **BACKGROUND:** Sec. 241 (b)(13) of HAVA allows the Commission to study the laws and procedures used by each State that govern: recounts of ballots cast in elections for Federal office; contests of determinations regarding whether votes are counted in such elections; and standards that define what will constitute a vote on each type of voting equipment used in the State to conduct elections for Federal office. For the latter, the State Plans will be reviewed to identify the definitions provided in them regarding what constitutes a vote. A chart is provided along with this document for the Contractor to use as a baseline. This study also includes the identification of best practices (as identified by the Commission) that are used by States with respect to the recounts and contests described earlier, and whether or not there is a need for more consistency among State recount and contest procedures used with respect to elections for Federal office.

1.0 **OBJECTIVE:** The objective of this contract is for the EAC to obtain assistance with the collection, analysis, and interpretation of information regarding vote count and recount procedures for the purpose of developing best practices on these topics in time for implementation for the 2006 Federal elections.

2.0 **SCOPE:** In general, the Contractor shall be responsible for all research and analysis activities, including the conduct of public hearings for fact finding and public comment purposes. Notice of public meetings and hearings is required to be published in the Federal Register. The Contractor shall be responsible for preparing the notice documents, and the EAC will submit the notices and cover the cost of publication. In addition, best practices documents must be published in the Federal Register to obtain public comment prior to their adoption. Again, the Contractor will work with the EAC to prepare the draft documents for publication, which the EAC will submit and pay for the cost of publication. Comments received will be provided to the Contractor for analysis and incorporation into the final best practices documents, as appropriate.

3.0 **SPECIFIC TASKS:**

3.1 Update the project work plan. The Contractor shall update and deliver the Project Plan no later than ten (10) days after the contract is awarded. The plan shall describe how the Contractor will accomplish each of the project tasks, and it shall include a timeline indicating major milestones, and the staff responsible for each task. The updated Project Plan shall be formally briefed to the EAC Project Manager and lead Commissioner.

3.2 Submit monthly progress reports. The Contractor shall submit a monthly progress report within two (2) weeks of the end of each month. This report shall provide a brief summary of the activities performed and it will indicate progress against the

timeline provided in the Project Plan. Any issues that could adversely affect the schedule should be identified for resolution. Budget status shall also be provided.

3.3 Conduct periodic briefings for the EAC. The Contractor shall periodically meet with the EAC Project Manager and the lead Commissioner for this project to discuss research findings and work progress. The Project Plan should make allowance for this activity. The number and frequency of briefings will be determined by the Contractor's Project Manager and the EAC Project Manager as the work progresses. The Contractor may also be required to periodically brief the full Commission on their work.

Vote Count

3.4 Collect and analyze State legislation, administrative procedures, and court cases. An understanding of standards that define what constitutes a vote on each type of voting equipment used in the States to conduct elections for Federal office around the country will provide a baseline for the consideration of future approaches. A State-by-State compendium of the legislation, procedures, and litigation reviewed shall be delivered along with the analysis results.

Topics of particular interest include:

- Are vote counting methods and definitions uniform and consistent among the States for each type of voting equipment used? Within a State? If they are not uniform and consistent, explain how they differ from one another;
- Define what constitutes a vote on each type of voting equipment used in the States to conduct elections for Federal office. Refer to the chart provided as a baseline. Provide a complete chart listing the States and their definitions of what constitutes a vote in general and then by voting system.
- Circumstances in which a ballot would be partially or completely invalidated;
- How are voters educated about what constitutes a vote for the type of equipment they use?
- Is there polling place signage posted on Election Day educating voters about what constitutes a vote for the type of voting equipment used?
- When is a vote count officially certified?

3.5 Review literature for methodologies used to establish best practices, and develop definitions of what shall constitute a best practice with respect to vote counts. Utilizing the methodology and definitions developed, identify best practices that are used by States with respect to standards that define what will constitute a vote on each type of voting equipment used in the State to conduct elections for Federal office.

3.6 Prepare preliminary best practices document. Based on the feedback received from the Commission, the Contractor shall prepare a draft best practices document for review and comment by the EAC Board of Advisors and Standards Board. EAC will convene a meeting or teleconference of the Boards for the discussion of this

document. The Contractor shall provide the document in advance and participate in the meeting to answer questions and record comments.

3.7 Revise best practices document for publication in the Federal Register. The Contractor shall revise the document as appropriate to reflect the comments of the EAC, the Board of Advisors and the Standards Boar, and prepare the draft best practices for publication in the Federal Register.

3.8 Arrange one public hearing for receiving public comment on the best practices. This hearing should be scheduled 30 days after the initial publication date. The Contractor shall select the location in consultation with the EAC. The Commission will handle publicity for the meeting.

3.9 Prepare final best practices document for EAC adoption. Review all comments received in response to Federal Register publication and at public hearing and revise document as appropriate. Provide final version to EAC for adoption.

Recount

3.10 Collect and analyze State legislation, administrative procedures, and court cases. An understanding of how recounts of ballots and contests of determinations regarding whether votes are counted in such elections are conducted around the country will provide a baseline for the consideration of future approaches. A State-by-State compendium of the legislation, procedures, and litigation reviewed shall be delivered along with the analysis results.

Topics of particular interest are:

- Type of recount provided by State law: automatic (regardless of margin of victory), candidate initiated, voter initiated, or close election (takes place if the margin of victory falls beneath a prescribed numerical threshold);
- Grounds for contest; persons authorized to contest;
- Application process for requesting a recount;
- Procedures for conducting a recount (detail how votes in such an election are counted in each voting system used);
- Standards for determining whether a vote counted in such an election;
- Procedures for stopping a recount;
- Charges for recount; funding source for conducting a recount;
- Actions by board of election upon discrepancy between initial canvass of votes and results of the recount of ballots

3.11 Recommend alternative approaches for future implementation of procedures for recounting ballots and contests of determinations. The Contractor shall conduct a literature review to identify other research results and data available on this topic. Based on their analysis of available research and the results of Task 3.5, the Contractor shall diagnose the problems and challenges of recounts of ballots and contest determination procedures and hypothesize alternative approaches.

3.12 Review literature for methodologies used to establish best practices, and develop definitions of what shall constitute a best practice with respect to recounts and

026538

contests of determinations. Utilizing the methodology and definitions developed, identify best practices that are used by States with respect to the recounts and contests described in clause (i) of Section 241b (13)(A) of HAVA.

3.13 Identify whether or not there is a need for more consistency among State recount and contest procedures used with respect to elections for Federal office.

3.14 Prepare preliminary best practices document. Based on the feedback received from the Commission, the Contractor shall prepare a draft best practices document for review and comment by the EAC Board of Advisors and Standards Board. EAC will convene a meeting or teleconference of the Boards for the discussion of this document. The Contractor shall provide the document in advance and participate in the meeting to answer questions and record comments.

3.15 Revise best practices document for publication in the Federal Register. The Contractor shall revise the document as appropriate to reflect the comments of the EAC, the Board of Advisors and the Standards Boar, and prepare the draft best practices for publication in the Federal Register.

3.16 Arrange one public hearing for receiving public comment on the best practices. This hearing should be scheduled 30 days after the initial publication date. The Contractor shall select the location in consultation with the EAC. The Commission will handle publicity for the meeting.

3.17 Prepare final best practices document for EAC adoption. Review all comments received in response to Federal Register publication and at public hearing and revise document as appropriate. Provide final version to EAC for adoption.

4.0 CONTRACT TYPE: The contract type will be a time and materials contract in the amount of $00,000.

5.0 PLACE OF PERFORMANCE: The principal place of performance will be the Contractor's place of business. Meetings and occasional work efforts may also be conducted at the EAC offices.

6.0 PERIOD OF PERFORMANCE: The period of performance is from date of award until October 28, 2005.

7.0 SCHEDULE OF DELIVERABLES:

• Project Plan	10 days after date of award
• Progress Reports	monthly
• Briefings	TBD
• Study Design and Methodology	TBD
• Administration of Survey	TBD
• Prepare and Analyze Data	TBD
• Analysis Report (draft)	TBD
• Analysis Report (final)	TBD

8.0 INSPECTION AND ACCEPTANCE CRITERIA: Final inspection and acceptance of all work performed, reports, and other deliverables will be performed at the offices of the EAC.

9.0 INVOICING: Invoices may be submitted monthly using Standard Form 1034, Public Voucher for Purchases and Services Other Than Personal. Invoices shall be mailed to the attention of:

Ms. Diana Scott
Administrative Officer
U.S. Election Assistance Commission
1225 New York Avenue, N.W., Suite 1100
Washington D.C. 20005.

10.0 ACCOUNTING AND APPROPRIATION DATA: Funding in the amount of $00,000 has been allocated to this contract.

11.0 GENERAL PROVISIONS:

11.1 INSPECTION / ACCEPTANCE: The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The EAC reserves the right to inspect and review any services that have been tendered for acceptance. The EAC may require correction or re-performance of nonconforming services at no increase in contract price. The EAC must exercise its post-acceptance rights within five (5) days after the defect was discovered or should have been discovered.

11.2 CHANGES: Changes in the terms and conditions of this contract may be made only by written agreement signed by authorized representatives of both parties.

11.3 DISPUTES: This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). The Contractor shall proceed diligently with performance of services, pending final resolution of any dispute arising under the contract.

11.4 EXCUSABLE DELAYS: The Contractor shall be liable for defaults unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as acts of God or the public enemy, acts of Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the EAC, in writing, as soon as possible after the beginning of an excusable delay. The Contractor shall explain the basis for the excusable delay, and correct the problem as soon as possible. The Contractor shall notify the EAC, in writing, at the end of the delay.

11.5 OTHER COMPLIANCES: The Contractor shall comply with all applicable Federal, State, and local laws, executive orders, rules and regulations applicable to it performance under this contract.

11.6 COMPLIANCE WITH LAWS UNIQUE TO GOVERNMENT CONTRACTS: The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to

officials not to benefit; 40 U.S.C. 327 et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409, relating to whistle blower protections, 49 U.S.C. 40118, and 41 U.S.C. 423 relating to procurement integrity.

11.7 **LIMITATION OF GOVERNMENT LIABILITY:** In performing this contract, the Contractor is not authorized to make expenditures or incur obligations exceeding the total amount of the contract amount.

11.8 **TERMINATION OF CONVENIENCE:** The EAC, by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the Government. If this contract is terminated, the rights, duties, and obligations of the parties, including compensation to the Contractor, shall be in accordance with Part 49 of the Federal Acquisition Regulations in effect on the date of this contract.

AF

Paul DeGregorio /EAC/GOV
06/06/2005 02:59 PM

To Karen Lynn-Dyson/EAC/GOV@EAC
cc
bcc
Subject Re: Project documents for your consideration

Thanks. I'll look it over and we can discuss on Tuesday.

Sent from my BlackBerry Wireless Handheld
Karen Lynn-Dyson

From: Karen Lynn-Dyson
Sent: 06/06/2005 01:03 PM
To: Paul DeGregorio
Subject: Project documents for your consideration

Paul-

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

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

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

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

Regards-

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

Vote Count and Recount SOW.doc

voterfraud project manager.doc

Amie J. Sherrill/EAC/GOV
06/09/2005 09:38 AM

To Paul DeGregorio/EAC/GOV@EAC
cc
bcc
Subject Meeting this morning

Karen just called regarding the meeting this morning. She said the voter fraud piece is going to come up - she is out of the office until about 11:30 am and she wanted to check with you in time to get you anything you might need. Also, Carol asked if you had any handouts for your speaking topic. I told her I was not sure, but that I would check with you.

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

Paul DeGregorio /EAC/GOV
06/13/2005 10:40 PM

To Jeannie Layson/EAC/GOV
cc
bcc
Subject Re: Eagleton press release

Jeannie,

The news release (latest version) is OK.

I did get cornered by one of our advisory board members in San Diego who asked me why we had hired "left-wing pro-Democrat institutions--Eagleton and Moritz--to do our research". This person was concerned that they would give us biased research and issue a biased report. I told the person that I was monitoring their work closely and they were advised to do balanced work.

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

Jeannie Layson /EAC/GOV
06/14/2005 08:14 AM

To Paul DeGregorio/EAC/GOV@EAC
cc
bcc
Subject Re: Eagleton press release

That's a legitimate question, but you had a good answer. I'll see if I can find examples of other projects they've done that would be considered more balanced or mainstream -- that might come in handy if you're asked that question again.

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

Karen Lynn-Dyson/EAC/GOV
06/21/2005 01:27 PM

To Raymundo Martinez/EAC/GOV@EAC
cc Gracia Hillman/EAC/GOV@EAC, Paul DeGregorio/EAC/GOV@EAC, Thomas R. Wilkey/EAC/GOV@EAC, Juliet E.
bcc
Subject Your recommendations for consultants to help frame EAC's work on voter fraud and intimidation

Ray-

As was discussed yesterday- you will get me the names of consultants and organizations who you think will be good for us to consider employing as consultants to help us frame our work around voter fraud and intimidation.

Once I have a list of names and resumes, I will work with Tom Wilkey to come up with a recommendation of a consultant or consultants to use on this project.

Thanks for your input.

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

Raymundo Martinez/EAC/GOV
06/22/2005 08:30 AM

To Karen Lynn-Dyson/EAC/GOV@EAC
cc Thomas R. Wilkey/EAC/GOV@EAC, Juliet E. Thompson/EAC/GOV@EAC, Gracia Hillman/EAC/GOV@EAC, Paul
bcc
Subject Voter Fraud

Karen:

Per our discussion, I should have some names later today of possible academic researchers for the voter fraud/voter intimidation study. I assume you are collecting names from the other commissioners as well. Additionally, I ran across the article below in today's Seattle Times...

Wednesday, June 22, 2005, 12:00 A.M. Pacific

6 accused of casting multiple votes

By Keith Ervin
Seattle Times staff reporter

Criminal charges have been filed against six more King County voters for allegedly casting more than one ballot under a variety of circumstances in last November's election, prosecutors said yesterday.

Two defendants, William A. Davis of Federal Way and Grace E. Martin of Enumclaw, were accused of casting absentee ballots in the names of their recently deceased spouses, Sonoko Davis and Lawrence Martin, respectively.

A mother and daughter were also charged with casting a ballot in the name of the mother's dead husband. The mother, Harline H.L. Ng, and her daughter, Winnie W.Y. Ng, both of Seattle, signed their names as witnesses to the "X" marked on the ballot of Jacob Ng, who had died in February 2004.

Jared R. Hoadley of Seattle was accused of casting a ballot in the name of Hans Pitzen, who had lived at the same Seattle address as Hoadley and who died last May.

Dustin S. Collings, identified as a homeless Seattle resident, was charged with casting two ballots, both using the alias of Dustin Ocoilain, a name that was listed twice on the voter-registration rolls.

The defendants are charged with repeat voting, a gross misdemeanor that carries possible jail time of up to one year and a fine of up to $5,000.

Election officials asked prosecutors to investigate the voters after news reporters and a blogger reported that they may have voted twice. The voters will be arraigned July 5 in King County District Court.

Two other voters previously received deferred sentences — and avoided jail time — after they pleaded guilty to charges of repeat voting.

The King County Sheriff's Office is investigating several other cases, prosecutors reported yesterday. The investigations resulted from the intense scrutiny surrounding the governor's election in which Democrat Christine Gregoire defeated Republican Dino Rossi by 129 votes after he narrowly won two earlier vote counts.

After the November election, prosecutors also successfully challenged the voter registrations of 648 felons whose right to vote had not been restored.

Keith Ervin: 206-464-2105 or kervin@seattletimes.com

Copyright © 2005 The Seattle Times Company

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

(202) 566-3100 (W)
(202) 566-3127 (FAX)
www.eac.gov

CONFIDENTIALITY NOTICE: This email message and all attachments, if any, are intended solely for the use of the addressee and may contain legally privileged and confidential information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this message is strictly prohibited. If you received this message in error, please notify the sender immediately by replying to this message and please delete it from your computer.

Paul DeGregorio /EAC/GOV
06/22/2005 05:35 PM

To Karen Lynn-Dyson
cc
bcc
Subject another article on voter fraud

I assume you saw this in the post.

Advertisement

washingtonpost.com

Vote Buying a Way of Life in W.Va. County

By LAWRENCE MESSINA
The Associated Press
Monday, June 20, 2005; 5:09 PM

HAMLIN, W.Va. -- According to political lore, just before John F. Kennedy's momentous win in the 1960 West Virginia primary, the Democratic boss of Logan County asked the Kennedy campaign for "35" _ meaning $3,500 _ to buy votes for the presidential candidate. In an apparent misunderstanding, Kennedy's people delivered $35,000 in cash in two briefcases.

West Virginia's coal country has a long and rich history of vote-buying _ which explains why many folks in Lincoln County all but shrugged over the indictment last month of five people on federal charges they secured votes for liquor or a $20 bill or two.

Sharrell Lovejoy, 83, said he has heard rumors of vote-buying since he opened his Bobcat Restaurant on Hamlin's main drag, in 1948.

"It's gone on for ages," said Lovejoy, behind his diner's hand-cranked register. "I'm sure they're still doing it. They're just more careful about it."

As with past election fraud probes, the latest case targets solely Democrats, who dominate the voter rolls and local governments through the region. In Lincoln County, population 22,100, Democrats outnumber Republicans 4-to-1; the indictment focuses largely on the party's primary elections, going back to 1990.

Not that the GOP has clean hands. Republican former Gov. Arch Moore pleaded guilty to five corruption-related charges in 1990, including one that alleged he spent $100,000 in unreported campaign cash during his successful 1984 campaign.

"This seems to be something that is just in the blood of people in southern West Virginia. They're always looking for ways to get away with this," said Ken Hechler, who fielded election fraud complaints as West Virginia's secretary of state from 1985 to 2000.

With Hechler's help, a state-federal task force secured more than two dozen election-related

convictions in Mingo County in the 1980s. Ensnared officials included a former sheriff, a county commissioner, a school board president and a Democratic Party chairman.

In the 1990s, politicians in neighboring Logan County found themselves on the defensive. Two state legislators, the county assessor and a Circuit Court judge, among others, went to jail on corruption charges that included vote-buying.

Federal investigators revisited Logan County last year. The sheriff and a city police chief resigned and pleaded guilty to exchanging money for votes. Three other people were convicted on related charges.

The current case targets Circuit Court clerk Greg Stowers, 48, the son of Lincoln County's longtime Democratic Party chairman; his deputy, Clifford Odell "Groundhog" Vance, 49; Jackie David Adkins, 36, a state highway worker; Wandell "Rocky" Adkins, 49, no relation; and Toney "Zeke" Dingess, 34.

All five have pleaded not guilty. The defense alleges that two convicted felons used by the government as informants lied to investigators to avoid stiff sentences on weapons charges.

The defense also says the government used illegal tactics during its investigation, intimidating voters by filming at polling places and trailing voters home. Prosecutors countered that the U.S. Justice Department's Public Integrity Section approved the investigators' techniques.

Prosecutors allege the defendants enlisted precinct captains to pay off voters and hand out slates listing the preferred candidates. Most votes were bought for $20 apiece, prosecutors said. The indictment also said Stowers drove to Kentucky and filled his pickup truck with booze for distribution to voters during the 1994 primary.

The indictment cites 16 voters who were allegedly paid off. Prosecutors have not said just how many voters, all told, were supposedly bought or how much was spent, but said the conspirators assembled $25,000 for one election alone to bribe voters.

The evidence includes footage from a hidden camera and microphone that informant Wayne Watts wore during the 2004 primary as he tried to get people to talk about buying votes.

"Man," Watts is heard muttering as he walks away from one group of locals who professed to know nothing about money and candidate lists changing hands, "this ain't no way to run an election."

© 2005 The Associated Press

Advertising Links What's this?

Lincoln-Why Pay Retail? Pay Dealer Cost
Get a price quote below sticker on Lincoln. Having certified auto dealers compete for your

business could save you thousands of dollars. Our service is free, with no obligation to buy.
www.whypaysticker.com

Lincoln, Save Money-CarPriceSecrets.com

Shop CarPriceSecrets.com and save on your new Lincoln. Prices so good they have to be kept secret. Free price quotes will save you time and money on the new Lincoln you want.
www.carpricesecrets.com

Buying Lincoln

Our dealers are overstocked on all Lincolns. Request a quote now so our Lincoln dealer network can compete for your business. We are the automotive pioneers that care.
www.newcars.com

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

Gracia Hillman /EAC/GOV
07/14/2005 10:32 AM

To "Paul DeGregorio" <pdegregorio@eac.gov>, "Ray Martinez" <rmartinez@eac.gov>, Thomas R. Wilkey/EAC/GOV@EAC, Juliet E. Thompson/EAC/GOV@EAC, Carol A.
cc
bcc
Subject Meeting with Sen Bennett

History: This message has been replied to.

It was short. He politely asked how things were going, listened for a couple of minutes and then made it clear that his interest was fraud. We never discussed the appropriation even though we all knew why we were there.

The Senator wanted to know what EAC was doing about fraud and if we had authority to do anything about his concerns, which are listed below.

His concerns ran the gamut of over populated voter roles to election officials who cast ballots after the polls close to intimidation of legitimate poll watchers to poorly trained poll workers in Calif whose homes are polling sites and who are therefore entrusted with hundreds of blank ballots but no training. As he said, those were his concerns.

I didn't have a clue that fraud was the hot button topic for the Senator.
I think he is supportive of EAC. He didn't say anything to the contrary and wasn't critical of HAVA.

Abbie Platt is the Senator's Leg Asst who sat in on the meeting. It would probably be wise if Julie or Carol followed up with her to discuss our 06 approp and the 4 FTEs. Her number is 202-224-5444.

Sent from my BlackBerry Wireless Handheld

Juliet E. Thompson/EAC/GOV
07/19/2005 05:04 PM

To Gracia Hillman/EAC/GOV@EAC, Paul DeGregorio/EAC/GOV@EAC, Raymundo Martinez/EAC/GOV@EAC
cc
bcc
Subject Public meeting

There are a few needed adjustments to the agenda for the public meeting. Several of the speakers have declined, including Marci Andino, Senator Robson, and Senator Heinold. We are still awaiting confirmation from several other speakers.

Probably the most difficult to replace is Marci Andino, who was asked to speak from the perspective of a state that had both an ID requirement and a statewide voter registration database in 2004. There are only a very few states that had both of those elements: South Carolina, Kentucky, Virginia, and Louisiana. Having heard from Sarah Ball Johnson and knowing that Jean Jensen has been invited to speak on the wireless panel of the VVSG hearing, I recommend that we invite Debbie Hudnall, Clerk of Court, East Feliciana Parish, Louisiana to provide this testimony. Clerks are responsible for training poll workers on all voting requirements, including identifying voters. She can speak on how the new HAVA ID requirement differed from the ID requirement in LA, how she trained poll workers to identify voters, and how the statewide voter registration database played a role in assisting the poll workers in identifying voters.

Upon the recommendation of Secretary Rokita, we invited one of the co-sponsors of the Indiana bill to replace Senator Heinold, specifically Rep. Steve Heim. We are awaiting confirmation on that invitation. A possible alternate for Senator Robson, is Representative Tommy Reynolds, (D-MS).

If we are unable to secure a reasonable number of speakers for the meeting, we can always expand our discusssion of the statewide voter registration list guidance which hopefully you all have had an opportunity to read and comment on, or we can ask Eagleton to report on their progress on Voter ID research.

Please let me know as soon as possible if it is acceptable to pursue these alternatives.

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

Gracia Hillman /EAC/GOV
07/19/2005 05:37 PM

To Juliet E. Thompson/EAC/GOV@EAC, Paul DeGregorio/EAC/GOV, Raymundo Martinez/EAC/GOV
cc Thomas R. Wilkey/EAC/GOV@EAC
bcc
Subject Re: Public meeting

Julie:

My first thought is to ask why so many have declined? Is it the distance they have to travel for the brief bit of time they would appear before us?

Is it that they don't want to be on the record?

Is it because they had a previous obligation?

Beyond that, I support anything that gives us the opportunity to hear testimony that addresses different aspects and gives us different perspectives. Assuming other invitees won't decline for the reasons I raised in the questions above.

Sent from my BlackBerry Wireless Handheld
Juliet E. Thompson

From: Juliet E. Thompson
Sent: 07/19/2005 05:04 PM
To: Gracia Hillman; Paul DeGregorio; Raymundo Martinez
Subject: Public meeting

There are a few needed adjustments to the agenda for the public meeting. Several of the speakers have declined, including Marci Andino, Senator Robson, and Senator Heinold. We are still awaiting confirmation from several other speakers.

Probably the most difficult to replace is Marci Andino, who was asked to speak from the perspective of a state that had both an ID requirement and a statewide voter registration database in 2004. There are only a very few states that had both of those elements: South Carolina, Kentucky, Virginia, and Louisiana. Having heard from Sarah Ball Johnson and knowing that Jean Jensen has been invited to speak on the wireless panel of the VVSG hearing, I recommend that we invite Debbie Hudnall, Clerk of Court, East Feliciana Parish, Louisiana to provide this testimony. Clerks are responsible for training poll workers on all voting requirements, including identifying voters. She can speak on how the new HAVA ID requirement differed from the ID requirement in LA, how she trained poll workers to identify voters, and how the statewide voter registration database played a role in assisting the poll workers in identifying voters.

Upon the recommendation of Secretary Rokita, we invited one of the co-sponsors of the Indiana bill to replace Senator Heinold, specifically Rep. Steve Heim. We are awaiting confirmation on that invitation. A possible alternate for Senator Robson, is Representative Tommy Reynolds, (D-MS).

If we are unable to secure a reasonable number of speakers for the meeting, we can always expand our discusssion of the statewide voter registration list guidance which hopefully you all have had an opportunity to read and comment on, or we can ask Eagleton to report on their progress on Voter ID research.

Please let me know as soon as possible if it is acceptable to pursue these alternatives.

Juliet E. Thompson
General Counsel

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

Karen Lynn-Dyson/EAC/GOV
08/22/2005 04:54 PM

To Thomas R. Wilkey/EAC/GOV@EAC
cc Diana Scott/EAC/GOV@EAC
bcc Paul DeGregorio/EAC/GOV
Subject Kick-off meeting with the Voting Fraud Project Consultants

Tom and Diana-

This week I'm going to put the finishing touches on the consultant contracts for the three voting fraud/voter intimidation consultants.

I will be sending you the final statement of work for each of them, and the fees schedules for each, based on Diana's calculation of a daily fee for a GS 15.

Once you all sign off, I'd like to push ahead to have the three meet with the Commissioners sometime during the week of September 12.

Let me know if this plan sounds workable and if you have further recommendations about the process.

Thanks

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

Karen Lynn-Dyson/EAC/GOV
08/23/2005 05:44 PM

To Thomas R. Wilkey/EAC/GOV@EAC [redacted]
cc Margaret Sims/EAC/GOV@EAC
bcc Paul DeGregorio/EAC/GOV
Subject Kick off activities for the EAC Voting fraud/voter intimidation project

Greetings-

Tom Wilkey and I have just completed a series of very informative and productive conversations with each of you and are anxious to move to the next step of this process.

We hope to assemble our consultant team on this project, within the next three weeks and are presently awaiting final approval of your contracts from our Commissioners. We anticipate this will take place in the next week to ten days.

We would like to assemble the team- Steve Ansolabehere of MIT, Tova Wang from The New Century Foundation and Job Serebrov, who has worked extensively on these issues for the State of Arkansas, during the week of September 11. Please get back to us with some tentative dates during that week that might work with your schedule.

We look forward to working with all of you and appreciate your efforts on behalf of the EAC.

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

Gracia Hillman /EAC/GOV
08/27/2005 01:37 PM

To "Paul DeGregorio" <pdegregorio@eac.gov>, "Ray Martinez" <rmartinez@eac.gov>, Ddavidson@eac.gov, Thomas R. Wilkey/EAC/GOV@EAC
cc
bcc
Subject Work with Eagleton

I will do what I can to help us reach a meeting of the minds on what "balance" means for the study being conducted by Eagleton. In the meantime, I've asked Tom to discuss same with each of you.

It is important that we work to reach this meeting of the minds before the upcoming meeting with Eagleton. So, I am asking Tom to put this on the agenda for our Sept 6 discussion.

Once we reach agreement, then I think that Tom should share same with Karen so she can know where we are. It is very difficult when staff hears varied points of view from individual commissioners with no commissioner consensus or agreement.

Sent from my BlackBerry Wireless Handheld

Paul DeGregorio /EAC/GOV
08/30/2005 10:33 AM

To "Hans.von.Spakovsky@usdoj.gov" <Hans.von.Spakovsky@usdoj.gov>@GSAEXTERNAL
cc
bcc
Subject Re: e-mail from Jack Bartling

Hans,

First of all, I do not agree to "deals," especially when it comes to an interpretation of the law. What I did tell you at the time that we discussed this issue was that a plan was already in the works for us to correct our position on the checkbox issue regarding our best practices, and that we would do so when we do another reiteration of our best practices documents. There was no deal to do so immediately. To my knowledge this delay has nothing to do with our Chairman--at least she has never said anything to what you have suggested in your e-mail to me.

The letter from our assistant General Counsel was not a "threat". It is, in fact, a courtesy we are extending to DOJ, since our positions are currently different on this issue. Had DOJ extended the same courtesy to us back when you sent your original letter to AZ, perhaps we would not be in this position. I believe that our staff has taken great pains to have good communications with DOJ on HAVA issues, and that DOJ has not extended to the EAC the same level of courtesy or communication. Perhaps a discussion with John Tanner or his boss is in order.

To assure you that I am not being "railroaded" by anyone on this Commission, I thought I would share the attached internal memos with you regarding the Eagleton contract and others, so that you can see for yourself that I take my job seriously and work to insure that we are getting proper balance in the work that we receive. Since they are internal, they are for your eyes only. August 19 memo regarding Eagleton.doc

Council on Government proposal.doc

Commissioner Davidson and I will call you at 4 PM, as previously arranged.

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

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

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

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

08/30/2005 08:32 AM Subject Re: e-mail from Jack Bartling

You and I should talk before any official call. We did not agree that your position was correct. If you will recall, we had a deal where I told you we would consider taking the position you were pushing even though we think it is too strict if you would correct the obviosly wrong position on the citizenship checkbox. You agreed to that. HOwever, instead of contacting me and telling me you are pulling out of the deal, I get an email from your assistant counsel threatening DOJ with this letter - with nothing about the citizenship issue. Are you aware that the Arizona AG, SOS, and governer have finally agreed on how to implement the ID rules? Your letter will blow that agreement out of the water. You and I are obviously both angry about this. I suggest a quick phonecall this morning to see if there has been some kind of miscommunication here. The fact that your chairman does not want to do this because she does not want to anger her friends at the league of women voters is no reason for you to be railroaded into this.

-----Original Message-----
From: pdegregorio@eac.gov <pdegregorio@eac.gov>
To: von Spakovsky, Hans (CRT) <Hans.VonSpakovsky@crt.usdoj.gov>
Sent: Mon Aug 29 22:58:26 2005
Subject: e-mail from Jack Bartling

Hans,

Is the e-mail below from Jack Bartling a product of some phone calls you have made regarding the AZ case? Is it an attempt by you to put pressure on me--and the EAC? If so, I do not appreciate it. As you may know, Donetta and I have scheduled a telephone call with you on Tuesday afternoon to discuss this issue. You are well aware our legal staff has done considerable research on this issue and, if I recall correctly, you told me and Julie Thompson several weeks ago that our position that HAVA requires a state to give someone a provisional ballot, even if they do not show an ID when requesting the provisional ballot, was the correct legal position and HAVA interpretation. You also indicated that the previous DOJ position on this issue was to be withdrawn. We have given Arizona and DOJ all summer to act on this issue to correct the previous position they have taken so that there would not be conflicting interpretations of HAVA by two federal agencies. To me HAVA is very clear on this issue. Our interpretation is a strict interpretation of HAVA. No more--no less. Our opinion also makes its very clear that if a state wants to require an ID for a provisional to be counted, it has every right to do so. If it is you who have contacted Jack, I'm disappointed that you feel you have to resort to this kind of tactics to get us to change our mind. I don't appreciate it. Perhaps if DOJ would have shared their AZ letter with us prior to it being sent, we would not be in this situation.

Paul DeGregorio
Vice Chairman
US Election Assistance Commission
1225 New York Ave, NW
Suite 1100
Washington, DC 20005
1-866-747-1471 toll-free
202-566-3100

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

----- Forwarded by Paul DeGregorio/EAC/GOV on 08/29/2005 10:37 PM -----

"Bartling, Jack (Bond)" <Jack_Bartling@bond.senate.gov>
08/29/2005 10:25 PM

To
pdegregorio@eac.gov
cc

Subject

Paul,

Just heard the EAC is seriously considering taking a position against DOJ on the Arizona issue. Didn't the parties reach a political compromise agreement?

Nonetheless, certainly seems DOJ has it right. What is going on with this?

Jack

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

August 19, 2005

To Gracia, Ray, Donetta, Tom, Julie, Karen

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

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

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

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

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

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

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

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

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

Amie J. Sherrill/EAC/GOV
09/14/2005 04:11 PM

To EAC Personnel, ddavidson@eac.gov
cc
bcc
Subject Agenda for Sept. 15th Commissioner's Discussion

Commissioners, there are 4 discussion topics:

1. '06 Budget Fact sheet - Julie (documents to be handed out during discussion)
2. '07 preliminary Budget Discussion - Tom (you will receive the documents for this topic via email later today)
3. Invitations to State conferences - Chair Hillman & Tom (discussion)
4. Eagleton Institute request for input from the Commissioners on Alternative Next Steps - Tom & Karen **

** Supplementary documentation will be distributed to Special Assistants and participants Tuesday morning.

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

Amie J. Sherrill/EAC/GOV
09/14/2005 04:37 PM

To EAC Personnel, Donetta L. Davidson/EAC/GOV@EAC
cc
bcc
Subject REVISED Agenda for Sept. 15th Commissioner's Discussion

Commissioners, there are 5 discussion topics:

1. '06 Budget Fact sheet - Julie (documents to be handed out during discussion)
2. '07 preliminary Budget Discussion - Tom (you will receive the documents for this topic via email later today)
3. Invitations to State conferences - Chair Hillman & Tom (discussion)
4. Eagleton Institute request for input from the Commissioners on Alternative Next Steps - Tom & Karen **
5. EDS Settlement Issues - Julie (discussion)

** Supplementary documentation will be distributed to Special Assistants and participants Tuesday morning.

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

Amie J. Sherrill/EAC/GOV
09/14/2005 05:43 PM

To EAC Personnel, Donetta L. Davidson/EAC/GOV@EAC
cc
bcc
Subject Final REVISED Agenda for Sept. 15th Commissioner's Discussion

Hopefully, this will be the last and final agenda for the Commissioner's Discussion. I apologize for sending so many revisions. Please feel free to delete the emails that contained previous agendas.

Commissioners, there are 6 discussion topics:

1. '06 Budget Fact sheet - Julie (documents to be handed out during discussion)
2. '07 preliminary Budget Discussion - Tom (you will receive the documents for this topic via email later today)
3. Invitations to State conferences - Chair Hillman & Tom (discussion)
4. Eagleton Institute request for input from the Commissioners on Alternative Next Steps - Tom & Karen **
5. EDS Settlement Issues - Julie (discussion)
6. VVSG comment disposition plan - Carol **

** Supplementary documentation will be distributed to Special Assistants and participants Tuesday morning.

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

Gracia Hillman /EAC/GOV
09/17/2005 09:09 AM

To Carol A. Paquette/EAC/GOV@EAC, Karen Lynn-Dyson/EAC/GOV@EAC
cc Thomas R. Wilkey/EAC/GOV@EAC, Juliet E. Thompson/EAC/GOV@EAC, Paul DeGregorio/EAC/GOV@EAC, Raymundo
bcc

Subject Plz Respond, Tally Vote Questions

I see only 2 consultants on the Tally Vote for the Voter Fraud/Voter Intimidation project. What happened to the third consultant?

Remind me how it is that EAC can sole source a contract to NASED? I don't have an objection; I am merely seeking information.
Thank you,
Gracia M. Hillman
Chair
U.S. Election Assistance Commission
1225 New York Avenue, NW, Suite 1100
Washington, DC 20005
Tel: 202-566-3100
Fax: 202-566-1392
www.eac.gov

CONFIDENTIALITY NOTICE: This email message is from a federal agency. All attachments, if any, are intended solely for the use of the addressee and may contain legally privileged and confidential information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this message is strictly prohibited. If you received this message in error, please notify the sender immediately by replying to this message and please delete this message from your computer.

Paul DeGregorio /EAC/GOV
09/19/2005 11:25 AM

To Karen Lynn-Dyson/EAC/GOV
cc Thomas R. Wilkey/EAC/GOV
bcc
Subject Fw: INFORMATION ONLY: media clips, 9-19-05

See report below that mentions Eagleton. Is Mr Weingart working on our study? Seems like he already has his mind made up.

Sent from my BlackBerry Wireless Handheld
Bryan Whitener

From: Bryan Whitener
Sent: 09/19/2005 11:10 AM
To: Gracia Hillman; Paul DeGregorio; Raymundo Martinez; Donetta Davidson
Cc: Adam Ambrogi; Amie Sherrill; Bola Olu; Brian Hancock; Carol Paquette; daniel.murphy[redacted]; DeAnna Smith; Diana Scott; Edgardo Cortes; Gavin Gilmour; Gaylin Vogel; Jeannie Layson; Joseph Hardy; Joyce Wilson; Juliet Thompson; Karen Lynn-Dyson; Margaret Sims; Nicole Mortellito; Roger Larouche; Sheila Banks; Tamar Nedzar; Thomas Wilkey; twilkey[redacted]
Subject: INFORMATION ONLY: media clips, 9-19-05

Commissioners:

The following items are in the news.

- Fred Lucas of the *Danbury News Times* in Connecticut provides more details on the story involving the state's reaction to EAC's advisory on lever machines. Lucas provides more details on the advisory itself as well as the role of EAC and DOJ in HAVA as follows.

  "Lever voting machines were not banned in the federal law. The new ruling is an advisory decision from the commission in response to a question from election officials in Pennsylvania....Though the commission's rulings do not have the force of legislative decisions, the U.S. Supreme Court has held that administrative commissions carry deferential weight when courts interpret laws....EAC spokeswoman Jeanie Layson said it's up to the U.S. Department of Justice to decide whether to enforce the ruling. A U.S. Justice Department spokesman on voting matters reached Thursday said he would research the decision, but did not call back and could not be reached later for comment."

- The *Washington Post* and the *New York Times* report on the recommendations released by the Carter-Baker Commission. Among other issues dealing with photo ID, voter identification numbers and registration, the Post mentions recommendations regarding EAC as follows.

  "The panel recommended that the U.S. Election Assistance Commission oversee a system to allow easy sharing of state voter databases as well as requiring the use of a uniform identifier -- the voter's Social Security number -- to help eliminate duplicate registrations....Another change designed to restore confidence in elections calls for moving to nonpartisan and independent administration of elections, in the states and on the U.S. Election Assistance Commission."

  Commission on Federal Election Reform: Final Commission Report: Building Confidence in U.S. Elections
  http://www.american.edu/ia/cfer/

- Gerald Witt of the *Danville Register and Bee* in Virginia reports on the end of lever machine voting in

Danville, VA. The old lever machines were auctioned off on Saturday. Brian Hancock is quoted as follows.

> "In Florida some used them to sink offshore for artificial reefs," said Brian Hancock, research specialist for the U.S. Election Assistance Commission, about the old voting machines that are being replaced by lighter, smaller computerized systems.

- James Quirk of the *Asbury Park Press* reports on fraud allegations contained in a report by the New Jersey Republican State Committee. John Weingart of Eagleton Institute of Politics questions the magnitude of the charges and EAC is mentioned as follows.

> "The Eagleton Institute is in the middle of a study with the U.S. Election Assistance Commission to determine both if voter fraud exists on a level that could be prevented with tighter identification requirements at the polls, and if such increased requirements would cause lower-income voters ... usually registered Democrats ... to avoid the polls. So far, Weingart said, there is no data to support either theory."

- The *Toledo Blade* reports on the appointment of Keith Cunningham, director of the Allen County Board of Elections in Ohio to EAC's Board of Advisors.

##########

Voting machines may be history

http://news.newstimeslive.com/story.php?id=74485&category=Local

Federal panel finds Connecticut's lever booths inaccessible to the disabled, prone to error
By Fred Lucas

THE NEWS-TIMES

Friday, September 16, 2005

Connecticut's voting machines are prone to error, and lack accessibility for disabled and non-English speaking voters.
Because of that finding by a federal panel, the state's 3,500 lever machines could be junked before the 2006 election.

They would have to be replaced with new machines that cost between $5,000 and $20,000 each.

State officials are scrambling to find out the ruling by the U.S. Election Assistance Commission is binding.

Many don't want to change from the old machines, which have worked fine so far, said Danbury Republican Registrar of Voters Mary Ann Doran.

"These machines do not break down and are dependable," Doran said in defense of the lever machines. "We've had no floating chads. We've had no power outages. These work."

Connecticut is spending $33 million in federal money to buy new electronic voting machines. The state plans to ensure each polling place in the state has one electronic machine accessible to disabled people, with a Spanish ballot available and a paper voting receipt to ensure accuracy. The 769 new voting machines are supposed to be available in time for the 2006 election.

The new mandates from the federal election panel were issued under the auspices of the 2002 federal Help America Vote Act, or HAVA, passed in light of the debacle of the 2000 presidential race, when massive malfunction of the counting process in Florida the the outcome of the George W. Bush-Al Gore

race into question for two months. The commission was established to implement rules to guarantee voting would be fair and accessible throughout the country.

"The state looks to the EAC to give us guidance in meeting HAVA and they have given us none," said Secretary of the State Susan Bysiewicz Thursday. "The $33 million is enough to provide one machine per polling place. We don't know if it will be enough to replace the 3,500 lever machines."

Lever voting machines were not banned in the federal law. The new ruling is an advisory decision from the commission in response to a question from election officials in Pennsylvania.

Disability advocates are ready to say good riddance to the lever voting machines, said Danbury resident Chris Kuell, vice president of the state's chapter of the National Federation of the Blind.

"They are not accessible," Kuell said. "The United States has 54 million disabled people. People who are visually impaired, are in a wheelchair, or have problems with motor skills can think and vote, but they can't operate these machines."

Kuell said he was satisfied that Connecticut is at least getting one specific machine per precinct that is accessible, but hopes for the day when every district has more than one.

"California, Nevada, Kentucky and Texas have used electronic voting machines for years," Kuell said. "More states are going to having more accessible machines. This country's government is based on accurate voting and the right to vote."

Though the commission's rulings do not have the force of legislative decisions, the U.S. Supreme Court has held that administrative commissions carry deferential weight when courts interpret laws.

EAC spokeswoman Jeanie Layson said it's up to the U.S. Department of Justice to decide whether to enforce the ruling. A U.S. Justice Department spokesman on voting matters reached Thursday said he would research the decision, but did not call back and could not be reached later for comment.

The EAC decision faulted lever machines for not having a permanent paper record for "audit capacity" of votes.

Also, the machines do not have a documented test to show they have an error rate of less than one in 500,000. Further, the machines are not accessible to the handicapped, and have no alternate language accessibility.

Attorney General Richard Blumenthal said the commission's opinion is only advisory and not binding on any state.

"The authority to decide whether, when, and how to enforce the statute belongs to the Department of Justice," Blumenthal said. "Regarding the central issue – what constitutes an adequate paper trail or audit capacity under the statute – we believe that the DOJ will carefully and objectively consider the Secretary of the State's position, and accept good-faith compliance with the law."

Many local officials hope Blumenthal is right.

"I would like to know how they are going to implement this," said Brookfield Republican Registrar Karen Nindorf. "Who's going to pay for all this? The federal government is good at mandating things and not funding them. This is amazing to me."

Doran, the Danbury registrar, has a problem with forcing cities and towns to have ballots in an alternate language.

"Every voter should read English," Doran said. "How can you be an intelligent voter if you cannot read

English? All the campaign literature is in English."

Under federal law, if a city or town has more than 1 percent of the population that predominantly speaks another language, it must provide a ballot in that language at each polling place. Seven municipalities in Connecticut, including Danbury, must provide ballots in Spanish.

Doran said local officials still do not know for certain what machines the federal government will and won't accept, so it would be tough to know the cost of replacing 42 voting machines.

Newtown has 25 voting machines, one for every 900 people. But with electronic machines, traffic is expected to move slower, as many voters are unfamiliar with the machines. That could mean the town would have to buy 75 machines to replace its lever machines, and that would cost about $300,000, said Newtown First Selectman Herb Rosenthal, the president of the Connecticut Conference of Municipalities.

Rosenthal, town clerks and registrars of voters will meet with Bysiewicz at 10 a.m. Wednesday to determine how the ruling might affect towns.

"I don't see how we could comply with that now," said Newtown First Selectman Herb Rosenthal, president of the Connecticut Conference of Municipalities. "It's unclear who's going to pay for this. If the federal government tries to force this, I hope the state will try to get an injunction. We've never had a problem with voting as far as I'm concerned and now the federal government says the machines are no good."

Contact Fred Lucas

at flucas@newstimes.com

or at (203) 731-3358.

##########

Carter-Baker Panel to Call for Voting Fixes

http://www.washingtonpost.com/wp-dyn/content/article/2005/09/18/AR2005091801364.html

Election Report Urges Photo IDs, Paper Trails And Impartial Oversight

By Dan Balz
Washington Post Staff Writer
Monday, September 19, 2005; A03

Warning that public confidence in the nation's election system is flagging, a commission headed by former president Jimmy Carter and former secretary of state James A. Baker III today will call for significant changes in how Americans vote, including photo IDs for all voters, verifiable paper trails for electronic voting machines and impartial administration of elections.

The report concludes that, despite changes required under the Help America Vote Act of 2002, far more must be done to restore integrity to an election system that suffers from sloppy management, treats voters differently not only from state to state but also within states, and that too often frustrates rather than encourages voters' efforts to participate in what is considered a basic American right.

The 2002 federal legislation grew out of the disputed election of 2000 and is not yet fully implemented. But the Carter-Baker commission said that even with some important changes in place, the 2004 election was marred by many of the same errors as the 2000 election. "Had the margin of victory for the [2004] presidential contest been narrower, the lengthy dispute that followed the 2000 election could have been repeated," the report states.

Disputes over the counting of provisional ballots, the accuracy of registration lists, long lines at some polling places, timely administration of absentee ballots and questions about the security of some electronic voting machines tarnished the 2004 elections.

Many complaints came in Ohio, where President Bush narrowly defeated Sen. John F. Kerry (D-Mass.) to secure his reelection victory. Although there has been no credible evidence of partisan manipulation of the election in Ohio, the criticisms there and elsewhere have renewed calls for a more uniform, trustworthy and nonpartisan election system across the country.

Commission leaders say the goal of the panel's 87 recommendations -- at an estimated cost of $1.35 billion -- is to make participation easier while also enhancing ballot integrity, a careful balancing of the long-standing argument between Democrats and Republicans in the administration of elections.

The most controversial recommendation calls for all voters to produce a standard photo identification card before being allowed to vote. The commission proposes that, by 2010, voters be required to use either the Real ID card, which Congress this spring mandated as the driver's license of the future in all states. For about 12 percent of eligible voters who do not have a driver's license, the commission says states should provide at no cost an identification card that contains the same key information.

Critics of voter ID cards say the requirement could raise privacy issues and intimidate or discourage some Americans, particularly the elderly, the poor and minorities, from participating in elections. To alleviate those concerns, the Carter-Baker commission urges states to make it easy for non-drivers to obtain such cards and seeks measures to ensure privacy and security for all voters. The commission report states that by adopting a uniform voter ID card, minorities would be better protected from shifting identification standards at individual polling places.

Still, the proposed ID card drew sharp dissent from some commissioners, among them former Senate Democratic leader Thomas A. Daschle (S.D.). In a dissent joined by two other commissioners, Daschle likened the ID to a "modern day poll tax."

Both parties engaged in massive voter registration drives in 2004, but inaccurate voter lists produced many of the disputes on Election Day. The 2002 election reform act mandated states to oversee voter lists, but the commission said that some states are still relying too much on the counties to produce the data and called on states to take responsibility for the lists' accuracy.

The 2002 act required the use of provisional ballots for any eligible voter who shows up at a polling place but whose name is not on a registration list, but the 2004 election produced disparate standards for determining which of those ballots were counted. Alaska counted 97 percent of its provisional ballots, but Delaware counted 6 percent, according to the commission. The group recommends that states set uniform standards.

Approximately 9 million Americans move from one state to another in any given year. The commission cited news reports asserting that almost 46,000 voters from New York City were also registered in Florida. The panel recommended that the U.S. Election Assistance Commission oversee a system to allow easy sharing of state voter databases as well as requiring the use of a uniform identifier -- the voter's Social Security number -- to help eliminate duplicate registrations.

The Florida recount in 2000 etched the image of the "hanging chad" in the minds of many Americans and spurred the shift to electronic, rather than paper, ballots. But flaws in these new computerized systems have led to doubts about their accuracy. The commission calls on Congress to require that all electronic machines include the capacity for a paper trail that voters can use to verify their vote. Beyond that, to alleviate concerns that machines can be maliciously programmed or hacked, the commission calls for new standards to verify that machines are secure.

Another change designed to restore confidence in elections calls for moving to nonpartisan and independent administration of elections, in the states and on the U.S. Election Assistance Commission.

The integrity of the Ohio system was challenged in part because the chief election official, Secretary of State J. Kenneth Blackwell, also served as the Ohio co-chairman for the Bush-Cheney campaign.

The commission also included other recommendations that have been proposed before, including free television time for political candidates, a request that broadcast networks refrain from projecting any results until the polls have closed in the 48 contiguous states and that both parties shift to a system of four regional primaries to pick their nominees.

The Commission on Federal Election Reform was created under the auspices of American University's Center for Democracy and Election Management. The group was funded by several foundations, and Robert A. Pastor of American University served as executive director. Its membership included Republicans, Democrats and independents.

##########

Bipartisan commission proposes election reforms

http://www.contracostatimes.com/mld/cctimes/news/12684624.htm

Posted on Mon, Sep. 19, 2005

By David E. Rosenbaum

NEW YORK TIMES

WASHINGTON - A private commission led by former President Jimmy Carter and former Secretary of State James Baker is proposing new steps to strengthen state election procedures and recommending that Congress require the political parties to hold four regional presidential primaries in election years rather than allowing states to hold primaries whenever they wish.

The bipartisan panel, called the Commission on Federal Election Reform, said it was responding to flaws in the system exposed by the elections of 2000 and 2004.

"We should have an electoral system where registering to vote is convenient, voting is efficient and pleasant, voting machines work properly, fraud is deterred and disputes are handled fairly and expeditiously," the commission declared.

Carter and Baker, a top official under presidents Ronald Reagan and George H.W. Bush, plan to deliver the report today to President Bush and congressional leaders.

It went to news organizations last week with the understanding that the material would not be published until today.

"The American people are losing confidence in the system, and they want electoral reform," Carter said in a statement.

These are the main recommendations:

• States, not local jurisdictions, should be in charge of voter registration, and registration lists in different states should be interconnected so voters could be purged automatically from the rolls in one state when they registered in another.

• Voters should be required to present photo ID cards at the polls, and states should provide free cards to voters without driver's licenses.

• States should make registration and voting more convenient with such innovations as mobile registration vans and voting by mail and on the Internet.

• Electronic voting machines should make paper copies for auditing.

• In presidential election years, after the Iowa caucuses and New Hampshire primaries, the other states should hold regional primaries and caucuses at monthly intervals in March, April, May and June, with the order rotated.

The recommendations sought to strike a balance between the parties' priorities. Republicans worry about voter fraud and favor photo IDs. Democrats support easier registration and ballot access.

In the aftermath of the debacle in Florida in 2000, which put the outcome of the presidential election in doubt for more than a month, a public commission headed by Carter and former President Gerald Ford recommended an overhaul of the nation's election system.

Many of the commission's proposals, including provisional ballots for those whose eligibility was challenged, became part of the Help America Vote Act, which Congress approved and Bush signed in 2002.

But the 2004 election exposed more flaws.

Some election offices did not properly process registration applications or mail absentee ballots on time. There were reports of voter intimidation and complaints that registration lists had been improperly purged. Computers malfunctioned. Evidence of voter fraud arose.

Accusations of fraud and misconduct were rife after the race for governor in Washington. Christine Gregoire finished ahead by 129 votes, and the legal challenge was not resolved until June.

Another change designed to restore confidence in elections calls for moving to nonpartisan and independent administration of elections, in the states and on the U.S. Election Assistance Commission.

The integrity of the Ohio system in 2004 was challenged in part because the chief election official, Secretary of State Kenneth Blackwell, also served as the Ohio co-chairman for the Bush-Cheney campaign.

The new panel was organized by American University to address those problems. Its 21 members include politicians from both parties and others with elections experience.

In the 2004 campaign, state primaries and caucuses were held earlier than ever, and the nominees were effectively chosen by March.

Everything happens so quickly now in primary campaigns, the commission asserted, that "most Americans have no say in the selection of presidential nominees."

The commission said it was worthwhile for Iowa and New Hampshire to continue to vote first because "they test the candidates by genuine retail, door-to-door campaigning."

But four regional contests afterward, the panel said, would "expand participation in the process" and "give voters the chance to closely evaluate the presidential candidates over a three- to four-month period."

Washington Post contributed to this story.

##########

Wanna buy a bus? A voting booth?

http://www.registerbee.com/servlet/Satellite?pagename=DRB/MGArticle/DRB_BasicArticle&c=MGArticle

&cid=1031785144388

By GERALD WITT
Register & Bee staff writer
Monday, September 19, 2005

DANVILLE, Va. - Some of them wind up at the bottom of the ocean, but Danville is going to auction its retired voting machines on Saturday.

Since the 2002 Help America Vote Act requires localities to get updated polling systems, the question of what to do with the old lever machines arises.

"In Florida some used them to sink offshore for artificial reefs," said Brian Hancock, research specialist for the U.S. Election Assistance Commission, about the old voting machines that are being replaced by lighter, smaller computerized systems.

For their part, Danville officials hope to sell the city's 46 machines - alongside old fleet cars, a bus, dump trucks and lawn mowers - at a surplus auction at 10 a.m. on Sep. 24.

The voting machines are the same behemoths with curtains that were bought in 1957 and used for decades in the city, according to David Parrish, management analyst for Danville.

"They stopped making the machines in 1980," Parrish said. "And I've seen pictures of other machines that are from the '50s and '60s that are identical to what we have."

Manufactured by Automatic Voting Machine Corp. of Jamestown, N.Y., the lever machines were used in elections throughout the United States by the mid-1900s.

In 1944 the company's advertising claimed that 12 million voters used their machines, according to a Web site maintained by Douglas W. Jones, associate professor for the University of Iowa's Department of Computer Science and a principal investigator with ACCURATE - A Center for Correct, Usable, Reliable, Auditable and Transparent Elections, funded by the National Science Foundation.

When the machines were taken out of production they were cannibalized for parts. Some of Danville's units are refurbished with those parts, Parrish said.

But after the 2000 election and the following HAVA legislation, the machines had to go. The lever machines were last used in Danville for the 2004 election, he said. They still contain cards showing presidential candidates George W. Bush and John Kerry.

When expanded, the machines are about 7 feet tall and weigh more than 500 pounds. The new electronic touch-screen polling machines can fit in a suitcase.

As the old ones are removed from service, they end up being used in a number of ways. Most are just trashed, Parrish said, suggesting that they could be stripped to make a small workstation or other enclosed space.

Given some creativity, the lighted units could have a variety of second lives.

Or a history buff could show up at the Danville auction and have one loaded on a truck as a memento of one hotly contested election.

"In 10, 15 or 20 years there's not going to be very many of them left at all," Parrish said. "Everybody's getting rid of them."

No opening bid has been set, but it seems the machines may go cheap.

"If they don't sell, we'll call up Florida and see if they want some more reefs," he said.

Contact Gerald Witt at gwitt@registerbee.com or at (434) 793-2311 Ext. 3039.

##########

County election boards question voter-fraud study

http://www.app.com/apps/pbcs.dll/article?AID=/20050917/NEWS/50917001

Published in the Asbury Park Press 09/17/05
BY JAMES A. QUIRK
FREEHOLD BUREAU

The Monmouth and Ocean County boards of elections are questioning the findings of a study by the Republican State Committee that alleges potentially widespread voter fraud, including a claim that 4,755 votes were cast throughout the state last November in the names of dead people.

Officials with both boards say they want the committee's data for their own verification purposes. They said Friday that they have received no response from the state GOP committee.

At a Trenton press conference Thursday, Republican State Committee Chairman Tom Wilson said that in the 2004 election, 92 double votes were cast in Monmouth County, and 450 votes were cast in the names of those who are dead.

In Ocean County, Wilson said, the GOP study found that 79 people voted twice'11 and that 271 votes were cast in the names of dead people. The study found that overall, 6,572 people registered in both New Jersey and another state appeared to have voted twice in the 2004 election.

"We haven't seen that in Ocean County, that kind of duplicate voting," said Robert Giles, executive supervisor of the Ocean County Board of Elections. "The occasional duplication that may happen is a person getting an absentee ballot, not thinking they sent it, and sending a second . . . We want to see if this is just a misinterpretation of data."

Wilson said the committee has so far verified only "a handful" of the names of duplicate or dead voters that emerged from its study. Despite this, Wilson said he stands behind the study's findings.

"We gave (the state Attorney General's Office) close to 20,000 cases where double ballots were cast," Wilson said. "That's fraud ... you can't vote twice" or if you're dead.

An Asbury Park Press review of 697,000 active voters in Monmouth and Ocean counties found that 794 shared the same names and dates of birth. Of those 794, five appeared to have voted twice ... once in Monmouth and once in Ocean ... during the 2004 presidential election.

But those voters could have been different individuals who just happened to share the same names and birthdays. For example, one woman in Ocean County lived at the same address with a man who was most likely her husband. But in Monmouth County, a woman with the same name had a spouse with a different first name and age.

Both Wilson and Steve Berlin, a consultant for the Republican State Committee who formulated most of the voter data, said the limited depth of their study did not reveal a clear pattern of statewide voter fraud.

"But what we did find presented a whole room of smoke, and we brought it to (state Attorney General) Peter Harvey and asked if there's any fire there," Wilson said.

Lee Moore, a spokesman for Harvey, would only say that the Attorney General's Office is looking into the

GOP committee's allegations.

"Once we have assessed the situation, the determination will be made as to what, if any, action is required," Moore said.

Officials admit there are flaws in New Jersey's county voter registration rolls and the general election process. For example, Franklin Goldstein, administrative assistant with the Monmouth County Board of Elections, said people often do not notify the county when a loved one dies, so the deceased may remain on the county's voter registration roll for years as "inactive" until that person is verified as dead.

The same problem exists when people move from one county to another without informing the county they've left, Giles said. This problem should be eliminated, he said, when New Jersey moves to a statewide registration system, which is to happen in January, as required by the federal Help America Vote Act.

Even with these problems, John Weingart, associate director at the Eagleton Institute of Politics at Rutgers University and a former state Department of Environmental Protection assistant commissioner, said the GOP committee's finding of 54,601 duplicate voters, 4,397 double votes and 4,755 votes cast in the names of dead people is "a dramatic allegation" that's hard to believe.

The Eagleton Institute is in the middle of a study with the U.S. Election Assistance Commission to determine both if voter fraud exists on a level that could be prevented with tighter identification requirements at the polls, and if such increased requirements would cause lower-income voters ... usually registered Democrats ... to avoid the polls. So far, Weingart said, there is no data to support either theory.

"The notion that a lot of people would get together and figure out a way to vote more than once, all for a specific candidate, and have no one know about it, is hard to picture," Weingart said.

Investigations editor Paul D'Ambrosio contributed to this story.

James A. Quirk: (732) 308-7758 or jquirk@app.com

##########

Allen elections director named to U.S. vote panel

http://toledoblade.com/apps/pbcs.dll/article?AID=/20050919/NEWS09/50919010/-1/NEWS

Article published September 19, 2005

The Toledo Blade

LIMA, Ohio – Keith Cunningham, director of the Allen County Board of Elections, has been appointed to a two-year term on the board of advisers of the U.S. Election Assistance Commission.

The 37-member commission, which was created by the Help America Vote Act of 2002, serves as a national clearinghouse and a resource for information and review of procedures relating to the administration of federal elections.

Mr. Cunningham has been director of the Allen County elections board since 1998 and is president of the Ohio Association of Election Officials.

##########

Thomas R. Wilkey/EAC/GOV
09/19/2005 11:37 AM

To Paul DeGregorio/EAC/GOV@EAC
cc
bcc
Subject Re: Fw: INFORMATION ONLY: media clips, 9-19-05

Knew you would catch this and already have a call into Eagleton with a reminder that we have a Press Officer who handles these types of calls and that we have repeatedly told them that we are doing a study of vote fraud and that they were to nominally address this.
I am coming to the conclusion that I don"t like these folks.
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
Paul DeGregorio/EAC/GOV

Paul DeGregorio /EAC/GOV
09/19/2005 11:25 AM

To Karen Lynn-Dyson/EAC/GOV
cc Thomas R. Wilkey/EAC/GOV
Subject Fw: INFORMATION ONLY: media clips, 9-19-05

See report below that mentions Eagleton. Is Mr Weingart working on our study? Seems like he already has his mind made up.

Sent from my BlackBerry Wireless Handheld
Bryan Whitener

From: Bryan Whitener
Sent: 09/19/2005 11:10 AM
To: Gracia Hillman; Paul DeGregorio; Raymundo Martinez; Donetta Davidson
Cc: Adam Ambrogi; Amie Sherrill; Bola Olu; Brian Hancock; Carol Paquette; daniel.murphy@charter.net; DeAnna Smith; Diana Scott; Edgardo Cortes; Gavin Gilmour; Gaylin Vogel; Jeannie Layson; Joseph Hardy; Joyce Wilson; Juliet Thompson; Karen Lynn-Dyson; Margaret Sims; Nicole Mortellito; Roger Larouche; Sheila Banks; Tamar Nedzar; Thomas Wilkey; twilkey@[redacted]
Subject: INFORMATION ONLY: media clips, 9-19-05

Commissioners:

The following items are in the news.

- Fred Lucas of the *Danbury News Times* in Connecticut provides more details on the story involving the state's reaction to EAC's advisory on lever machines. Lucas provides more details on the

advisory itself as well as the role of EAC and DOJ in HAVA as follows.

> "Lever voting machines were not banned in the federal law. The new ruling is an advisory decision from the commission in response to a question from election officials in Pennsylvania....Though the commission's rulings do not have the force of legislative decisions, the U.S. Supreme Court has held that administrative commissions carry deferential weight when courts interpret laws....EAC spokeswoman Jeanie Layson said it's up to the U.S. Department of Justice to decide whether to enforce the ruling. A U.S. Justice Department spokesman on voting matters reached Thursday said he would research the decision, but did not call back and could not be reached later for comment."

- The *Washington Post* and the *New York Times* report on the recommendations released by the Carter-Baker Commission. Among other issues dealing with photo ID, voter identification numbers and registration, the Post mentions recommendations regarding EAC as follows.

> "The panel recommended that the U.S. Election Assistance Commission oversee a system to allow easy sharing of state voter databases as well as requiring the use of a uniform identifier -- the voter's Social Security number -- to help eliminate duplicate registrations....Another change designed to restore confidence in elections calls for moving to nonpartisan and independent administration of elections, in the states and on the U.S. Election Assistance Commission."

> Commission on Federal Election Reform: Final Commission Report: Building Confidence in U.S. Elections
> http://www.american.edu/ia/cfer/

- Gerald Witt of the *Danville Register and Bee* in Virginia reports on the end of lever machine voting in Danville, VA. The old lever machines were auctioned off on Saturday. Brian Hancock is quoted as follows.

> "In Florida some used them to sink offshore for artificial reefs," said Brian Hancock, research specialist for the U.S. Election Assistance Commission, about the old voting machines that are being replaced by lighter, smaller computerized systems.

- James Quirk of the *Asbury Park Press* reports on fraud allegations contained in a report by the New Jersey Republican State Committee. John Weingart of Eagleton Institute of Politics questions the magnitude of the charges and EAC is mentioned as follows.

> "The Eagleton Institute is in the middle of a study with the U.S. Election Assistance Commission to determine both if voter fraud exists on a level that could be prevented with tighter identification requirements at the polls, and if such increased requirements would cause lower-income voters ... usually registered Democrats ... to avoid the polls. So far, Weingart said, there is no data to support either theory."

- The *Toledo Blade* reports on the appointment of Keith Cunningham, director of the Allen County Board of Elections in Ohio to EAC's Board of Advisors.

##########

Voting machines may be history

http://news.newstimeslive.com/story.php?id=74485&category=Local

Federal panel finds Connecticut's lever booths inaccessible to the disabled, prone to error
By Fred Lucas

THE NEWS-TIMES

Friday, September 16, 2005

Connecticut's voting machines are prone to error, and lack accessibility for disabled and non-English speaking voters.
Because of that finding by a federal panel, the state's 3,500 lever machines could be junked before the 2006 election.

They would have to be replaced with new machines that cost between $5,000 and $20,000 each.

State officials are scrambling to find out the ruling by the U.S. Election Assistance Commission is binding.

Many don't want to change from the old machines, which have worked fine so far, said Danbury Republican Registrar of Voters Mary Ann Doran.

"These machines do not break down and are dependable," Doran said in defense of the lever machines. "We've had no floating chads. We've had no power outages. These work."

Connecticut is spending $33 million in federal money to buy new electronic voting machines. The state plans to ensure each polling place in the state has one electronic machine accessible to disabled people, with a Spanish ballot available and a paper voting receipt to ensure accuracy. The 769 new voting machines are supposed to be available in time for the 2006 election.

The new mandates from the federal election panel were issued under the auspices of the 2002 federal Help America Vote Act, or HAVA, passed in light of the debacle of the 2000 presidential race, when massive malfunction of the counting process in Florida the the outcome of the George W. Bush-Al Gore race into question for two months. The commission was established to implement rules to guarantee voting would be fair and accessible throughout the country.

"The state looks to the EAC to give us guidance in meeting HAVA and they have given us none," said Secretary of the State Susan Bysiewicz Thursday. "The $33 million is enough to provide one machine per polling place. We don't know if it will be enough to replace the 3,500 lever machines."

Lever voting machines were not banned in the federal law. The new ruling is an advisory decision from the commission in response to a question from election officials in Pennsylvania.

Disability advocates are ready to say good riddance to the lever voting machines, said Danbury resident Chris Kuell, vice president of the state's chapter of the National Federation of the Blind.

"They are not accessible," Kuell said. "The United States has 54 million disabled people. People who are visually impaired, are in a wheelchair, or have problems with motor skills can think and vote, but they can't operate these machines."

Kuell said he was satisfied that Connecticut is at least getting one specific machine per precinct that is accessible, but hopes for the day when every district has more than one.

"California, Nevada, Kentucky and Texas have used electronic voting machines for years," Kuell said. "More states are going to having more accessible machines. This country's government is based on accurate voting and the right to vote."

Though the commission's rulings do not have the force of legislative decisions, the U.S. Supreme Court has held that administrative commissions carry deferential weight when courts interpret laws.

EAC spokeswoman Jeanie Layson said it's up to the U.S. Department of Justice to decide whether to enforce the ruling. A U.S. Justice Department spokesman on voting matters reached Thursday said he

would research the decision, but did not call back and could not be reached later for comment.

The EAC decision faulted lever machines for not having a permanent paper record for "audit capacity" of votes.

Also, the machines do not have a documented test to show they have an error rate of less than one in 500,000. Further, the machines are not accessible to the handicapped, and have no alternate language accessibility.

Attorney General Richard Blumenthal said the commission's opinion is only advisory and not binding on any state.

"The authority to decide whether, when, and how to enforce the statute belongs to the Department of Justice," Blumenthal said. "Regarding the central issue – what constitutes an adequate paper trail or audit capacity under the statute – we believe that the DOJ will carefully and objectively consider the Secretary of the State's position, and accept good-faith compliance with the law."

Many local officials hope Blumenthal is right.

"I would like to know how they are going to implement this," said Brookfield Republican Registrar Karen Nindorf. "Who's going to pay for all this? The federal government is good at mandating things and not funding them. This is amazing to me."

Doran, the Danbury registrar, has a problem with forcing cities and towns to have ballots in an alternate language.

"Every voter should read English," Doran said. "How can you be an intelligent voter if you cannot read English? All the campaign literature is in English."

Under federal law, if a city or town has more than 1 percent of the population that predominantly speaks another language, it must provide a ballot in that language at each polling place. Seven municipalities in Connecticut, including Danbury, must provide ballots in Spanish.

Doran said local officials still do not know for certain what machines the federal government will and won't accept, so it would be tough to know the cost of replacing 42 voting machines.

Newtown has 25 voting machines, one for every 900 people. But with electronic machines, traffic is expected to move slower, as many voters are unfamiliar with the machines. That could mean the town would have to buy 75 machines to replace its lever machines, and that would cost about $300,000, said Newtown First Selectman Herb Rosenthal, the president of the Connecticut Conference of Municipalities.

Rosenthal, town clerks and registrars of voters will meet with Bysiewicz at 10 a.m. Wednesday to determine how the ruling might affect towns.

"I don't see how we could comply with that now," said Newtown First Selectman Herb Rosenthal, president of the Connecticut Conference of Municipalities. "It's unclear who's going to pay for this. If the federal government tries to force this, I hope the state will try to get an injunction. We've never had a problem with voting as far as I'm concerned and now the federal government says the machines are no good."

Contact Fred Lucas

at flucas@newstimes.com

or at (203) 731-3358.

##########

Carter-Baker Panel to Call for Voting Fixes

http://www.washingtonpost.com/wp-dyn/content/article/2005/09/18/AR2005091801364.html

Election Report Urges Photo IDs, Paper Trails And Impartial Oversight

By Dan Balz
Washington Post Staff Writer
Monday, September 19, 2005; A03

Warning that public confidence in the nation's election system is flagging, a commission headed by former president Jimmy Carter and former secretary of state James A. Baker III today will call for significant changes in how Americans vote, including photo IDs for all voters, verifiable paper trails for electronic voting machines and impartial administration of elections.

The report concludes that, despite changes required under the Help America Vote Act of 2002, far more must be done to restore integrity to an election system that suffers from sloppy management, treats voters differently not only from state to state but also within states, and that too often frustrates rather than encourages voters' efforts to participate in what is considered a basic American right.

The 2002 federal legislation grew out of the disputed election of 2000 and is not yet fully implemented. But the Carter-Baker commission said that even with some important changes in place, the 2004 election was marred by many of the same errors as the 2000 election. "Had the margin of victory for the [2004] presidential contest been narrower, the lengthy dispute that followed the 2000 election could have been repeated," the report states.

Disputes over the counting of provisional ballots, the accuracy of registration lists, long lines at some polling places, timely administration of absentee ballots and questions about the security of some electronic voting machines tarnished the 2004 elections.

Many complaints came in Ohio, where President Bush narrowly defeated Sen. John F. Kerry (D-Mass.) to secure his reelection victory. Although there has been no credible evidence of partisan manipulation of the election in Ohio, the criticisms there and elsewhere have renewed calls for a more uniform, trustworthy and nonpartisan election system across the country.

Commission leaders say the goal of the panel's 87 recommendations -- at an estimated cost of $1.35 billion -- is to make participation easier while also enhancing ballot integrity, a careful balancing of the long-standing argument between Democrats and Republicans in the administration of elections.

The most controversial recommendation calls for all voters to produce a standard photo identification card before being allowed to vote. The commission proposes that, by 2010, voters be required to use either the Real ID card, which Congress this spring mandated as the driver's license of the future in all states. For about 12 percent of eligible voters who do not have a driver's license, the commission says states should provide at no cost an identification card that contains the same key information.

Critics of voter ID cards say the requirement could raise privacy issues and intimidate or discourage some Americans, particularly the elderly, the poor and minorities, from participating in elections. To alleviate those concerns, the Carter-Baker commission urges states to make it easy for non-drivers to obtain such cards and seeks measures to ensure privacy and security for all voters. The commission report states that by adopting a uniform voter ID card, minorities would be better protected from shifting identification standards at individual polling places.

Still, the proposed ID card drew sharp dissent from some commissioners, among them former Senate Democratic leader Thomas A. Daschle (S.D.). In a dissent joined by two other commissioners, Daschle likened the ID to a "modern day poll tax."

Both parties engaged in massive voter registration drives in 2004, but inaccurate voter lists produced many of the disputes on Election Day. The 2002 election reform act mandated states to oversee voter lists, but the commission said that some states are still relying too much on the counties to produce the data and called on states to take responsibility for the lists' accuracy.

The 2002 act required the use of provisional ballots for any eligible voter who shows up at a polling place but whose name is not on a registration list, but the 2004 election produced disparate standards for determining which of those ballots were counted. Alaska counted 97 percent of its provisional ballots, but Delaware counted 6 percent, according to the commission. The group recommends that states set uniform standards.

Approximately 9 million Americans move from one state to another in any given year. The commission cited news reports asserting that almost 46,000 voters from New York City were also registered in Florida. The panel recommended that the U.S. Election Assistance Commission oversee a system to allow easy sharing of state voter databases as well as requiring the use of a uniform identifier -- the voter's Social Security number -- to help eliminate duplicate registrations.

The Florida recount in 2000 etched the image of the "hanging chad" in the minds of many Americans and spurred the shift to electronic, rather than paper, ballots. But flaws in these new computerized systems have led to doubts about their accuracy. The commission calls on Congress to require that all electronic machines include the capacity for a paper trail that voters can use to verify their vote. Beyond that, to alleviate concerns that machines can be maliciously programmed or hacked, the commission calls for new standards to verify that machines are secure.

Another change designed to restore confidence in elections calls for moving to nonpartisan and independent administration of elections, in the states and on the U.S. Election Assistance Commission. The integrity of the Ohio system was challenged in part because the chief election official, Secretary of State J. Kenneth Blackwell, also served as the Ohio co-chairman for the Bush-Cheney campaign.

The commission also included other recommendations that have been proposed before, including free television time for political candidates, a request that broadcast networks refrain from projecting any results until the polls have closed in the 48 contiguous states and that both parties shift to a system of four regional primaries to pick their nominees.

The Commission on Federal Election Reform was created under the auspices of American University's Center for Democracy and Election Management. The group was funded by several foundations, and Robert A. Pastor of American University served as executive director. Its membership included Republicans, Democrats and independents.

##########

Bipartisan commission proposes election reforms

http://www.contracostatimes.com/mld/cctimes/news/12684624.htm

Posted on Mon, Sep. 19, 2005

By David E. Rosenbaum

NEW YORK TIMES

WASHINGTON - A private commission led by former President Jimmy Carter and former Secretary of State James Baker is proposing new steps to strengthen state election procedures and recommending that Congress require the political parties to hold four regional presidential primaries in election years rather than allowing states to hold primaries whenever they wish.

The bipartisan panel, called the Commission on Federal Election Reform, said it was responding to flaws in the system exposed by the elections of 2000 and 2004.

"We should have an electoral system where registering to vote is convenient, voting is efficient and pleasant, voting machines work properly, fraud is deterred and disputes are handled fairly and expeditiously," the commission declared.

Carter and Baker, a top official under presidents Ronald Reagan and George H.W. Bush, plan to deliver the report today to President Bush and congressional leaders.

It went to news organizations last week with the understanding that the material would not be published until today.

"The American people are losing confidence in the system, and they want electoral reform," Carter said in a statement.

These are the main recommendations:

• States, not local jurisdictions, should be in charge of voter registration, and registration lists in different states should be interconnected so voters could be purged automatically from the rolls in one state when they registered in another.

• Voters should be required to present photo ID cards at the polls, and states should provide free cards to voters without driver's licenses.

• States should make registration and voting more convenient with such innovations as mobile registration vans and voting by mail and on the Internet.

• Electronic voting machines should make paper copies for auditing.

• In presidential election years, after the Iowa caucuses and New Hampshire primaries, the other states should hold regional primaries and caucuses at monthly intervals in March, April, May and June, with the order rotated.

The recommendations sought to strike a balance between the parties' priorities. Republicans worry about voter fraud and favor photo IDs. Democrats support easier registration and ballot access.

In the aftermath of the debacle in Florida in 2000, which put the outcome of the presidential election in doubt for more than a month, a public commission headed by Carter and former President Gerald Ford recommended an overhaul of the nation's election system.

Many of the commission's proposals, including provisional ballots for those whose eligibility was challenged, became part of the Help America Vote Act, which Congress approved and Bush signed in 2002.

But the 2004 election exposed more flaws.

Some election offices did not properly process registration applications or mail absentee ballots on time. There were reports of voter intimidation and complaints that registration lists had been improperly purged. Computers malfunctioned. Evidence of voter fraud arose.

Accusations of fraud and misconduct were rife after the race for governor in Washington. Christine Gregoire finished ahead by 129 votes, and the legal challenge was not resolved until June.

Another change designed to restore confidence in elections calls for moving to nonpartisan and independent administration of elections, in the states and on the U.S. Election Assistance Commission.

The integrity of the Ohio system in 2004 was challenged in part because the chief election official, Secretary of State Kenneth Blackwell, also served as the Ohio co-chairman for the Bush-Cheney campaign.

The new panel was organized by American University to address those problems. Its 21 members include politicians from both parties and others with elections experience.

In the 2004 campaign, state primaries and caucuses were held earlier than ever, and the nominees were effectively chosen by March.

Everything happens so quickly now in primary campaigns, the commission asserted, that "most Americans have no say in the selection of presidential nominees."

The commission said it was worthwhile for Iowa and New Hampshire to continue to vote first because "they test the candidates by genuine retail, door-to-door campaigning."

But four regional contests afterward, the panel said, would "expand participation in the process" and "give voters the chance to closely evaluate the presidential candidates over a three- to four-month period."

Washington Post contributed to this story.

##########

Wanna buy a bus? A voting booth?

http://www.registerbee.com/servlet/Satellite?pagename=DRB/MGArticle/DRB_BasicArticle&c=MGArticle&cid=1031785144388

By GERALD WITT
Register & Bee staff writer
Monday, September 19, 2005

DANVILLE, Va. - Some of them wind up at the bottom of the ocean, but Danville is going to auction its retired voting machines on Saturday.

Since the 2002 Help America Vote Act requires localities to get updated polling systems, the question of what to do with the old lever machines arises.

"In Florida some used them to sink offshore for artificial reefs," said Brian Hancock, research specialist for the U.S. Election Assistance Commission, about the old voting machines that are being replaced by lighter, smaller computerized systems.

For their part, Danville officials hope to sell the city's 46 machines - alongside old fleet cars, a bus, dump trucks and lawn mowers - at a surplus auction at 10 a.m. on Sep. 24.

The voting machines are the same behemoths with curtains that were bought in 1957 and used for decades in the city, according to David Parrish, management analyst for Danville.

"They stopped making the machines in 1980," Parrish said. "And I've seen pictures of other machines that are from the '50s and '60s that are identical to what we have."

Manufactured by Automatic Voting Machine Corp. of Jamestown, N.Y., the lever machines were used in elections throughout the United States by the mid-1900s.

In 1944 the company's advertising claimed that 12 million voters used their machines, according to a Web

site maintained by Douglas W. Jones, associate professor for the University of Iowa's Department of Computer Science and a principal investigator with ACCURATE - A Center for Correct, Usable, Reliable, Auditable and Transparent Elections, funded by the National Science Foundation.

When the machines were taken out of production they were cannibalized for parts. Some of Danville's units are refurbished with those parts, Parrish said.

But after the 2000 election and the following HAVA legislation, the machines had to go. The lever machines were last used in Danville for the 2004 election, he said. They still contain cards showing presidential candidates George W. Bush and John Kerry.

When expanded, the machines are about 7 feet tall and weigh more than 500 pounds. The new electronic touch-screen polling machines can fit in a suitcase.

As the old ones are removed from service, they end up being used in a number of ways. Most are just trashed, Parrish said, suggesting that they could be stripped to make a small workstation or other enclosed space.

Given some creativity, the lighted units could have a variety of second lives.

Or a history buff could show up at the Danville auction and have one loaded on a truck as a memento of one hotly contested election.

"In 10, 15 or 20 years there's not going to be very many of them left at all," Parrish said. "Everybody's getting rid of them."

No opening bid has been set, but it seems the machines may go cheap.

"If they don't sell, we'll call up Florida and see if they want some more reefs," he said.

Contact Gerald Witt at gwitt@registerbee.com or at (434) 793-2311 Ext. 3039.

##########

County election boards question voter-fraud study

http://www.app.com/apps/pbcs.dll/article?AID=/20050917/NEWS/50917001

Published in the Asbury Park Press 09/17/05
BY JAMES A. QUIRK
FREEHOLD BUREAU

The Monmouth and Ocean County boards of elections are questioning the findings of a study by the Republican State Committee that alleges potentially widespread voter fraud, including a claim that 4,755 votes were cast throughout the state last November in the names of dead people.

Officials with both boards say they want the committee's data for their own verification purposes. They said Friday that they have received no response from the state GOP committee.

At a Trenton press conference Thursday, Republican State Committee Chairman Tom Wilson said that in the 2004 election, 92 double votes were cast in Monmouth County, and 450 votes were cast in the names of those who are dead.

In Ocean County, Wilson said, the GOP study found that 79 people voted twice'11 and that 271 votes were cast in the names of dead people. The study found that overall, 6,572 people registered in both New Jersey and another state appeared to have voted twice in the 2004 election.

"We haven't seen that in Ocean County, that kind of duplicate voting," said Robert Giles, executive supervisor of the Ocean County Board of Elections. "The occasional duplication that may happen is a person getting an absentee ballot, not thinking they sent it, and sending a second . . . We want to see if this is just a misinterpretation of data."

Wilson said the committee has so far verified only "a handful" of the names of duplicate or dead voters that emerged from its study. Despite this, Wilson said he stands behind the study's findings.

"We gave (the state Attorney General's Office) close to 20,000 cases where double ballots were cast," Wilson said. "That's fraud ... you can't vote twice" or if you're dead.

An Asbury Park Press review of 697,000 active voters in Monmouth and Ocean counties found that 794 shared the same names and dates of birth. Of those 794, five appeared to have voted twice ... once in Monmouth and once in Ocean ... during the 2004 presidential election.

But those voters could have been different individuals who just happened to share the same names and birthdays. For example, one woman in Ocean County lived at the same address with a man who was most likely her husband. But in Monmouth County, a woman with the same name had a spouse with a different first name and age.

Both Wilson and Steve Berlin, a consultant for the Republican State Committee who formulated most of the voter data, said the limited depth of their study did not reveal a clear pattern of statewide voter fraud.

"But what we did find presented a whole room of smoke, and we brought it to (state Attorney General) Peter Harvey and asked if there's any fire there," Wilson said.

Lee Moore, a spokesman for Harvey, would only say that the Attorney General's Office is looking into the GOP committee's allegations.

"Once we have assessed the situation, the determination will be made as to what, if any, action is required," Moore said.

Officials admit there are flaws in New Jersey's county voter registration rolls and the general election process. For example, Franklin Goldstein, administrative assistant with the Monmouth County Board of Elections, said people often do not notify the county when a loved one dies, so the deceased may remain on the county's voter registration roll for years as "inactive" until that person is verified as dead.

The same problem exists when people move from one county to another without informing the county they've left, Giles said. This problem should be eliminated, he said, when New Jersey moves to a statewide registration system, which is to happen in January, as required by the federal Help America Vote Act.

Even with these problems, John Weingart, associate director at the Eagleton Institute of Politics at Rutgers University and a former state Department of Environmental Protection assistant commissioner, said the GOP committee's finding of 54,601 duplicate voters, 4,397 double votes and 4,755 votes cast in the names of dead people is "a dramatic allegation" that's hard to believe.

The Eagleton Institute is in the middle of a study with the U.S. Election Assistance Commission to determine both if voter fraud exists on a level that could be prevented with tighter identification requirements at the polls, and if such increased requirements would cause lower-income voters ... usually registered Democrats ... to avoid the polls. So far, Weingart said, there is no data to support either theory.

"The notion that a lot of people would get together and figure out a way to vote more than once, all for a specific candidate, and have no one know about it, is hard to picture," Weingart said.

Investigations editor Paul D'Ambrosio contributed to this story.

James A. Quirk: (732) 308-7758 or jquirk@app.com

##########

Allen elections director named to U.S. vote panel

http://toledoblade.com/apps/pbcs.dll/article?AID=/20050919/NEWS09/50919010/-1/NEWS

Article published September 19, 2005

The Toledo Blade

LIMA, Ohio – Keith Cunningham, director of the Allen County Board of Elections, has been appointed to a two-year term on the board of advisers of the U.S. Election Assistance Commission.

The 37-member commission, which was created by the Help America Vote Act of 2002, serves as a national clearinghouse and a resource for information and review of procedures relating to the administration of federal elections.

Mr. Cunningham has been director of the Allen County elections board since 1998 and is president of the Ohio Association of Election Officials.

##########

Karen Lynn-Dyson/EAC/GOV
09/19/2005 01:05 PM

To Gracia Hillman/EAC/GOV@EAC, Paul DeGregorio/EAC/GOV@EAC, Raymundo Martinez/EAC/GOV@EAC, Donetta L.
cc Sheila A. Banks/EAC/GOV@EAC, Amie J. Sherrill/EAC/GOV@EAC, Adam Ambrogi/EAC/GOV@EAC
bcc
Subject Fw: August Progress Report - Eagleton Institute of Politics

Commissioners-

FYI-

Eagleton's August progress report.

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 09/18/2005 01:02 PM ----

"Lauren Vincelli "
[redacted]>
09/15/2005 12:04 PM
Please respond to Vincelli@rutgers.edu

To klynndyson@eac.gov
cc tom_onei[redacted], jdobrich@[redacted]
Subject August Progress Report - Eagleton Institute of Politics

Hi Karen,

Attached is the August progress report in fulfillment of our Contract to Provide Research Assistance to the EAC for the Development of Voluntary Guidance on Provisional Voting and Voter Identification Procedures. Please note, as per your instructions earlier this month, that the financial report will be sent via Fedex under separate cover to: Ms. Dianna Scott, Administrative Officer, EAC. Also attached to the progress report is a finalized list of our Peer Review Group members. If you have any questions regarding this report, please contact Tom O'Neill at (908) 794-1030 or tom_oneill@verizon.net.

Have a great day,
Lauren Vincelli

Lauren Vincelli
Business Assistant, Eagleton Center for Public Interest Polling
Eagleton Institute of Politics, Rutgers University
Carriage House, 185 Ryders Lane
New Brunswick, NJ 08901
Phone:[redacted]
Fax[redacted]

Progress Report_AUGUST2005_EagletonInst.pdf

Gracia Hillman /EAC/GOV
09/20/2005 03:08 PM

To pdegregorio@eac.gov, rmartinez@eac.gov, Ddavidson@eac.gov
cc Thomas R. Wilkey/EAC/GOV@EAC, Juliet E. Thompson/EAC/GOV@EAC, aambrogi@eac.gov, asherrill@eac.gov, sbanks@eac.gov
bcc
Subject Please Make Note

Commissioners:

I thought it would be prudent to summarize in one email the days, times and agenda items that have been organized for us to discuss several important items between now and Boulder:

Thursday, 9/22: No Regularly Scheduled Discussion

Friday, 9/23: Efforts are being made to organize a conference call for Friday afternoon so that we can discuss 1) TGDC Timeline; 2) EAC Presentation at TGDC in Boulder; 3) Calif Special Audit; 4) Response to Pastor's request to brief EAC Commissioners on the Carter Baker Commission Report. To the best of my knowledge, I have not heard back from any of you to my Sept 16 email about this. I need to respond to Pastor one way or the other.

Monday, 9/26: 1:30 - 3:30 p.m. We will all be in the office and will get together with Tom and Julie to discuss (in no particular order of importance):

- Consensus and guidance to staff on focus of EAC Activities for 06 and 07
- VVPAT
- Continuation of our self-imposed prohibition of contributions to and involvement in political campaigns. Does this include contributions to PACs?
- EAC approach to issuing Best Practices
- Rotation of Chair/Vice Chair among commissioners by party affiliation

Monday, 9/26: Karen Lynn-Dyson needs time with us to discuss the Eagleton recommendation on Guidance to Provisional Voting and she is working to see if we are available to do this immediately following our 1:30 - 3:30 session.

I think I have covered all of the pending items. Please let me know if I have overlooked anything.

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

CONFIDENTIALITY NOTICE: This email message is from a federal agency. All attachments, if any, are intended solely for the use of the addressee and may contain legally privileged and confidential information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this message is strictly prohibited. If you received this

message in error, please notify the sender immediately by replying to this message and please delete this message from your computer.

Karen Lynn-Dyson/EAC/GOV
09/21/2005 04:26 PM

To Amie J. Sherrill/EAC/GOV@EAC, Adam Ambrogi/EAC/GOV@EAC
cc Donetta L. Davidson/EAC/GOV@EAC, Paul DeGregorio/EAC/GOV@EAC, Raymundo Martinez/EAC/GOV@EAC, Thomas R.
bcc
Subject Fw: Monday Meeting??

Special Assistants-

The Chair is asking whether or not you have cleared the date and time on you Commissioner's calendars for this Monday afternoon discussion (3:30-5:00)

Please advise.

Thanks

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 09/20/2005 04:22 PM ----

Gracia Hillman /EAC/GOV
09/21/2005 04:11 PM

To klynn-dyson@eac.gov, sbanks@eac.gov
cc
Subject Monday Meeting??

Does it look like the commissioners will all be available to meet on Monday afternoon to discuss Eagleton?

Thomas R. Wilkey/EAC/GOV
09/26/2005 06:14 PM

To Gracia Hillman/EAC/GOV@EAC, Paul DeGregorio/EAC/GOV@EAC, Raymundo Martinez/EAC/GOV@EAC, Paul
cc Juliet E. Thompson/EAC/GOV@EAC, Karen Lynn-Dyson/EAC/GOV@EAC
bcc
Subject Eagleton Draft

We have received and are in the process of reviewing a draft of the Eagleton Report.
This is to be considered an internal working document and should not be released to anyone without the approval of the Commissioners.
Thank You
Tom Wilkey

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

Gaylin Vogel /EAC/GOV
11/09/2005 04:10 PM

To Bert A. Benavides/EAC/GOV@EAC
cc Carol A. Paquette/EAC/GOV@EAC, Gracia Hillman/EAC/GOV@EAC, Karen Lynn-Dyson/EAC/GOV@EAC, Sheila A.
bcc
Subject Re: Fw: Item Pending - Contracts Grid request

Here is the list referenced in Bert's e-mail

	Subject	Vendor	COR
1	Indirect Cost Rate Negotiations	KPMG	Peggy Sims
2	Website Maintenance	Humanitas	Jeannie Layson
3	Vote Count/Recount	University of Utah	Karen Lynn-Dyson
4	Legal Clearinghouse	University of Florida	Edgardo Cortes
5	Poll Worker Recruitment	IFES	Peggy Sims
6	College Poll Worker Recruitment	Cleveland State University	Peggy Sims
7	Public Access Portal Research	Publius.org	Edgardo Cortes
8	Records Management	Zimmerman	Tom Wilkey

Gaylin Vogel
Law Clerk
U.S. Election Assistance Commission
1225 New York Avenue, NW Suite 1100
Washington, DC 20005
tel:202-566-3116
http://www.eac.gov
GVogel@eac.gov
Bert A. Benavides/EAC/GOV

Bert A. Benavides /EAC/GOV
11/09/2005 03:59 PM

To Karen Lynn-Dyson/EAC/GOV@EAC
cc Thomas R. Wilkey/EAC/GOV@EAC, Gracia Hillman/EAC/GOV@EAC, Carol A. Paquette/EAC/GOV@EAC, Gaylin Vogel/EAC/GOV@EAC, Sheila A. Banks/EAC/GOV@EAC
Subject Re: Fw: Item Pending - Contracts Grid request

Gaylin is updating the list as we speak and will send to the 4 C's and to Tom. Thanks. --------- Bert

Karen Lynn-Dyson/EAC/GOV

Karen Lynn -Dyson/EAC/GOV
11/09/2005 03:22 PM

To Bert A. Benavides/EAC/GOV@EAC
cc Thomas R. Wilkey/EAC/GOV@EAC
Subject Fw: Item Pending

Hey Bert-

Do you have the info to complete this task for the Chair?

I don't have the latest contracts grid, but imagine either you, Gaylin or Julie do.

Also, to my knowledge, I'm responsible for:

Vote Count/Recount (University of Utah) ,
Provisional Voting/Voter ID (Eagleton/Moritz)
Election Day Survey, NVRA and UOCAVA (Election Data Services)

Let me know if you need further help with getting this to the Commissioners.

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 11/08/2005 03:16 PM -----

Gracia Hillman /EAC/GOV
11/09/2005 03:02 PM

To Thomas R. Wilkey/EAC/GOV@EAC
cc klynn-dyson@eac.gov
Subject Item Pending

Last week I asked that a list of the EAC contract representative for each of our approved research/study projects be provided to each commissioner. The indication was that the list existed and would be sent to us right away.

I may have missed it -- has it been sent yet?

Margaret Sims /EAC/GOV
11/16/2005 01:12 PM

To ghillman@eac.gov, pdegregorio@eac.gov, rmartinez@eac.gov, donetta.davidson@[redacted]
cc Sheila A. Banks/EAC/GOV@EAC, Amie J. Sherrill/EAC/GOV@EAC, Adam Ambrogi/EAC/GOV@EAC, Elieen L. Collver/EAC/GOV@EAC, Gavin S.
bcc

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

Dear Commissioners:

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

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

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

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

Peggy Sims
Research Specialist

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

Possible Working Group Members - Serebrov

I recommend the first four with an *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Paul DeGregorio /EAC/GOV
11/17/2005 10:18 AM

To Juliet E. Thompson/EAC/GOV
cc
bcc
Subject Fw: RESPONSE REQUESTED-Working Group for Voting Fraud and Voter Intimidation Project

Fyi.
Any recommendations?

Sent from my BlackBerry Wireless Handheld

----- Original Message -----
From: Margaret Sims
Sent: 11/16/2005 01:12 PM
To: Gracia Hillman; Paul DeGregorio; Raymundo Martinez; donetta.davidson@sos.state.co.us
Cc: Sheila Banks; Amie Sherrill; Adam Ambrogi; Eileen Collver; Gavin Gilmour
Subject: RESPONSE REQUESTED-Working Group for Voting Fraud and Voter Intimidation Project

Dear Commissioners:

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

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

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

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

Peggy Sims
Research Specialist

Possible Working Group Members -Serebrov.doc

Possible Working Group Members- Wang.doc

Karen Lynn-Dyson/EAC/GOV

11/28/2005 12:04 PM

To Juliet E. Thompson/EAC/GOV@EAC

cc Sheila A. Banks/EAC/GOV@EAC, Amie J. Sherrill/EAC/GOV@EAC, Adam Ambrogi/EAC/GOV@EAC, Elieen L. Collver/EAC/GOV@EAC

bcc Paul DeGregorio/EAC/GOV

Subject Fw: Final Best Practices Document on Provisional Voting

Julie-
Just received this document from Eagleton.

Shall we discuss next steps on Tuesday afternoon or early Wednesday?

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 11/27/2005 11:58 AM ----

"Johanna Dobrich "
[redacted]

11/28/2005 11:17 AM

To klynndyson@eac.gov

cc

Subject Final Best Practices Document

Dear Ms. Karen Lynn-Dyson:

Attached please find the final draft 'Best Practices to Improve Provisional Voting Report' completed by the Eagleton Institute of Politics, and Mortiz College of Law.

Please note that our report has two attachments, the first of which is appended directly within the text of the report, and the second of which is a separate excel document. In addition to this electronic submission I will be sending you a hard copy, via FedEx of these materials later today.

Please let me know if you have any difficulty opening the files.

Sincerely,

Johanna Dobrich

--
Johanna Dobrich
Eagleton Institute of Politics
Rutgers University
[redacted]

Best Practices FINAL 11.23.05.doc Final Best Practices__attachment Two.xls

DRAFT

Deliberative Process Privilege

Report to the

U. S. Election Assistance Commission

On

Best Practices to Improve Provisional Voting

Pursuant to the

HELP AMERICA VOTE ACT OF 2002

Public Law 107-252

November 23, 2005

Deleted: 15

Submitted by

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

The Moritz College of Law, The Ohio State University

Formatted: Indent: Left: -9 pt, Right: -9 pt

FINAL DRAFT

11/23/2005

Report to the
U. S. Election Assistance Commission

Best Practices to Improve Provisional Voting

Deleted: 15

Deleted: On

CONTENTS

Background of the research 3

Help American Vote Act 3

Provisional Ballots in the 2004 Election 4

Effectiveness of Provisional Voting 8

Need for Promulgation of Best Practices 11

Recommendations for Best Practices 11

Best Practices for Each Step of the Process 12

A. Registration and Pre-Election Information for Voters 13

B. At the Polling Place 14

C. Evaluating Voter Eligibility and Counting Provisional Ballots 15

D. Verification of Provisional Ballots 17

E. Post-election Information for Voters 17

F. State Laws Governing Litigation over Provisional Voting 18

Broader Considerations 18

G. Integrity and the Appearance of Integrity 18

H. Continuous Assessment of the Provisional Ballot Process 18

Conclusion 19

Attachment 1 – Characteristics of the Provisional Voting Process 21

Attachment 2 – State Provisional Voting Systems 28

Deleted: 3

Deleted: 4

Deleted: 6

Deleted: 7

Deleted: 7

Deleted: 7

Deleted: 7

Deleted: ¶

Deleted: 19

Formatted: Indent: Left: 0 pt

Deleted: .

Deleted: 6

026604

Background of the Research

This report to the United States Election Assistance Commission (EAC) presents recommendations for best practices to improve the process of provisional voting. It is based on research conducted by the Eagleton Institute of Politics at Rutgers, the State University of New Jersey, and the Moritz College of Law at Ohio State University under contract to the EAC, dated May 24, 2005. The research included a review and legal analysis of state statutes, regulations and litigation concerning provisional voting, a sample survey of local election officials, and a statistical analysis of provisional voting in the 2004 election. Also consulted as a basis for these recommendations were other studies, notably the EAC's Election Day Survey.[1]

The Help America Vote Act of 2002 (HAVA) (Public Law 107-252) authorizes the EAC (SEC. 241, 42 USC 15381) to conduct periodic studies of election administration issues. The purpose of these studies is to promote methods for voting and administering elections, including provisional voting, that are convenient, accessible and easy to use; that yield accurate, secure and expeditious voting systems; that afford each registered and eligible voter an equal opportunity to vote and to have that vote counted; and that are efficient.

Section 302(a) of HAVA requires states to establish the process of provisional balloting by January 2004.[3] The process HAVA outlined leaves considerable room for variation among the states, arguably including such critical questions as who qualifies as a registered voters eligible to cast a provisional ballot that will be counted and, arguably, in what jurisdiction (precinct or larger unit) that the ballot must be cast in order to be counted.[4]

The general requirement is that, if a registered voter appears at a polling place to vote in an election for Federal office, but the potential voter's name does not appear on the official list of eligible voters for the polling place, or if an election official asserts that the individual is not eligible to vote, that potential voter be permitted to cast a provisional ballot. In some states, those who should receive a provisional ballot include, in the words of the Election Day Survey, include first-time voters who cannot provide identification, as required under HAVA, and voters who were

[1] Appendix 1 provides detailed information on how this study classifies the states according to the characteristics of their provisional voting procedures and describes how the data used in the statistical analysis may differ from the data in the Election Day Survey, which became available as our research was concluding.

[3] The Election Center's National Task Force Report on Election Reform in July 2001 had described provisional ballots as providing "voters whose registration status cannot be determined at the polls or verified at the election office the opportunity to vote. The validity of these ballots is determined later, thus ensuring that no eligible voter is turned away and those truly ineligible will not have their ballots counted." It recommended "in the absence of election day registration or other solutions to address registration questions, provisional ballots must be adopted by all jurisdictions. " See www.electioncenter.org

[4] The 2004 election saw at least a dozen suits filed on the issue of whether votes cast in the wrong precinct but the correct county should be counted. One federal circuit court decided the issue in *Sandusky County Democratic Party v. Blackwell, 387 F.3d565* (6th Cir. 2004), which held that votes cast outside the correct precinct did not have to be counted. The court relied on the presumption that Congress must be clear in order to alter the state-federal balance; thus Congress, the court concluded, would have been clearer, had it intended to eliminate state control over polling location (387 F.3d at 578). An alternative argument, that HAVA's definition of "jurisdiction" incorporates the broader definition in the National Voting Rights Act, however, has not been settled by a higher court. But for now states do seem to have discretion in how they define "jurisdiction" for the purpose of counting a provisional ballot.

Deleted: 15
Deleted: .dated October 29, 2002,
Deleted: lection
Deleted: ssistance
Deleted: ommission
Deleted: This report presents recommendations for voluntary guidance and best practices to improve the process of provisional voting based on research conducted by the Eagleton Institute of Politics at Rutgers, the State University of New Jersey, and the Moritz College of Law at Ohio State University under contract to the EAC, dated May 24, 2005. The research included a review and legal analysis of state statutes, regulations and litigation concerning provisional voting, a sample survey of local election officials, and a statistical analysis of provisional voting in the 2004 election. Also consulted as a basis for these recommendations were other studies, most notably the EAC's Election Day Study.[2]¶ **Help American Vote Act¶**
Formatted: Normal (Web), Right: 12.25 pt
Deleted: on
Deleted: s such as
Deleted: defining the
Deleted: where
Deleted:
Deleted: of the potential voter
Deleted: HAVA requires that
Deleted: Provisional balloting, in the words of the Election Day Survey, "covers individuals who appear at the polls on Election Day to cast a ballot but are not listed on the voter registration rolls; i
Deleted: ; and in some states,
Deleted: /
Formatted: Font: (Default) Arial, 9 pt
Formatted: Normal
Formatted ... [1]
Formatted ... [2]
Formatted ... [3]
Formatted ... [4]
Formatted ... [5]
Formatted ... [6]
Formatted ... [7]

026605

challenged at the poll.[5] HAVA also provides that those who vote pursuant to a court order keeping the polls open after the established closing hour shall vote by provisional ballot. HAVA also requires election administrators to notify individuals of their opportunity to cast a provisional ballot.

Provisional Ballots in the 2004 Election

In the 2004 election, nationwide about 1.9 million votes, or 1.6% of turnout, were cast as provisional ballots. More than 1.2 million, or just over 63% were counted. Provisional ballots accounted for a little more than 1% of the final vote tally.[6]

These totals obscure the tremendous variation in provisional voting among the states. HAVA allows the states considerable latitude in how to implement provisional voting, including deciding who beyond the required categories of voters should receive provisional ballots and how to determine which provisional ballots should be counted. Six states accounted for two-thirds of all the provisional ballots cast.[7] State by state, the percentage of provisional ballots in the total vote varied by a factor of 1,000, from a high of 7% in Alaska's to Vermont's .006%. The portion of provisional ballots cast that were actually counted also displayed wide variation, ranging from 96% in Alaska to 6% in Delaware. States with voter registration databases counted, on average, 20% of the provisional ballots cast. Those without databases counted ballots at more than twice that rate: 44%. (Or, as the Carter-Baker Commission report put it, "provisional ballots were needed half as often in states with unified databases as in states without."[8])

The wide variations in the use of provisional ballots argue for the promulgation of best practices that states can use to determine how to make procedures clearer to both officials and voters could improve the implementation of provisional voting across the country.

One important source of variation among states was a state's previous experience with provisional voting. The share of provisional ballots in the total vote was six times greater in states that had used provisional ballots before than in states where the provisional ballot was new. In the 25 states that had some experience with provisional voting before HAVA, a higher portion of the total vote was cast as provisional ballots and a greater percentage of the provisional ballots cast were counted than in the 18 new to provisional balloting.[9]

---

[5] The definition of who was entitled to a provisional ballot could differ significantly among the states. In California, for example, the Secretary of State directed counties to provide voters with the option of voting on a provisional paper ballot if they felt uncomfortable casting votes on the paperless e-voting machines. "I don't want a voter to not vote on Election Day because the only option before them is a touch-screen voting machine. I want that voter to have the confidence that he or she can vote on paper and have the confidence that their vote was cast as marked," Secretary Shelley said. See http://wired.com/news/evote/0,2645,63298,00.html . (Our analysis revealed no differences in the use of provisional ballots in the counties with these paperless e-voting machines.) In Ohio, long lines at some polling places resulted in legal action directing that voters waiting in line be given provisional ballots to enable them to vote before the polls closed. (Columbus Dispatch, November 3, 2004 .)

[6] These figures differ slightly from those in the Election Day Survey. Data used for this study include complete voting data for New Mexico, for which the Election Day Survey had only partial data, and vote totals for Pennsylvania, which was not included in the provisional voting analysis in the Election Day Survey. See the appendix to this report for a full explanation of the differences in data between this research and the Election Day Survey.

[7] California, New York, Ohio, Arizona, Washington, and North Carolina. The appearance of Arizona, Washington and North Carolina on this list shows that the number of provisional ballots cast depends on factors other than the size of the population.

[8] Report on the Commission on Federal Election Reform, "Building Confidence in U. S. Elections," September 2005, p. 16.

[9] See the appendix for our classification of "old" and "new" states and explanation of why the total is less than 50.

Deleted: 15
Deleted: "
Deleted: " HAVA leaves critical questions to the states, including how to define "jurisdiction" and who qualifies as a registered voter for the purposes of counting provisional ballots.
Deleted: just over
Deleted:
Deleted: and
Deleted: the
Deleted: experienced
Deleted:
Deleted: new
Deleted: Even t
Formatted: Font: (Default) Arial
Formatted: Font: (Default) Arial, 9 pt
Formatted: Font: (Default) Arial, 9 pt
Formatted: Font: (Default) Arial, 9 pt
Deleted: ed
Formatted: Font: (Default) Arial, 9 pt
Deleted: , Kevin Shelley,
Formatted: Font: (Default) Arial, 9 pt
Formatted: Font: (Default) Arial, 9 pt, No underline
Formatted: No underline
Formatted: Font: (Default) Arial, 9 pt, No underline
Formatted: Font: (Default) Arial, 9 pt
Formatted: Font: (Default) Arial, 9 pt
Deleted: ¶
Deleted: Election Day Study
Deleted: Election Day Study
Deleted: Election Day Study
Deleted: Election Day Study
Formatted: Font: (Default) Arial, 9 pt

- The percentage of the total vote cast as provisional ballots averaged more than 2% (2.17%) in the 25 experienced states. This was 4 times the rate in states new to provisional voting, which averaged 0.47%.
- The experienced states counted an average of 58% of the provisional ballots cast, nearly double the proportion in the new states, which counted just 33% of cast provisional ballots.
- The combined effect of these two differences was significant. In experienced states 1.53% of the total vote came from counted provisional ballots. In new states, provisional ballots accounted for only 0.23% of the total vote.

Those voting with provisional ballots in experienced states were enfranchised more frequently than those in the new states, another indication that there is room for improvement in provisional balloting procedures.[10] That conclusion gains support from the perspectives of the local election officials revealed in the survey conducted as a part of this research. Local (mostly county level) election officials from "experienced" states were more likely to:

- Be prepared to direct voters to their correct precincts with maps;
- Regard provisional voting as easy to implement;
- Report that provisional voting sped up and improved polling place operations
- Conclude that the provisional voting process helped officials maintain accurate registration databases.

Officials from "new" states, on the other hand, were more likely to agree with the statement that provisional voting created unnecessary problems for election officials and poll workers.

If experience with provisional voting does turn out to be a key variable in performance, that is good news. As states gain experience with provisional ballots their management of the process could become more consistent and more effective over subsequent elections. Further information from the EAC on best practices and the need for more consistent management of the election process could sharpen the lessons learned by experience. The EAC should consider providing the "new" states with information on more effective administration of provisional voting. EAC could also consider convening a national meeting for state and county election officials to share experiences and best practices from their own jurisdictions.

But the optimistic conclusion that experience will make all the difference may be unwarranted. Only if the performance of the "new" states was the result of administrative problems stemming from inexperience will improvement be automatic as election officials move along the learning curve. Two other possibilities exist. Current understanding of the provisional voting processes in use in 2004 is not sufficient to determine unambiguously which view is correct.

1. "New" states may have a political culture different from "old" states. That is, underlying features of the "new" states political system may be the reason they had not adopted some form of provisional voting before HAVA. The "new" states may strike a different balance among the competing objectives of ballot access, ballot security and practical administration. They may ascribe more responsibility to the individual voter to take such

[10] Managing the provisional voting process can strain the capacity election administrators. For example, Detroit, counted 123 of the 1,350 provisional ballots cast there in 2004. A recent study concluded that Detroit's "6-day time frame for processing the provisional ballots was very challenging and unrealistic. To overcome this challenge, *the entire department's employees were mobilized to process provisional ballots.*" (emphasis added.) GAO Report-05-997, "Views of Selected Local Officials on Managing Voter Registration and Ensuring Citizens Can Vote," September 2005.

Deleted: 15
Deleted: average
Deleted: was
Deleted: less than half a percent (
Deleted:)
Deleted: of
Deleted: guidance
Formatted: Font color: Auto
Deleted: learned from that
Formatted: Font color: Auto
Formatted: Font color: Auto
Formatted: Font color: Auto
Formatted: Font color: Red
Deleted:
Deleted: "the
Deleted:

Deleted: 15

actions as registering early, finding out where the right precinct is, or re-registering after changing address. They may value keeping control at the local level, rather than ceding authority to state or federal directives. If the inconsistent performance in the "new" states arises out of this kind of political culture, improving effectiveness in the use of the provisional ballots -- as measured by intrastate consistency in administration--- will be harder and take longer to achieve.[11]

Formatted: Indent: Left: 18 pt

2. "Old" states may devote fewer resources to updating their registration files or databases because they are comfortable with provisional ballots as a fail safe way for voters with registration problems a way to cast a ballot. The adoption of statewide voter registration databases in compliance with HAVA therefore may reduce the variation in the use of provisional ballots among the states.

Other influences decreasing consistency among the states include:

Deleted: increasing variation

Deleted: d

- The more rigorous the verification requirements of the voter's identity and registration status, the smaller the percentage of provisional ballots that were counted. Some states merely require a voter's signature, some match signatures, some require identity documents, others require an affidavit, and a few require photo identification. [12]

  - In the 4 states that simply matched signatures, nearly 3.5% of the total turnout consisted of provisional ballots, and just under three-fourths of those ballots (73%) were counted.
  - In the 14 states that required voters to provide such additional information as address or date of birth just over 1.5% of the total turnout consisted of provisional ballots, and 55% of those ballots were counted.
  - In the 14 states that required an affidavit (attesting, for example, that the voter was legally registered and eligible to vote in the jurisdiction) just over one-half of a percent (0.6%) of turnout came from provisional ballots, and less than one-third of those (30%) were counted. (But note that HAVA requires all voters to certify that they are eligible and registered in order to cast a provisional ballot, which is functionally an affidavit. The 14 states described here used an explicit affidavit form.)
  - In the 10 states that required voters to return later with identifying documents just under 1.5% of the total turnout came from provisional ballots, and more than half (52%) of these were counted. Voters apparently found this requirement less onerous than the affidavit, even though it required a separate trip to a government office.

Deleted: ertified

Deleted: ertified

- Voter registration databases provided information that reduced the number of provisional ballots counted.[13] In states using provisional voting for the first time, states with

---

[11] Despite differing political cultures among states and the latitude HAVA provides states, the statute does, indeed impose some degree of uniformity on issues that Congress thought essential. For example, before HAVA, took effect, "no state gave the voter the right to find out the status of their ballot after the election. " Now all offer that opportunity. See Bali and Silver, "The Impact of Politics, Race and Fiscal Strains on State Electoral Reforms after Election 2000," manuscript, Department of Political Science, Michigan State University. Resisting HAVA's mandates through foot-dragging lacks any legitimate foundation in law or policy.

[12] See Table 2 in Appendix 2 for information on the verification method used in each state.

[13] The Election Day Survey found that states using statewide voter registration databases reported a lower incidence of casting provisional ballots than states without voter registration databases, suggesting that better administration of voter registration rolls might be associated with fewer instances where voters would be required to cast a provisional ballot due to a problem with their voter registration.

Formatted: Normal

Deleted: Publication of best practices may provide an incentive and a direction for states to strengthen their systems.¶

Formatted: Font: (Default) Arial, 9 pt

Deleted: Election Day Study

026608

Deleted: 15

registered-voter databases counted only 20% of the ballots that were cast. States without such databases counted more than double that rate (44%). As HAVA's requirement for adoption of statewide databases spreads across the country, this variation among states is likely to narrow. Real-time access to a continually updated, statewide list of registered voters should reduce the number of provisional ballots used and reduce the percentage counted since most of those who receive them will be less likely to be actually registered in the state.

- States that counted out-of-precinct ballots counted 56% of the provisional ballots cast. States that counted ballots cast only in the proper precinct counted an average of 42% of provisional ballots.[14]
  - In experienced states, the disparity was even more pronounced; 52% of provisional ballots cast were counted in states requiring in-district ballots, while 70% were counted in those allowing out-of-precinct ballots.
  - If all states had counted out-of-precinct ballots, perhaps 290,000 more voters would have been enfranchised across the country.[15]

Deleted: allowed
Deleted: recognized only
Deleted: cast.
Deleted: is
Deleted: .

Variation With-in States

Not only was there little consistency among states in the use of provisional ballots, there was also little consistency within states. This was true in both new and old states. Of the 20 states for which we have county-level provisional ballot data, the rate of counting provisional ballots varied by as much as 90% to 100% among counties in the same state. This suggests that additional factors outside of the statewide factors analyzed here also influence the use of provisional ballots.[16] Reacting to the lack of consistency within states, the Carter-Baker Commission recommended that "states, not counties or municipalities, should establish uniform procedures for the verification and counting of provisional ballots, and that procedure should be applied uniformly throughout the state."[17]

Deleted: way
Deleted: were used in 2004

Election Line reported that:

- In Ohio some counties counted provisional ballots not cast in the assigned precinct even though the state's policy was to count only those ballots cast in the correct precinct.

Deleted: ¶
Deleted: ¶

---

[14] The Election Day Survey concluded that : "Jurisdictions with jurisdiction-wide provisional ballot acceptance reported higher rates of provisional ballots cast, 2.09 percent of registration or 4.67 percent of ballots cast in polling places, than those with in-precinct-only acceptance, 0.72 and 1.18 percent, respectively. Predictably, those jurisdictions with more permissive jurisdiction-wide acceptance reported higher rates of counting provisional ballots, 71.50 percent, than other jurisdictions, 52.50 percent."

[15] This estimate is a rough approximation. States that recognize out-of-precinct ballots counted, on average, 56% of the provisional votes cast. Applying that ratio to the 1.9 million provisional ballots cast nationwide would result in 1.1 million provisional ballots that would have been counted if all states accepted out-of-precinct votes. States that did not recognize out-of-precinct ballots counted 42% of the provisional ballots cast, or about 813,000 ballots, for a difference of about 290,000 votes.

[16] For example, The Election Day Survey also found that "the reported rate of provisional ballots cast increases with population size, from 0.10 percent for voter registration in jurisdictions under 1,000 voting age population (VAP), to 2.51 percent in jurisdictions over one million VAP. It also calculated that, "The highest reported rate of counting provisional ballots was also among predominantly Hispanic jurisdictions, 79.30 percent, followed by predominantly non-Hispanic White areas, 62.60 percent; predominantly non-Hispanic Black communities, 58.60 percent; and predominantly non-Hispanic Native American jurisdictions, 48.70 percent.

[17] Report of the Commission on Federal Election Reform, "Building Confidence in U.S. Elections," September 2005, p.16. The report observed that, ". . .different procedures for counting provisional ballots within and between states led to legal challenges and political protests. Had the margin of victory for the presidential contest been narrower, the lengthy dispute that followed the 2000 election could have been repeated."

Deleted: Election Day Study
Formatted: Normal, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Tabs: 396 pt, Left
Deleted: ¶

026609