

Margaret Sims /EAC/GOV

03/15/2006 02:57 PM

To Jeannie Layson/EAC/GOV@EAC

cc

bcc

Subject Re: Status: Preliminary Research on Voting Fraud/Voter Intimidation 

History

 This message has been replied to.

Both Tova and Job are working together on Voting Fraud AND Voter Intimidation. They are conducting interviews together and reviewing the same resource materials. The only real split in responsibilities is that Job is identifying relevant case law for both to review by perusing search results from inquiries based on search terms to which both agreed, and Tova is doing the same initial culling of voting fraud/voter intimidation news articles found using search terms to which both agreed. (These initial reviews are to identify relevant case law and news articles, and to dump the false drops.) The reason for the two consultants is that, given the politically sensitive nature of the topics, the Commission wanted consultants who have represented opposing philosophies. The Project Working Group that will be reviewing initial research results and providing input to EAC, also has representatives from opposing camps;.

I'm afraid to provide an estimated report release date because these are very sensitive issues and the Commissioners may take some considerable time before they agree to release a report. (Look at the delay in releasing the Rutgers study on provisional voting and voter ID.) -- Peggy

Jeannie Layson/EAC/GOV

Jeannie Layson /EAC/GOV

03/15/2006 08:21 AM

To Margaret Sims/EAC/GOV@EAC

cc

Subject Re: Status: Preliminary Research on Voting Fraud/Voter Intimidation 

That's it. Please confirm that Tova is working on voter intimidation and Job is working on vote fraud. And since the commissioners have to approve the report before it's released, should I say a target release date is this summer?

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

Margaret Sims /EAC/GOV

03/14/2006 05:29 PM

To Jeannie Layson/EAC/GOV@EAC

cc Karen Lynn-Dyson/EAC/GOV@EAC

Subject Status: Preliminary Research on Voting Fraud/Voter Intimidation

030530

Jeannie:

Karen asked me to provide a response to the following question you received from Roy Saltman:

(2) On p. 27 of the 2005 Annual Report, it states that EAC contracted with two consultants to conduct preliminary research on the issues of voting fraud and voter intimidation. Can you tell me who these organizations or individuals are, and when their reports might be available? If they are available now, how can I obtain them?

The two consultants are Tova Wang and Job Serebrov. We expect the consultants to file a report with the EAC in May. EAC Commissioners will have to review and accept the report before it can be released.

Hope this works for you. --- Peggy

030531

Jeannie Layson /EAC/GOV  
03/15/2006 09:21 AM

To Margaret Sims/EAC/GOV@EAC  
cc  
bcc  
Subject Re: Status: Preliminary Research on Voting Fraud/Voter  
Intimidation 

That's it. Please confirm that Tova is working on voter intimidation and Job is working on vote fraud. And since the commissioners have to approve the report before it's released, should I say a target release date is this summer?

Jeannie Layson  
U.S. Election Assistance Commission  
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Washington, DC 20005  
Phone: 202-566-3100  
www.eac.gov  
Margaret Sims/EAC/GOV

Margaret Sims /EAC/GOV  
03/14/2006 05:29 PM

To Jeannie Layson/EAC/GOV@EAC  
cc Karen Lynn-Dyson/EAC/GOV@EAC  
Subject Status: Preliminary Research on Voting Fraud/Voter  
Intimidation

Jeannie:

Karen asked me to provide a response to the following question you received from Roy Saltman:

(2) On p. 27 of the 2005 Annual Report, it states that EAC contracted with two consultants to conduct preliminary research on the issues of voting fraud and voter intimidation. Can you tell me who these organizations or individuals are, and when their reports might be available? If they are available now, how can I obtain them?

The two consultants are Tova Wang and Job Serebrov. We expect the consultants to file a report with the EAC in May. EAC Commissioners will have to review and accept the report before it can be released.

Hope this works for you. --- Peggy

030532

Jeannie Layson /EAC/GOV  
11/21/2005 02:17 PM

To Margaret Sims/EAC/GOV@EAC  
cc  
bcc  
Subject Re: Chair Ltr to Donsanto-DOJ 

Peg,  
My suggested edits are attached.



Chair Ltr to Donsanto-DRAFT j| edits.doc  
Jeannie Layson  
U.S. Election Assistance Commission  
1225 New York Ave., NW  
Suite 1100  
Washington, DC 20005  
Phone: 202-566-3100  
[www.eac.gov](http://www.eac.gov)

030536

organizations regarding these topics, and summarize this research and all source documentation;

Deleted: deliver a summary  
Deleted: of

- **Establish a Project Working Group** - in consultation with EAC, establish a working group composed of key individuals and representatives of organizations knowledgeable about voting fraud and voter intimidation, provide a description of what constitutes voting fraud and voter intimidation and the results of the background research to the group, and convene the group to discuss potential avenues for future EAC research on this topic;

Deleted: Working  
Deleted: Group  
Deleted: the topics of

- **Produce a Report** - Provide a report to EAC summarizing the preliminary research and working group deliberations, including recommendations for future EAC research, if any;

Deleted: findings of the  
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Deleted: Group  
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- **Assist EAC in Initiating Future Research** - if EAC decides to pursue one or more recommendations for future research, draft the project scope and statement of work for the request for proposals.

Deleted: Statement

It would be most helpful if you could offer your expertise to our team of consultants and the EAC project manager, Peggy Sims. We will contact you to set up an initial interview, which will focus on the identification and prosecution of offenses involving voting fraud and voter intimidation, as well as possible resources on these subjects for our consultants' review. Our consultants and project manager may have follow up questions as the research proceeds. It also would be helpful if you would attend the working group meeting to contribute to their discussion.

Deleted: Work  
Deleted: Request  
Deleted: Proposals  
Deleted: to be released on this research  
Deleted: If you are available  
Deleted: out  
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If you have any questions about the research or this request, please contact Peggy Sims by email at [psims@eac.gov](mailto:psims@eac.gov) or by phone at 202-566-3120.

Deleted: . This interview  
Deleted: s  
Deleted: could

Sincerely yours,

Deleted: participate in the meeting of the project

Gracia Hillman  
Chair

Deleted: Working  
Deleted: Group  
Deleted: and

Edgardo Cortes /EAC/GOV  
11/16/2005 03:35 PM

To Juliet E. Thompson/EAC/GOV@EAC, Jeannie  
Layson/EAC/GOV@EAC

cc

bcc

Subject Katrina List request

History:  This message has been replied to.

I had a conversation this morning with Tova Wang concerning post Katrina related voter information and education. She requested a list of the people who attended the EAC Katrina meeting. Is that something I can provide her? I don't think its an issue since its just a list of publicly available contact info , but I wanted to double check. Thanks.

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

030535

Thomas R. Wilkey/EAC/GOV  
09/21/2005 04:48 PM

To: Jeannie Layson/EAC/GOV@EAC  
cc  
bcc  
Subject: Re: Tova Wang

History: This message has been replied to

We knew of her role with The Century Foundation when she was chosen as her co-consultant on this project represents the right.  
I don't expect this to be a problem.  
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  
Jeannie Layson/EAC/GOV

Jeannie Layson /EAC/GOV  
09/21/2005 04:45 PM

To: twilkey@eac.gov  
cc  
Subject: Tova Wang

Just thought you should know that one of our consultants has weighed in on Carter Baker. I'm sure we'll hear about this sooner or later. (I showed this to Carol.) <http://www.tcf.org/list.asp?type=TN&sort=date>

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

03053E

Carol A. Paquette/EAC/GOV  
09/20/2005 05:57 PM

To Jeannie Layson/EAC/GOV@EAC  
cc  
bcc  
Subject Re: Isn't this woman one of our contractors? 

Yes, she's one of the consultants working on the voter fraud project.

Carol A. Paquette  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov  
Jeannie Layson/EAC/GOV

Jeannie Layson /EAC/GOV  
09/20/2005 04:52 PM

To cpaquette@eac.gov  
cc  
Subject Isn't this woman one of our contractors?

<http://www.tcf.org/list.asp?type=NC&pubid=1101>

**Carter-Baker Report: Some Bad Fixes for the Wrong Problems**  [Printer-Friendly](#)

Tova Andrea Wang, The Century Foundation, 9/19/2005

It is truly shocking how, given all the problems in the voting system and continued disenfranchisement, the terms of the debate have shifted to that of so-called "ballot integrity." It is reminiscent of how conservatives have misappropriated the concept of patriotism and the American flag, and used the power of language and messaging to distort the discussion, by using terms such as "partial birth abortion" or "death tax." The latest example of this is the just released report of the commission on election reform co-chaired by Jimmy Carter and James Baker.

The 2001 bi-partisan commission co-chaired by former President Carter and Gerald Ford, which The Century Foundation co-sponsored and I was on the staff of (and which had an entirely different membership), had a very different approach. There were differences about how best to implement the recommendations of the report. However, while we were concerned with accuracy and preventing fraud, we did not see that as a goal that was in conflict with ensuring the right to vote.

It was the 2001 commission that promoted the idea of statewide voter registration databases, so that we could both prevent fraud and ensure every registered voter was on the voting list the list and able to vote. We proposed the idea that any voter who comes to the polls and does not appear on the list be given a provisional ballot. We stated that when a felon completes his sentence, he should get his voting rights back. We enumerated several ways to ensure that "no individual, group or community [holds] a justified belief that the electoral process works less well for some than for others." We even recommended an election day holiday!

030537

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

In addition to proposing limited felon re-enfranchisement and providing negligible input into the very important and controversial provisional ballot questions, the report really focuses on requiring all voters to present government issued photo ID, such as the REAL ID, in order to vote, and promoting the expensive and complex idea of making all statewide databases "interoperable" nationwide. As I and others have documented repeatedly (see [here](#), [here](#), and [here](#)) voter fraud at the polling place is not our major problem, and identification requirements serve to disenfranchise many groups of voters.

Here's what the problems are in American elections today: too few—not too many—people vote; the voter registration system is not working for voters or elections administrators; voters are still systematically disenfranchised, due to such policies as felon disenfranchisement, flawed felon purges, inaccessible polling sites, misallocation of voting machines, and inappropriate challenges at the polls; voters are individually disenfranchised by continued, often race based, voter intimidation and deceptive practices; and there is a general mistrust of the election system by the American people.

Why don't we start there instead.

*Tova Andrea Wang is senior program officer and democracy fellow at The Century Foundation.*

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

030538

Karen Lynn-Dyson/EAC/GOV

To Thomas R. Wilkey/EAC/GOV@EAC

06/21/2005 12:03 PM

cc Jeannie Layson/EAC/GOV@EAC

bcc

Subject Employing Tova Wang and others to start writing " Trends in Election Administration"

History

✉ This message has been replied to.

Tom and Jeannie-

At yesterday's research briefing, the Commissioners approved the concept of a series of scholarly articles that would cover various "Trends in Election Administration"

There was general agreement that the EAC would produce, by the end of this year, two of these articles that might be on topics such as early voting, restoration of felon rights, vote centers, etc.

I'd like to have a brief meeting the end of this week or the beginning of next with you, Jeannie and myself to go over some of the finer points of this idea and to put in place a process to get this project moving.

Shall we meet Friday morning at 11:00?

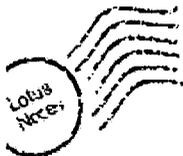
I'd like for us to identify the writers we want to use and the process we will use to determine the selection of topics for articles. As the Chair suggested, we should also discuss in some detail, the editorial guidelines we will use that will guide the work that our writers will do for us.

Thanks

K

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

030539



Gracia Hillman/EAC/GOV

10/30/2006 01:48 PM

To Thomas R. Wilkey/EAC/GOV@EAC

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

bcc

Subject The "Fraud/Intimidation" Report

Tom:

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

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

Thank you,  
Gracia

030540

Thomas R. Wilkey/EAC/GOV  
10/30/2006 10:04 AM

To Jeannie Layson/EAC/GOV@EAC  
cc ggilmour@eac.gov, jthompson@eac.gov  
bcc  
Subject Re: Fw: response 

On the money as far as I am concerned

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  
Jeannie Layson/EAC/GOV

Jeannie Layson /EAC/GOV  
10/30/2006 09:03 AM

To ggilmour@eac.gov, jthompson@eac.gov, twilkey@eac.gov  
cc  
Subject Fw: response

Need you to let me know if this response is okay ASAP:

EAC staff presented a status report about this research project to our advisory boards at a public meeting in May. Since then, we've received a draft from the consultants and EAC staff is currently reviewing the data to ensure it is accurate and complete. After we've completed this process, we'll release a final report.

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

----- Forwarded by Jeannie Layson/EAC/GOV on 10/30/2006 08:59 AM -----  
"Strickler, Laura" <StricklerL@cbsnews.com>

10/27/2006 05:34 PM

To jlayson@eac.gov  
cc

030541

Hey Jeannie - thanks for all of your help yesterday -

got any response/thoughts on this?

Thanks

**FOR IMMEDIATE RELEASE**

**CONTACT:** Drew Courtney or Josh Glasstetter

October 20, 2006

at 202-467-4999 / [media@pfaw.org](mailto:media@pfaw.org)

## **PFAW Presses Election Assistance Commission to Release Report Debunking Myth of Voter "Fraud"**

Despite requests, the Election Assistance Commission is refusing to release a report written months ago that reportedly pokes holes in the widespread myth that voter fraud is rampant in America. EAC Chairman Paul S. DeGregorio Thursday denied a request by People For the American Way Foundation (PFAWF) to make the taxpayer-funded findings available to the public in time for the November elections, now less than three weeks away. PFAWF President Ralph G. Neas said the information should be released immediately and questions whether the report is being suppressed for political reasons.

The existence of the report was revealed days ago by *USA Today*, which reported that instances in which non-eligible persons attempt to pass themselves off as voters and somehow cast fraudulent votes are exceedingly rare. PFAWF's sister advocacy organization, People For the American Way, has launched a petition drive asking the commissioners to release the report, since it will refute rampant allegations of voter fraud which have led to restrictive voting requirements.

"As we approach the elections, the last thing election officials need is to labor under the false

impression that ineligible people are trying to pass themselves off as qualified voters at the polls. They should be focusing on ways to keep the path to the ballot box clear for as many eligible voters as possible, instead of looking for nonexistent fraud that will slow down the process and possibly even discourage eligible voters,” said PFAW President Ralph G. Neas. “We need to raise confidence in our elections process, not allow harmful myths to stand – especially when the government has findings available to refute them.”

Neas sent a letter on behalf of PFAW Foundation to the EAC earlier this week asking that the report be made available to the public, but on Thursday the EAC denied the request. The report was written by Tova Wang, an elections scholar at the Century Foundation think tank, and Job Serebrov, an Arkansas attorney, and has been in the hands of the EAC commissioners for more than four months.

Neas said the report has critical implications for election legislation around the country. During the past few years, a number of states have passed legislation to combat supposed “voter fraud” through overly restrictive identification requirements and other impediments to the ballot box. According to USA Today, the report found such voter fraud to be exceedingly rare.

“We have plenty of problems to deal with. We’ve all seen long lines, unreliable voting equipment, purges that wrongly remove eligible voters from the roll. It turns out the problem is not that bad people are trying to vote, but that too many qualified voters are discouraged from voting. This report apparently confirms what common sense has told us for years – we need to make it easier for eligible voters to cast a vote that counts, not harder,” said Neas. “Instead of fighting nonexistent fraud, these restrictive new laws will discourage voters – people like senior citizens, students and disabled voters who may not have drivers’ licenses or other forms of ID required by these new laws. That’s just wrong, and is clearly not supported by the evidence.”

Neas said the new laws are often politically motivated. The misleadingly-named right-wing group the American Center for Voting Rights has supported extremely restrictive laws by pointing to supposed voting fraud.

“Any law that disadvantages certain groups of voters – like senior citizens and students – should be suspect. If the voters are disadvantaged, which political parties and candidates stand to gain? The same question should be asked about the reason the release of this report has been delayed. Is there a political motivation?” he asked. “Has this study been buried because anti-voter

activists like the American Center for Voting Rights find its conclusions inconvenient? That's unacceptable. The Commissioners of the EAC have had this report for months, even as they have testified before Congress on critical legislation that could have been informed by the report's findings. It's unconscionable."

Laws passed in several states this year raise barriers to the ballot box that would prevent poor, elderly, and minority voters from casting a ballot. PFAW's sister organization, People For the American Way Foundation, has challenged laws in Ohio, Missouri, and Arizona; in all three, the laws were either struck down or stayed until after the November election. Yet restrictions still in effect in a number of states could harm voters. One such provision, stringent ID requirement, has been likened to a modern day poll tax.

Said Neas, "All American citizens have a vested interest in having fair and open elections. This report contains valuable information that can help us do that. The EAC should release the report immediately, no matter what the political implications may be and hold public hearings to discuss the findings."

PFAW's petition can be found at [www.ReleaseTheReport.com](http://www.ReleaseTheReport.com).

**Laura Strickler, Producer**  
*CBS Evening News, Washington*  
Office: 202-457-1597  
Blackberry: 646-460-6175  
Fax: 202-457-1577  
Cell : 917-499-6459  
[stricklerl@cbsnews.com](mailto:stricklerl@cbsnews.com)

030544

Jeannie Layson /EAC/GOV  
10/27/2006 12:25 PM

To jthompson@eac.gov, ggilmour@eac.gov  
cc  
bcc  
Subject Fw: FOIA Request

Here we go...

----- Forwarded by Jeannie Layson/EAC/GOV on 10/27/2006 12:25 PM -----



"Judith Schaeffer "  
<jschaeffer@pfaw.org>  
10/27/2006 12:15 PM

To jlayson@eac.gov  
cc bwhitener@eac.gov  
Subject FOIA Request

Dear Ms. Layson:

Attached is a FOIA request from People For the American Way that we have also sent to you today by fax. Please do not hesitate to call me if you have any questions. Thank you in advance for your assistance and cooperation.

Sincerely,

Judith E. Schaeffer  
Deputy Legal Director  
People For the American Way  
jschaeffer@pfaw.org  
202-467-2381 (ph.)  
202-293-2672 (fax)



Letter from EAC Oct. 19.pdf EAC FOIA.doc

030545



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

OFFICE OF THE CHAIRMAN

October 19, 2006

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

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

RE: October 18, 2006 Letter

Dear Mr. Neas:

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

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

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

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

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

Sincerely,

Paul S. DeGregorio  
Chairman

Tel: (202) 566-3100 www.eac.gov Fax: (202) 566-3189  
Toll free: 1 (866) 747-1471



October 27, 2006

Via email and fax

Jeannie Layson  
Director of Communications  
United States Election Assistance Commission  
1225 New York Avenue N.W.  
Suite 1100  
Washington, DC 20005

Re: FOIA Request

Dear Ms. Layson:

In accordance with the Freedom of Information Act, 5 U.S.C. § 552, I am writing on behalf of People For the American Way to request a copy of a study concerning voter fraud conducted by Tova Wang and Job Serebrov and presented to the EAC in report form sometime subsequent to May 2006.

As you may know, I wrote to the EAC on October 18, 2006 on behalf of People For the American Way Foundation, asking for a copy of the report of this study. On October 19, I received a letter from Paul S. DeGregorio, Chair of the EAC, denying the request. (A copy of Mr. DeGregorio's letter is attached.) According to Mr. DeGregorio, the report was a "draft" and would not be released. However, as even Mr. DeGregorio's letter underscores, the report we are seeking is not a "draft" but rather the *authors'* report of their study of voter fraud. That the Commission may, in the words of Mr. DeGregorio, "release a final report from this study" does not make the study itself a draft. In any event, the Commission should not, and in our view cannot, withhold from public disclosure this important study, which was funded by federal taxpayers.

In accordance with FOIA, I would appreciate your furnishing the requested report to us at your earliest convenience, and no later than 20 working days from today. If you deny this request in whole or in part, please cite the specific exemption(s) that you maintain allows the Commission to withhold the release of this report in whole or in part, and, as also required by law, please release any segregable portion of the report that remains after the exempted material has been deleted. We are willing to pay the statutory fee for the copying of this report.

FOIA Request  
October 27, 2006  
Page 2

Please do not hesitate to call our Deputy Legal Director, Judith E. Schaeffer, if you have any questions about this request. Thank you in advance for your assistance and cooperation.

Sincerely,

A handwritten signature in black ink that reads "Ralph G. Neas". The signature is written in a cursive style with a large, prominent "R" at the beginning.

Ralph G. Neas  
President

Encl.

030548

Bryan Whitener /EAC/GOV  
10/25/2006 04:30 PM

To Jeannie Layson/EAC/GOV@EAC, Thomas R.  
Wilkey/EAC/GOV@EAC  
cc  
bcc

Subject EAC response requested

— Forwarded by Bryan Whitener/EAC/GOV on 10/25/2006 04:25 PM —



"Jonathan Bechtle "  
<JBechtle@effwa.org>  
10/25/2006 04:14 PM

To "Bryan Whitener" <bwhitener@eac.gov>  
cc

Subject FW: Shame on hiding report finding low voter fraud

Bryan,

This article slamming the EAC ran in a major Washington newspaper on Tuesday (the link is <http://www.spokesmanreview.com/opinion/story.asp?ID=156039>, and the text is included below). All I've heard about the report is what USA Today mentioned, plus Tom Wilkey told me that the report is currently being worked on for a near-future release.

I'm planning to respond to this article on the issue of whether voter fraud is widespread, and wanted to also defend the EAC's actions, which I think were wise. It sounds like the news editors just conjectured what happened, as they indicated no attempt to find out for sure why the report was withheld.

In responding to them, it would be nice to have your side of the story to help me accurately explain what happened. Can you give me any comments on why the report was held? Was it because the EAC was trying to help those who are "peddling suspicions of voter fraud"?

Any thoughts you have would be helpful.

Cordially,

Jonathan

**Jonathan Bechtle, J.D.**  
Director, Voter Integrity Project  
**Evergreen Freedom Foundation**  
(360) 956-3482  
[www.effwa.org](http://www.effwa.org)

*"...because freedom matters!"*

Editorial

## **Our view: Fraudulent fears**

### **Shame on hiding report finding low voter fraud**

October 24, 2006

Proponents of stringent election laws designed to stop fraud surely don't want to hear that there's little evidence of chicanery. That's probably why the results of a federal study on the matter, which was delivered in May, were kept quiet.

Many states have adopted restrictions on voter registration and polling place practices, and the U.S. House of Representatives passed a photo-identification bill aimed at poll-site voting. The Senate is expected to take up the issue next year.

The premise behind all of this legislation is that fraud is widespread. But the U.S. Election Assistance Commission, which was established by Congress to ensure voting integrity, commissioned a study that questions that assumption. USA Today obtained the study four months after its completion and recently reported on the findings:

"There is widespread but not unanimous agreement that there is little polling-place fraud, or at least much less than is claimed, including voter impersonation, 'dead' voters, non-citizen voting and felon voters."

That's an awfully inconvenient summation for those who back stricter voting laws and consistently assert that there's rampant fraud while providing scant proof.

Voter fraud is a highly politicized issue. The congressional bill on photo IDs drew the support of 98 percent of Republicans and the opposition of 98 percent of Democrats. And voters in Washington state lived through the partisan wrangling after the razor-thin victory by Chris Gregoire in the 2004 gubernatorial election, when mistakes were quickly relabeled "fraud."

When a favorite candidate loses a close race, partisans attack the system of voting. It happened in Florida in 2000 and in Washington state in 2004. What's interesting about the federal commission's study is that it points to the system that most reforms would not touch as having the highest potential for fraud.

Absentee balloting is more susceptible to manipulation, the report states, via coercion and forgery. But it's polling places that have been placed under heavy scrutiny by reformers.

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The lack of focus on mail-in balloting is probably a political calculation, because it's popular. Most counties in Washington state have moved to that system.

Politicians can get more mileage hyping the possibility of votes by illegal immigrants and felons, but their solutions can serve to discourage voting by honest citizens.

Unfortunately, the federal commission has played into the hands of those peddling suspicions by choosing not to release its report to the public.

The public deserves to know what is happening with its election systems as it weighs the merit of various reform proposals. But a commission that was formed to zero in on real problems has undermined its credibility by sitting on a report that highlights them.

## Deliberative Process Privilege

Margaret Sims /EAC/GOV  
04/10/2007 02:33 PM

To Jeannie Layson/EAC/GOV@EAC  
cc jthompson@eac.gov  
bcc  
Subject Re: questions from NYT 

Jeannie:

1. The "widespread but not unanimous agreement" quote from the consultants' draft addressed perceived election fraud in the **polling place**. It did not address the perceived frequency of other election fraud. EAC wrote the language for the final report after reviewing all of the information submitted by the consultants (summaries of interviews, articles and books, case law, and incidents reported in the press), not just the consultants' draft report.

2. Intimidation - The difference between the draft and the report is due to differing definitions of intimidation. Intimidation, under federal law, has to include physical or economic threat; however, our consultants took a broader view of the term and included incidents in which voters were made to feel uneasy or unwelcome. Some of the literature and interviews suggest that still others define intimidation to include mistakes made by harried workers on election day and state laws and practices that are perceived to make voter participation more difficult (challenger laws, voter identification laws, polling place locations, and distribution of voting machines).

3. What is the question here? Most egregious instances of fraudulent voter registration applications are caught before the "applicants" names are ever added to the rolls -- so no **voting** fraud results. Based on the information we have, most instances seem to be the result of operatives who are paid to register voters and who submit the false applications in order to receive that pay, not because they want to influence the outcome of an election.

4. EAC organized the content of its report in the manner that seemed most suitable. In this case, EAC conclusions were presented after the information upon which conclusions were based. I'm not sure what the reporter means by referring to conclusions in the appendices, unless he is referring to the consultants' conclusions, which are not necessarily EAC's.

5. Do we know which interviewees raised this issue? The reason for outsourcing EAC research is that we don't have the resources in-house to do the job ourselves. EAC hired bipartisan "expert" consultants to do this research (including the interviews) for us. The agency would not normally verify the summaries with the interviewees unless there were indications that the summaries generally were inaccurate. It would not be cost effective for us to routinely verify everything submitted by our consultants' and contractors.

-- Peggy

Jeannie Layson/EAC/GOV

Jeannie Layson /EAC/GOV  
04/10/2007 01:19 PM

To jthompson@eac.gov, psims@eac.gov  
cc  
Subject questions from NYT

030552

## Deliberative Process Privilege

Margaret Sims /EAC/GOV  
04/10/2007 02:33 PM

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bcc  
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cc  
Subject questions from NYT

030553

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04/10/2007 01:19 PM

To jthompson@eac.gov, psims@eac.gov  
cc  
Subject questions from NYT

030554

Attorney-Client  
Privilege

Juliet E. Hodgkins/EAC/GOV  
05/02/2007 09:24 AM

To Thomas R. Wilkey/EAC/GOV, Donetta Davidson, Rosemary  
E. Rodriguez/EAC/GOV, Caroline C. Hunter/EAC/GOV,  
Gracia Hillman,  
cc Eileen L. Collver/EAC/GOV, Stephanie Wolson/EAC/GOV,  
Stacie Fabre,  
bcc

Subject Draft letter to Tova Wang's attorney – different than other  
pending letter

Commissioners & Tom,

Curtis Crider informed me yesterday evening that Tova Wang through her counsel is refusing to talk to the Inspector General's office as a part of the ongoing review based on the contract clause that she has asked to be relieved from. It is clear that this clause does not in any way limit her ability to talk to EAC (the part with which she contracted) and EAC's Office of Inspector General is a division of EAC. As such, I have prepared a letter to go to her counsel today stating these facts. I do not in any way opine on the waiver issue, but rather clarify that EAC's Office of Inspector General is a part of EAC and that she is not precluded by this clause from talking to Curtis or any member of the investigative team that he has assembled.

Unless there is opposition, I will send this out by 10:30 this morning. Thanks for your quick review. Let me know if you have any questions.



letter to Wang's attorney re discussion with IG.doc

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

030555

May 2, 2007

James P. Joseph  
Arnold & Porter L.L.P.  
655 Twelfth Street, NW  
Washington, DC 20004-1206

**Via Facsimile Transmission and U.S. Mail**  
**202-942-5999**

RE: Interview of Ms. Wang by EAC Inspector General

Mr. Joseph:

EAC is currently considering the request made by Ms. Wang regarding the confidentiality clause which she signed as a part of her contract with U.S. Election Assistance Commission. As I am sure you can appreciate, EAC takes very seriously the contract provisions that it and Ms. Wang entered into and is carefully weighing her request concerning waiver of any of those provisions.

However, the EAC Inspector General has brought to my attention the fact that you and your client believe that this clause impacts her ability to speak to the EAC Inspector General and/or its contact investigators regarding the contract, her work product and the final report derived from her work product. The contract clause in question does not limit in any way Ms. Wang's ability to speak to a representative of EAC, including any representative of the EAC Office of Inspector General, regarding these matters.

I trust that this clarifies any concerns that you or your client may have regarding cooperating with the Inspector General's current review of the contract in question, the study that was conducted in part by Ms. Wang, and any product that resulted from that contract and study. However, if you have any additional questions regarding this matter, please do not hesitate to contact me.

Sincerely,

Juliet T. Hodgkins  
General Counsel

cc: Job Serebrov

030556

Attorney-Client  
Privilege

Juliet E. Hodgkins/EAC/GOV  
05/02/2007 09:24 AM

To Thomas R. Wilkey/EAC/GOV, Donetta Davidson, Rosemary  
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Gracia Hillman,  
cc Eileen L. Colver/EAC/GOV, Stephanie Wolson/EAC/GOV,  
Stacie Fabre,

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Sincerely,

Juliet T. Hodgkins  
General Counsel

cc: Job Serebrov

030558



"chandler davidson"  
<fcd@rice.edu>  
04/10/2007 03:28 PM

To ghillman@eac.gov  
cc  
bcc  
Subject Re: Eagleton Study

Gracia,

I have given the Eagleton Voter ID study a quick read.

Here are my comments (numbers refer to page numbers):

- 3. Of the scholars involved, the ones I know are very well respected by their peers.
  - 4. Of the peer review group, the ones I know are also respected and represent quite different positions on the political spectrum.
  - 6. A good statement of the tentative nature of their findings, after having clearly stated the two points of view at issue.
  - 6-7. Limitations of model made clear.
  - 10-11. Findings-and their tentative nature--elaborated on.
  - 10-12. Ideas for further research are excellent.
  - 13-15. The summary of research on determinants of turnout includes the major studies by the top-ranked people in this subspecialty within political science.
- Remainder of paper: Analysis sound and straightforward, with appropriate caveats entered. The writing, by the way, is lucid and easy to grasp by the educated lay person--something that cannot be said for many reports of this kind in government documents and academic journals!

In short, my reading of this paper leads me to believe its findings are carefully stated and fully justified, with the appropriate caveats regarding interpretation. I would be surprised if this paper, had it been submitted to a top-ranked, peer-reviewed political science journal, perhaps in abbreviated form, were not accepted for publication.

Cordially,

Chandler

Thanks. Please note that Eagleton did 2 studies for us (under one contract). One on Provisional Voting and one on Voter ID.

It is the Voter I D study that I'd appreciate you taking a look at.

Many thanks again.

-----  
Sent from my BlackBerry Wireless Handheld

030559

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

May 24, 2005

Mr. Keith Osterhage, Director  
Office of Research and Sponsored Programs  
Rutgers, The State University of New Jersey  
3 Rutgers Plaza  
New Brunswick, New Jersey 08901

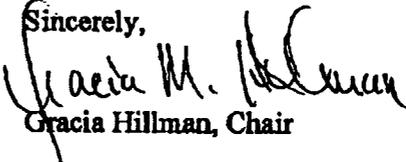
Dear Mr. Osterhage:

Enclosed is a signed contract in the amount of \$560,002.00 for the provision of research assistance to the U.S. Election Assistance Commission (EAC) for the development of voluntary guidance on provisional voting and voter identification procedures. The EAC has accepted the basic proposal submitted by the Eagleton Institute of Politics and has also elected to include the optional survey of local election officials. This proposal was evaluated as providing the best value to the government through a competitive source selection process. The proposal is incorporated by reference into the contract.

The U.S. Election Assistance Commission (EAC) was created by the Help America Vote Act of 2002 (HAVA) and is charged with assisting the States in meeting the election reform requirements mandated by this legislation. One of the EAC's principal tasks is to provide guidance to the States on the interpretation of HAVA and its requirements. The provisional voting and voter identification effort that will be supported by this contract is a major element of EAC's Fiscal Year 2005 research agenda. The objective of this work is to develop guidance on these topics that States can utilize in the 2006 election cycle.

To acknowledge your receipt and acceptance of this contract, please countersign and date below and return one copy of this letter to the attention of Carol A. Paquette, Interim Executive Director.

We look forward to working with Rutgers University and the Eagleton Institute on this very important research effort.

Sincerely,  
  
Gracia Hillman, Chair

Keith Osterhage  
Rutgers, The State University of New Jersey

May 24, 2005

**CONTRACT TO PROVIDE RESEARCH ASSISTANCE TO THE EAC FOR THE DEVELOPMENT OF VOLUNTARY GUIDANCE ON PROVISIONAL VOTING AND VOTER IDENTIFICATION PROCEDURES**

**0.0 Background:** Sec. 302(a) of HAVA requires that all States allow the casting of provisional ballots in instances where a voter declares their eligibility to vote but their name does not appear on the official list of eligible voters, or an election official asserts that a voter is not eligible to vote. This section describes several requirements for implementation of provisional voting, but the States have considerable latitude in specifying how to carry out these requirements. The EAC seeks to examine how provisional voting was implemented in the 2004 general election and to prepare guidance for the States on this topic for the 2006 Federal elections.

HAVA Sec. 303(b) mandates that first time voters who register by mail are required to show proof of identity before being allowed to cast a ballot. The law prescribes certain requirements concerning this section, but also leaves considerable discretion to the States for its implementation. The EAC seeks to examine how these voter identification requirements were implemented in the 2004 elections and to prepare guidance on this topic for the 2006 elections.

One of the remedies for a voter not having an acceptable proof of identity is to allow the voter to cast a provisional ballot, either at the polling place or by mail. This linkage between these two HAVA sections provides a rationale for conducting research on these topics in parallel. However, it is anticipated that two separate guidance documents will result.

**1.0 Objective:** The objective of this contract is for EAC to obtain assistance with the collection, analysis and interpretation of information regarding HAVA provisional voting and voter identification requirements for the purpose of drafting guidance on these topics in time for implementation for the 2006 Federal elections. The anticipated outcome of this activity is the generation of concrete policy recommendations to be issued as voluntary guidance for States.

**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. However, in light of the need to get started on this work, the EAC conducted a public hearing on provisional voting on February 23, 2005.

An initial framework for provisional voting policy has been set by the court decisions rendered on the election procedures utilized in the 2004 election. The 6<sup>th</sup> Circuit decision, in particular, has drawn some boundaries which must be given

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due regard in the course of considering future policy alternatives for provisional voting.

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, draft guidance 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 guidance documents, as appropriate.

### **3.0 Specific Tasks**

For ease of reference, following task 3.3 the remaining tasks are listed separately under the headings of Provisional Voting and Voter Identification Requirements. It is anticipated that the work on these two topics will be conducted essentially concurrently.

- 3.1 Update the project work plan, as required. The Contractor shall update and deliver the Project Plan not later than 10 days after contract award. This plan shall describe how the Contractor will accomplish each of the project tasks, including a timeline indicating major milestones. A single document will be prepared to include both provisional voting and voter identification tasks. 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 2 weeks of the end of each month. This report shall provide a brief summary of activities performed and indicate progress against the timeline provided in the Project Plan. Any issues that could adversely affect 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 work to discuss research findings and progress. The Project Plan should make allowance for this activity. The number and frequency of briefings will be determined by the Contractor 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.

### Provisional Voting

- 3.4 Collect and analyze State legislation, administrative procedures, and court cases. An understanding of the disparities and similarities of how provisional voting was implemented around the country will provide a baseline for the consideration of future approaches. Seventeen States never had provisional voting before HAVA was enacted, while many other States did. 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 the following:

- How did States prepare for the onset of the HAVA provisional ballot requirement?
- How did this vary between States that had previously had some form of provisional ballots and those that did not?
- How did litigation affect the implementation?
- How effective was provisional voting in enfranchising qualified voters?
- Did State and local processes provide for consistent counting of provisional ballots?
- Did local election officials have a clear understanding of how to implement provisional voting?

- 3.5 Recommend alternative approaches for future implementation of provisional voting. The Contractor shall conduct a literature review to identify other research results and data available on this topic. The EAC Election Day Survey, for example, contained several questions on provisional voting. The EAC will make these survey data available to the Contractor. Based on their analysis of available research and the results of Task 4.5, the Contractor shall diagnose the problems and challenges of provisional voting implementation and hypothesize alternative approaches.

The Contractor shall assess the efficacy of these alternatives in relation to the following inter-related policy objectives: (1) enabling the maximum number of eligible voters to cast ballots that will be counted; (2) providing procedural simplicity for voters, poll workers, and election officials; (3) minimizing opportunity for voter fraud; and (4) maintaining a reasonable workload for election officials and poll workers. Additional policy considerations may be identified in the course of this research effort. The Contractor shall document and brief these alternatives to the Commission.

- 3.6 Prepare preliminary draft guidance document. Based on the feedback received from the Commission, the Contractor shall prepare a draft guidance 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 draft guidance for publication in the Federal Register. The Contractor shall revise the guidance document as appropriate to reflect the comments of the EAC, the Board of Advisors and the Standards Board and prepare the draft guidance for publication in the Federal Register by the EAC.**
- 3.8 **Arrange one public hearing for receiving public comment on draft guidance. This hearing should be scheduled 30 days after the initial publication date. The Contractor shall select the location in consultation with the EAC. EAC will handle publicity for the meeting.**
- 3.9 **Prepare final guidance document for EAC adoption. Review all comments received in response to Federal Register publication and at public hearing and revise guidance document as appropriate. Provide final version to EAC for adoption.**

#### Voter Identification Requirements

- 3.10 **Collect and analyze State legislation, administrative procedures, and court cases. It is assumed that the collection of information for analysis of voter identification requirements will be performed concurrently with the research for Task 4.5. An understanding of the disparities and similarities of how voter identification requirements were implemented 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.**
- 3.11 **Convene a half day public hearing on the topic of voter identification requirements. This hearing should occur early in the research process as an informational hearing where all points of view on this topic can be aired. The Contractor shall be responsible for all aspects of planning and conducting this hearing in consultation with the EAC. The Contractor shall identify three panels of three to four speakers each. The Contractor shall arrange for speaker attendance to include travel and per diem expenses. The EAC will provide publicity for the hearing. The Contractor shall prepare a document summarizing the proceedings and containing all testimony provided.**
- 3.12 **Recommend alternative approaches for future implementation of HAVA voter identification requirements. 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 4.11, the Contractor shall diagnose the problems and challenges of voter identification and hypothesize alternative approaches. The Contractor shall**

coordinate with the EAC to identify appropriate policy objectives by which to assess these alternatives. The Contractor shall document and brief these alternatives to the Commission.

- 3.13 Prepare preliminary draft guidance document. Based on the feedback received from the Commission, the Contractor shall prepare a draft guidance 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 Board meeting to answer questions and record comments.
- 3.14 Revise draft guidance for publication in the Federal Register. The Contractor shall revise the guidance document as appropriate to reflect the comments of the EAC, the Board of Advisors and the Standards Board and prepare the draft guidance for publication in the Federal Register by the EAC.
- 3.15 Arrange a second public hearing for receiving public comment on the draft guidance. This hearing should be scheduled 30 days after the initial publication date. The Contractor shall select the location in consultation with the EAC. EAC will handle publicity for the hearing.
- 3.16 Prepare final guidance document for EAC adoption. Review all comments received in response to Federal Register publication and at public hearing and revise guidance document as appropriate. Provide final version to EAC for adoption.
- 4.0 Contract Type. The contract type will be Time and Materials in the amount of \$560,002.00.
- 5.0 Place of performance. The principal place of performance will be the Contractor's place of business. Meetings and occasional work efforts may be performed at the EAC offices. Some travel will be required.
- 6.0 Period of Performance. The period of performance is from date of award until December 30, 2005.
- 7.0 Schedule of Deliverables:
1. Updated project plan – 10 days after contract award
  2. Progress reports – monthly
  3. Briefings – as required
  4. Analysis report on provisional voting, including compendium of legislation, procedures and litigation - TBD
  5. Alternatives report on provisional voting – TBD

6. Preliminary draft guidance on provisional voting - TBD
  7. Draft guidance on provisional voting for publication - 9/2005
  8. Public hearing on draft guidance - 30 days after publication
  9. Final guidance on provisional voting for EAC adoption - 10/2005
  10. Analysis report on voter identification requirements, including compendium of legislation, procedures and litigation - TBD
  11. Public hearing on voter identification requirements - TBD
  12. Summary of voter identification requirements hearing - TBD
  13. Alternatives report on voter identification requirements - TBD
  14. Preliminary draft guidance on voter identification requirements - TBD
  15. Draft guidance on voter identification requirements for publication - 11/2005
  16. Public hearing on draft guidance - 30 days after publication
  17. Final guidance on voter identification requirements to EAC for adoption - 12/2005
- 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. The Contracting Officer's Representative for this effort will be Karen Lynn-Dyson. She will review and approve all work on behalf of the Commission.
- 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: Funds in the amount of \$560,002.00 are available for this task order.
- 11.0 General Provisions:
- 11.1 Proposal Incorporated. The Contractor's proposal is incorporated by reference into the statement of work.
  - 11.2 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 products or services that have been tendered for acceptance. The EAC may require correction or re-performance of nonconforming items at no increase in contract price. The EAC must exercise its post-acceptance rights within ten (10) days after the defect was discovered or should have been discovered.
  - 11.3 Contract Terms. Should there be a conflict between the contract clauses included in this document and the "Purchase Order Terms and Conditions" on the back of GSA Form 300, which is used to record contract financial

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data, the contract clauses in this document shall take precedence.

- 11.4 *Changes.* Changes in the terms and conditions of this Contract may be made only by written agreement signed by authorized representatives of both parties.
- 11.5 *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 this Contract, pending final resolution of any dispute arising under the Contract.
- 11.6 *Excusable Delays.* The Contractor shall be liable for default 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 the 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.
- 11.7 *Other compliances.* The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.
- 11.8 *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, Fly American, and 41 U.S.C. 423 relating to procurement integrity.
- 11.9 *Limitation of Government Liability.* The Contractor is not authorized to make expenditures or incur obligations exceeding the total amount allocated to the contract. The Contractor is required to notify the Contracting Officer's Representative when 75% of funding has been obligated.
- 11.10 *Termination for convenience.* The EAC, by written notice, may terminate this contract without fault, in whole or in part, when it is in the best interest of the government. In the event of contract termination for convenience, 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.



Gracia Hillman/EAC/GOV  
03/06/2007 11:11 AM

To karen lynn dyson  
cc Juliet E. Hodgkins/EAC/GOV, Jeannie Layson  
bcc  
Subject Feedback on Draft Statement

Karen:

Following up on yesterday's briefing about the Draft Statement on the Voter ID study, here is my feedback.

1. I agree that we should send out all of the appendices. I think EAC needs to send out as much information as we have available at this time from the Eagleton study..

2. The statement should clarify that at a minimum we are looking to compare 2008 voter participation stats with the 2004 stats used in the Eagleton report. (FYI - The term voter participation includes registration and turnout.)

Perhaps that explanation should be the fourth paragraph on Page 1, explaining why EAC decided to not perform an analysis at this time of the impact of voter id requirements on turnout.

3. I agree that the last section of the statement should include EAC's intention to convene a (one) large working group of advocates, academics (statisticians included) and election officials to discuss what the next EAC study on this topic should cover and what the timeframe for such study should be.

Lastly, I read this as a draft and "assume" it will be edited to take care of grammatical and spelling errors.

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

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03056E



Gracia Hillman/EAC/GOV  
03/06/2007 11:24 AM

To Karen Lynn-Dyson  
cc Juliet E. Hodgkins/EAC/GOV, Jeannie Layson  
bcc  
Subject Further to the Eagleton Study

I forgot to add the following comment.

If the Eagleton testimony from February 8 is not included as an attachment to our Statement, then at the very least I think our statement should inform the reader that Eagleton testified on Feb 8 and the statement is posted on our website.

030569

Attorney-Client  
Privilege

Deliberative Process  
Privilege

Juliet E. Hodgkins/EAC/GOV  
03/28/2007 06:19 PM

To "Davidson, Donetta" <ddavidson@eac.gov>, Gracia Hillman/EAC/GOV@EAC, Caroline C. Hunter/EAC/GOV@EAC, Rosemary E. Thomas R. Wilkey/EAC/GOV@EAC, Karen Lynn-Dyson/EAC/GOV@EAC, jlayson@eac.gov  
bcc

Subject Comments on Eagleton's response

Karen will present our discussion and conclusions tomorrow. However, when we left the briefing, I think everyone believed that I would provide comments since I will not be able to be on the phone. As such, I am transmitting my comments through this email. I will respond or address Eagleton's numbered paragraphs (note that there is no paragraph 4).

1. There is no need to address this as Eagleton agrees that they only reviewed one election's statistics. The statement of work for the contract told them to review the status of the law in 2004, but in no way limited their analysis to a single year.
2. I believe that Eagleton's issue here is one of semantics. They don't like the phraseology of this sentence. However, the sentence is true and is demonstrated by the sentence in paragraph 2 of the statement that they reviewed and to which they provided comments. That paragraph specifically contains the following information: "Contractor used two sets of data to estimate turnout rates: 1) voting age population estimates(FN2) and 2) individual-level survey data from the November 2004 Current Population Survey conducted by the U.S. Census Bureau.(FN3)" Eagleton made two sets of comments to Footnote 2, which is imbedded in the sentence that was just quoted. They explained their methodology in those comments and that methodology was captured in footnote 2. That footnote specifically contains the following sentences: "These data did not differentiate between citizens and non-citizens;... Thus, 2004 estimates of voting age population include person who are not registered to vote."
3. Eagleton objects to the use of the word "so" in the second sentence. They believe that this creates an inference that they only used the second set of data because the first did not show significant correlations. While generally speaking, I believe that this inference is at least partially true, since researchers are always searching for a set of data that will show a statistically significant correlation and will proceed to a different set of data if the first does not show it, it is not the intended inference of these two sentences. The point is to show that of the two data sets that they used one showed no significant correlation and the second showed some correlations (however not all variables showed correlation). And, that the second set of data -- the one that showed correlation was questionable because of the unusually high turnout rate that was reported. As such, we have agreed to remove the words "so" at the beginning of the second sentence and "only" in the middle of the second sentence -- see #9).
4. There is no number 4.
5. I believe that the statement as contained in the EAC statement is TRUE. Stating one's name is not an independently verifiable form of identification, and I think those are the forms of identification that we are talking about. I can walk into any polling place in the country and state the name of any person. Unless the poll worker knows me or knows the person whose name I have used, there is no way to independently verify whether my statement is true. Conversely, my signature can be compared, my address can be verified, or my driver's license can be scrutinized to determine if I am the person that I purport to be. While it is true that I identify myself on the phone or in person all the time by stating my name, it is not for the purpose of determining my eligibility to vote in a particular precinct, etc. I believe that when the term identification is used in the context of voting that it must mean that the voter provides some independently verifiable form of identification. Having said this, I understand that this may be a point of disagreement for

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others. But, as for me, this statement is true.

6. Based on conversations with Karen concerning the two groups-- one assembled by Eagleton and one assembled by EAC -- both "questioned" the methodology and statistical analysis employed by Eagleton. The group assembled by Eagleton was referred to by them in their report as their "peer review group." Karen feels that "working group" is not an accurate description of the group assembled by EAC, so she has language to use to replace "independent working group" that captures the essence of that group.

7. See response to #2, above.

8. See response to #1, above.

9. See response to #3, above.

10. See response to #6, above.

11. I believe that the Commission must act on this report. Merely stating what we will do in the future will not distance us from this work and will result in media and others quoting Eagleton's work as an "EAC" report. It has been my understanding that the consensus of the group is to "decline to adopt." I believe that this is the right action.

My flight departs at 9:20 a.m. (EDT) and I do not arrive until 12:15 p.m. (EDT). However, if you have questions concerning my comments, I will be around tonight and will be available tomorrow afternoon by Blackberry.

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

030571



## EAGLETON INSTITUTE OF POLITICS

To: Tom Wilkey

From: John Weingart, Eagleton Institute of Politics

Date: March 28, 2007

Re: Comments on March 26, 2007 draft EAC memo regarding the Eagleton-Moritz Voter Identification Report

Tom:

Thanks for your request yesterday that we provide comments on this draft memo. I also appreciate your plan to let us review your press release in draft when it is available. ?

Yes

In brief, we find the memo to contain inaccuracies and to incorporate a hostile tone that seems to criticize us for performing the study and analysis you hired us to prepare. Moreover, you suggest the need for further study as if it is a criticism of our work when, in fact, it is our report that recommends such additional work. I hope you are able to incorporate the following considerations in a revised edition before you distribute it further:

1. *"The contractor used a single election's statistics to conduct this analysis."*

That is correct. But we only focused on 2004 because a number of states changed their identification requirements from 2000 to 2004.

2. *"The two sets of data came from the Census Bureau and included persons who were not eligible to and did not vote."*

The assertion about eligibility is simply incorrect. We gathered this voting data by county and did not rely entirely on the Census Bureau. The aggregate data relied on an estimate of citizens of voting age for each county in 2004. The formula we used to estimate citizens of voting age came from the EAC's own Election Day Study. While some of the citizens of voting age population may not have voted, the individuals in the estimate were considered to be citizens and therefore were eligible to vote. The individual data from the Current Population Survey were limited to respondents who said they were citizens and registered to vote. Therefore they were eligible to vote.

3. *"The first analysis using averaged county-level turnout data from the U.S. Census showed no statistically significant correlations. So, a second analysis using a data set based upon the Current Population Survey (which was self-reported and showed a significantly higher turnout rate than other conventional data) was conducted that produced only some evidence of correlation between voter identification requirements and turnout."*

As we showed in Appendix C to the Voter Identification Report, the analysis of the aggregate data revealed that non-photo identification and signature match requirements were negatively related to turnout when compared with states that simply required voters to state their name. This

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030572

effect did not vary by racial or ethnic groups. The use of the word “so” at the start of the second sentence suggests that we moved on to the individual-level data because we found no clear correlation in the aggregate data. That is a false inference. It was our work plan all along to analyze both aggregate and individual-level data to provide the most complete analysis possible. The higher turnout rate in the CPS data is easy to explain. Turnout in this case is the percentage of registered voters who said they voted. National turnout data is typically calculated according to the percentage of citizens of voting age who turn out (not taking into account registration status). The smaller denominator in the CPS turnout calculation contributes to the higher percentage. Your draft memo does not take that into account. We said as much in footnote 13 in Appendix C to the Voter Identification Report: “The voter turnout percentages may seem disproportionately high compared to the turnout rates reported in the aggregate data analysis. It is important to consider that the turnout rates in the aggregate data were a proportion of all citizens of voting-age population, while the turnout rates for the individual-level data are the proportion of only registered voters who said they voted.”

5. *“Furthermore, the initial categorization of voter identification requirements included classifications that actually require no identification at all, such as ‘state your name.’”* To say that being asked to “state your name” is to “require no identification at all” is simply wrong. To give one’s name is to identify oneself. We relied on this category to make comparisons to the other, more stringent, requirements.

6. *“The research methodology and the statistical analysis used by the Contractor were questioned by independent working and peer review groups comprised of social scientists and statisticians.”*

The term “questioned” in this context appears to be synonymous with the terms “challenged” or “doubted.” The peer review group certainly raised important questions, but we believe we addressed all of the questions to the group’s satisfaction. It is not clear to what you refer when you allude to an “independent working group.” If another review group was involved, we were never given the opportunity to respond to its questions.

7. *Background: Contractor used two sets of data to estimate turnout rates...*  
Correct as noted in #2 above.

8. *Page 2: The Contractor used a single election’s statistics to conduct this analysis.*  
This was essentially what you asked us to do. If the Commission feels in retrospect that it erred in shaping the contract and wants to acknowledge that, you should do so.

9. *Page 2: was conducted that produced only some evidence of correlation between voter identification and turnout*  
The phrase “only some correlation” is a most unusual one. That we showed “some correlation” is a significant finding yet the sentence as written appears to dismiss or even ridicule it.

10. *...were questioned by independent working and peer review groups...*  
Sec #6 above.

Comments on Draft EAC Memo

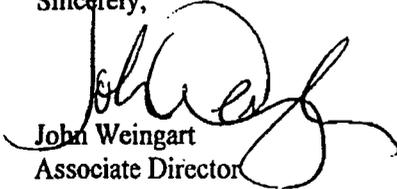
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*11. Recommendations (1) EAC should... decline to adopt the draft report provided by Eagleton.* While the recommendations are, of course, the Commission's call, we believe the report provides information that could be very useful to states now considering making changes to their voter identification protocols and requirements. Accordingly, we believe the Commission would be providing a service by adopting and actively distributing the report.

We recognize that voter identification is a controversial subject that has become much more politicized in the years since the EAC awarded this contract and even in the many months since we submitted this report to you. We also recognize that it is a complex subject to analyze. Nevertheless, we believe, to be both accurate and fair, this memo requires the significant changes I have listed above.

If you would like to discuss this, please don't hesitate to call me at my office at (732) 932-9384 x290. Thanks.

Sincerely,



John Weingart  
Associate Director  
Eagleton Institute of Politics

030574



"John Weingart"  
<john.weingart@rutgers.edu>

03/20/2007 02:44 PM

To klynndyson@eac.gov

cc jhodgkins@eac.gov, tom\_oneill@verizon.net,  
twilkey@eac.gov, "Tim Vercellotti"  
<tim.vercellotti@rutgers.edu>

bcc

Subject Re: Review of Voter ID Statement

History: This message has been replied to.

Karen:

The estimate of citizens of voting-age population controls for the percentage of the voting-age population that might have been non-citizens in 2004. We calculated the citizens of voting-age population using the following approach (this is a direct quote from Appendix C to our final Voter Identification report to the EAC):

"In the aggregate data, determining the percentage of the voting-age population that has U.S. citizenship posed a methodological challenge. The Census Bureau gathers information on the citizenship status of adults ages 18 and older only during the decennial census. While the Census Bureau provides annual estimates of the population to account for changes between decennial censuses, the bureau does not offer estimates for the proportion of the adult population who are citizens as part of the annual estimates. To address this issue I estimated the 2004 citizen voting-age population for each county using a method reported in the analysis of the 2004 Election Day Survey conducted for the U.S. Election Assistance Commission (U.S. Election Assistance Commission, 2005). I calculated the percentage of the 2000 voting-age population who were citizens in 2000, and applied that percentage to the July 1, 2004 estimates for voting-age population in each county. In other words, I assumed that the percentage of the voting-age population that had U.S. citizenship in 2004 was similar to the percentage of the voting-age population who were citizens in 2000."

I hope this addresses the issue. If it doesn't, let us know and Tim Vercellotti or I will be happy to elaborate.

Thanks,

John

lynndyson@eac.gov wrote:

- >
- > Quick question related to The Voting Age Population estimates used to
- > estimate/calculate turnout rates (see footnote 2 in the statement)-
- >
- > When taking into account noncitizens in the calculation were the
- > noncitizens considered as part of the VAP or as the population as a
- > whole?
- >
- >
- > Thanks for clarifying this for me.
- >
- > Regards-
- >
- >



"John Weingart"  
<john.weingart@rutgers.edu>

03/15/2007 10:38 AM

To klynndyson@eac.gov

cc

bcc

Subject Re: EAC Statement on its future study of Voter ID requirements

Karen - Sorry I missed your call. Just back from vacation but will be touching base with Tom, Tim et al today and will be back to you by tomorrow. Thanks.

dyouklynndyson@eac.gov wrote:

>  
> John and Tom-  
>  
> EAC staff are putting the finishing touches on the statement and data  
> it will be releasing, in the next several days, related to voter  
> identification study.  
>  
> In our brief statement we will be summarizing what Rutgers/Eagleton  
> did when performing its statistical analysis.  
>  
> \*Could you review the following statement for accuracy and send me any  
> revisions and edits to it by Friday March 16, 2007?\*

>  
> " The Contractor performed a statistical analysis of the relationship  
> of various requirements for voter identification to voter turnout in  
> the 2004 election. The Contractor compared states with similar voter  
> identification requirements and drew conclusions based on comparing  
> turnout rates among states for one election- November 2004. For  
> example, the turnout rate in 2004 in states with a photo  
> identification requirement was compared to the turnout rate in 2004 in  
> states with a requirement that voters sign his or her name in order to  
> receive a ballot. The Contractor used two sets of data to estimate  
> turnout rates: 1) voting age population estimates 1 and 2)  
> individual-level survey data from the November 2004 Current Population  
> Survey conducted by the U.S. Census Bureau2 "

>  
> Footnotes:  
>  
> 1 The July 2004 estimates for voting age population were provided by  
> the U.S. Census Bureau. Because these numbers include non-citizens,  
> the Contractor reduced the numbers by the same percentage the U.S.  
> Census Bureau estimated were non-citizens in 2000. Estimates of  
> voting age population includes persons who are not registered to vote.  
>  
> 2. The Current Population Survey is based on reports from  
> self-described registered voters who also describe themselves as U.S  
> citizens.  
>  
>  
>  
> \*Thanks for your feedback\*  
>  
> Regards  
>  
>  
> Karen Lynn-Dyson

030578



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## EAGLETON INSTITUTE OF POLITICS

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April 19, 2007

Donetta Davidson, Chair  
U.S. Election Assistance Commission  
1225 New York Avenue, NW  
Suite 1100  
Washington, D.C. 20005

Dear Chair Davidson:

I am attaching a copy of a memo I am sending to Adam Abroggi, Counsel for the Senate Committee on Rules and Administration, responding to his request for information about the Eagleton Institute of Politics' contract with the EAC. If you or your staff notice any errors or significant omissions in my summary of our work and coordination with you, please let me know. Also, please don't hesitate to contact us if there are any other ways in which we can help you to advance informed public consideration of provisional voting, voter identification and the other important issues within your purview.

Sincerely,

John Weingart  
Associate Director

Cc: Tom Wilkey, Executive Director  
U.S. EAC

---

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030570

from: John Weingart, Associate Director  
Eagleton Institute of Politics

April 19, 2007

Adam

In response to your April 10<sup>th</sup> request, I have pulled together some information about the Eagleton Institute of Politics' contract with the U.S. Election Assistance Commission. Although I did not have a chance to do the thorough review, including comparing notes with all the members of our research team, that would be necessary to compile a full chronology of our work, I hope the following will be useful to you. I will be giving a copy of this memo to EAC Chair Donetta Davidson and Executive Director Tom Wilkey for any assistance it may offer them in responding to Senators Feinstein and Durbin's April 12<sup>th</sup> letter.

By way of background, Rutgers University's Eagleton Institute of Politics submitted a proposal to the EAC on March 25, 2005 to provide "research assistance to the Election Assistance Commission for the development of voluntary guidance on provisional voting and voter identification procedures." The proposal was submitted after extensive discussions with EAC Commissioners and staff that had begun on Election Day, 2004 when Eagleton had received a phone call from the EAC's then-Executive Director asking if the Institute would be interested in undertaking this work.

The proposal was prepared and submitted in partnership with the Moritz College of Law at Ohio State University. At the EAC's request, we proposed to handle the two research topics in sequence, first submitting a report on Provisional Voting and then preparing and submitting the report on Voter Identification. In describing the Voter Identification portion of the study, the proposal stated:

"We propose to test the hypothesis that more stringent voter ID requirements depress voter participation in general or for the poor, minorities and older voters in particular."

The proposal also included a plan to form a peer review group composed of scholars and practitioners in the areas of elections and voting to examine and comment on the research

The following pages provide a preliminary summary of our major contacts with the EAC during the course of the contract, with a focus on our work on Voter Identification. More extensive review of our files, including the monthly progress reports we submitted to the EAC, may find other relevant discussions, but this list at a minimum should provide a good overview.

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030578



**EAGLETON INSTITUTE OF POLITICS**

To: Adam Ambrogi, Counsel

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**May 25, 2005** - Contract awarded

**May 26, 2005** - First meeting of Eagleton-Moritz team with EAC Commissioners and staff in Washington. After general discussion of EAC interest in both topics, Commissioner DiGregorio expresses concern that the composition of the project's peer review group was politically unbalanced. Eagleton had proposed including the following five individuals: R. Michael Alvarez, Professor of Political Science at California Institute of Technology; Martha E. Kropf, Assistant Professor of Political Science at the University of Missouri-Kansas City; Daniel H. Lowenstein, Professor of Law at UCLA; Tim Storey, Program Principal at the National Conference of State Legislatures; and Peter G. Verniero, former New Jersey Attorney General and Supreme Court Justice and current Counsel to Sills, Cummis, Epstein and Gross.

Commissioner DiGregorio subsequently suggests other names for our consideration. We are impressed by the list of people he provides and add three of them to the Peer Review Group: John C. Harrison, Professor of Law at the University of Virginia; Timothy G. O'Rourke, Dean of the Fulton School of Liberal Arts at Salisbury University; and Bradley Smith, Professor of Law at Capital University Law School. The Project Peer Review Group then had eight participants.

**July 28, 2005** - Brief EAC Commissioners at a public meeting at Cal Tech on progress on the research. Briefing includes this status report on the Voter ID phase of the work: "statistical analysis to gauge the effect of a state's voter ID regime on turnout, especially turnout by minority and elderly voters will be complete in late August."

**August 9, 2005** - First telephone conference with Peer Review Group. Focus is draft Provisional Voting report.

**September 6, 2005** - Meet with the EAC in Washington. Brief the Commission on the status of the research on provisional voting.

**September 21, 2005** - Second telephone meeting of Project Peer Review Group.

**September 30, 2005** - Conference call with EAC Commissioner Martinez and three members of the staff. Commissioner Martinez indicates EAC is generally more comfortable playing the role of a national clearinghouse and therefore prefers to issue reports as "Best Practices" than as "Provisional Guidance." Staff says Eagleton emphasis should be on what states should do as opposed to suggesting how they would do it. Commissioner Martinez concludes meeting saying, "We have been very well served by all the work you and Moritz have done."

Feb. 22, 2006 - Conference call with Project Peer Review Group members after they have reviewed first draft of Voter Identification report. The Peer Reviewers suggest the statistical analysis: (1) Look at whether voter identification requirements are related to voter registration rates, as well as turnout; (2) Describe in further detail the basis for the aggregate and individual-level data analyses; (3) Clarify whether the report is examining turnout among citizens eligible to vote, or all individuals of voting age; (4) Stress in a footnote that Hispanics in the individual-level analysis are Hispanics who describe themselves as citizens who are eligible to vote; (5) Discuss in the Appendix the reasons why turnout rates appear to be higher in the Current Population Survey data than in other sources of data; and (6) Use predicted probabilities as opposed to odds ratios to describe the relationship between voter identification requirements and turnout.

*Eagleton subsequently revises draft of the statistical analysis to address all these issues.*

March 28, 2006 - Conference call with EAC staff and Eagleton-Moritz research team in advance of team's scheduled briefings of EAC Commissioners in Washington, D.C. on Provisional Voting and Voter Identification reports.

April 3, 2006 - Eagleton-Moritz morning meeting in Washington with EAC Commissioners Davidson and Hillman and staff members. Series of questions and responses on Voter ID methodology.

Commissioners ask whether respondents to the Current Population Survey might be non-citizens who said they were registered and voted. In a subsequent follow-up e-mail, Tim Vercellotti of Eagleton writes that the design of the CPS questionnaire skips non-citizens past questions about registration and voting. Commissioner Davidson asks if the team could examine the relationship between identification requirements and turnout over time. Team members respond that the information on state identification requirements for previous election cycles would require additional extensive research. Commissioner Hillman asks if the report could break out the relationship between voter identification and turnout for African-Americans with education levels of a high school diploma or less, or African-Americans below the poverty line.

*Subsequent analyses examined these subgroups as suggested.*

Eagleton-Moritz afternoon meeting with Commissioners DiGregorio and Martinez and EAC staff. Series of questions and answers. Commissioner DiGregorio concludes he is "disappointed" with the report. Commissioner Martinez says he "appreciates" it.

April 13, 2006 - Conference call between Eagleton and EAC staff. EAC requests that Eagleton convene a conference call of the Project Peer Review Group with EAC staff and/or Commissioners to discuss the statistical analysis of the effects of various Voter Identification requirements on turnout.

EAC staff also reports that the EAC is going to convene its own second peer review group to seek feedback on review by the Project Peer Review Group.

**(April 13, 2006 continued)**

EAC staff also reports that Eagleton is on the preliminary schedule to present Voter ID findings to the EAC's Advisory Board May meeting but that the date and location have not yet been set. EAC staff say they are "unsure where Voter ID project is going. We're going to have to see. We saw lines really drawn politically over Voter ID piece. We'll have to see what statements the agency chooses to make over this topic. It is the topic - It has nothing to do with you. The timing is such that Voter ID is a hot topic."

**April 28, 2006** -Eagleton informs EAC by email of its understanding of status of Voter ID project: "We presented our Voter ID research to the commissioners in April and are now revising it in line with their comments; that revised research paper will be discussed in mid-May by reviewers selected by the Commission. That date was set specifically to allow us to prepare a final report that would be ready for review by the Advisory Board on May 24; ...The appropriate conclusion for our work is a presentation of findings and recommendations for both Provisional Voting and Voter ID, 2 closely related topics, to the Commission at its public meeting in late June..."

**May 1, 2006** - EAC informs Eagleton that it is on the schedule to brief EAC Advisory Boards on both Provisional Voting and Voter ID on May 23 and 24, but asks that we plan on making four separate presentations to the boards over the two days.

**May 11, 2006** - Conference call on Voter Identification draft with some of original Project Peer Review group, second group of peer reviewers assembled by EAC, and EAC staff. Second group includes the three individuals noted in entry above for May 26, 2005.

One of new reviewers says that using a five-category ordinal variable in the statistical models to characterize the five types of voter identification requirements might rest on unrealistic assumptions. He recommends using five dichotomous variables, also known as dummy variables, for the requirements instead. He also recommends using predicted probabilities to assess the relationship between identification requirements and turnout in the individual-level data. Two of the original Project Peer Review Group recommend including analyses using the ordinal-level variables in the appendix for comparative purposes.

*Subsequent drafts incorporate all these suggestions.*

Two of new reviewers also recommend that the models assume age has a curvilinear effect on turnout, with turnout rising, then falling, as voters age. They recommend using both age and age-squared in the models, or age broken down into dummy variables.

*Subsequent drafts use a series of dummy variables to capture the curvilinear relationship between age and turnout.*

**(May 11, 2006 continued)**

One of original peer reviewers recommends further explanation clarifying that the turnout rates for the states using aggregate data make clear the rates for each state reflect an average of the turnout across the counties in the state. Same reviewer also recommends expanding the discussion of maximum and minimum requirements to add more detail about the distinctions between the two types of requirements.

*Subsequent drafts of the statistical analysis incorporate all these changes.*

One of new reviewers expresses concern about the omission of two important contextual predictors of turnout - the number of days between the close of registration and Election Day, and a measure of which states have Election Day registration.

*Subsequent analyses examine the effects of these variables on aggregate turnout.*

New reviewer also recommends breaking out Asian-American voters when looking at the relationship between voter identification and turnout.

*Subsequent drafts incorporate this suggestion by including Asian-Americans in the individual-level analyses.*

**May 23-24, 2006** - Research team briefs EAC Standards Board and EAC Board of Advisers in Washington, D.C. regarding the Provisional Voting report. The Voter Identification report, originally on the agenda, is dropped before the meeting.

**June 6 (?), 2006** - Letter from Project Director Tom O'Neill to Commissioner Paul DiGregorio responding to the Commission's hesitancy to publish best practices recommendation on Provisional Voting and questions on how to handle research on Voter ID. Excerpt from letter: "We hope the commission will use the reports, as intended from the outset of this project, as the basis for recommendations for better, if not best, practices to the states. If the Commission cannot decide to issue such recommendations to the states, we hope it will release the reports to provide the states and the broader elections community with this information, analysis and perspective on the issues. We recognize, based on the reactions at the Standards Board and, particularly, the Board of Advisors, that some of the findings, conclusions, and recommendations of the reports will be controversial with some of the Commission's constituencies. But we also believe, based on the comments of the Peer Review Group, the advisors assembled by the Commission, and our response to their critiques, that the reports are grounded in solid research by a well-qualified, nonpartisan team and that the reports will provide new information for the policy process. We believe this information will contribute to achieving the EAC mission of providing helpful information that the states may or may not choose to implement. . . . We believe our reports will prove useful to the states as they complete preparations for the 2006 elections."

**June 15, 2006** - EAC Executive Director writes to Eagleton saying "...The EAC Commissioners have reviewed and considered next steps with the voter identification draft report which Eagleton has prepared. While the final disposition of the results and findings of this study, on the part of the EAC, are still unclear, the Commissioners have asked that the final draft report of this study also be prepared and submitted to the EAC not later than June 30, 2006.

**June 29, 2006** - Eagleton-Moritz submits to the EAC its final reports on Provisional Voting and on Voter Identification referring to Voter ID paper as "final draft" at EAC request. First of five major recommendations on Voter ID from Eagleton-Moritz is:

The EAC should "encourage or sponsor further research to clarify the connection between Voter ID requirements and the number of potential voters actually able to cast a ballot that is actually counted."

**August 16, 2006** - Eagleton writes to request that the EAC make "the two reports available for use by researchers, legislators, election officials and others interested in these topics." Letter notes: "That the EAC originally commissioned these studies to offer lessons for the 2006 elections based on experience in 2004 further supports the importance of quick action."

**August 31, 2006** - EAC Executive Director responds: "You may not release the draft report [on Voter ID]...as this report has not been finalized and has not been officially released by the EAC."

**February 8, 2007** - Eagleton presents voter identification findings to public meeting of the EAC in Washington. Transcript of the public meeting is available on the EAC web site.

**October 17, 2006** - EAC Executive Director responds to request from Brennan Center for Justice at NYU Law School sending "draft report on provisional voting, prepared by the Eagleton Institute of Politics and the Moritz College of Law." Letter notes, "EAC personnel are in the process of drafting a report about voter identification. The report will be made available upon completion."

**October 27, 2006** - Eagleton writes to EAC Executive Director saying, "We are...disappointed that you are not ready to do the same [release] our report on Voter Identification. We would appreciate knowing approximately when you expect to complete the review and consideration of advisory board concerns you mention to Ms. Weiser" [of the Brennan Center]

**March 30, 2007** - EAC posts Voter Identification paper on its web site and issues statement concluding of the report that "The Commission and our contractor agree that the research conducted for EAC raises more questions than provides answers."

Edgardo Cortes /EAC/GOV

10/25/2006 03:20 PM

To Margaret Sims/EAC/GOV@EAC

cc Thomas R. Wilkey/EAC/GOV@EAC, Gavin S. Gilmour/EAC/GOV@EAC, Juliet E. Hodgkins/EAC/GOV@EAC, Jeannie

bcc

Subject Re: Question-Voting Fraud-Voter Intimidation Report 

Gavin asked me about this issue yesterday and I also suggested a meeting/call between all of us to discuss this so there is no confusion about where things are. Obviously tomorrow is out, but does everyone want to have a call on Friday about this? Let me know what times everyone is available and I can reserve the small conference room. Thanks.

Edgardo Cortés

Election Research Specialist

U.S. Election Assistance Commission

1225 New York Ave. NW, Ste. 1100

Washington, DC 20005

866-747-1471 toll free

202-566-3126 direct

202-566-3127 fax

ecortes@eac.gov

Margaret Sims/EAC/GOV

Margaret Sims /EAC/GOV

10/25/2006 11:59 AM

To Thomas R. Wilkey/EAC/GOV@EAC

cc ecortes@eac.gov

Subject Re: Question-Voting Fraud-Voter Intimidation Report 

Tom:

I sent the consolidated draft of the report last week (minus the Nexis and case law charts) to the lawyers (with a cc: to you), along with the following comments:

- As you know, references to DOJ actions/responses have caused some concern at DOJ. But both consultants are adamantly opposed to EAC making substantive changes to their report. Perhaps using footnotes clearly labeled as EAC footnotes would be a method of addressing this issue?
- There are some recommendations regarding DOJ that we (the consultants and I) were told would not be supported by DOJ, and other references to DOJ, none of which have been reviewed by the department. I think we ought to give Craig Donsanto and John Tanner a chance to provide feedback on each of these sections.
- I am a little concerned about the naming of names, particularly in the section that addresses working group concerns. If we publish it as is, it might end up as fodder for some very negative newspaper articles.
- The report currently uses three different voices: third person, first person singular, first person plural. I think this looks really clumsy. If we are not actually making substantive changes, perhaps we could get away with making the presentation consistent in this regard.
- Because the consultants submitted the report in pieces, they did not include proper segues. I don't know if we should leave it as is, or insert them where needed.

03058E

The only comments I've received so far were from Gavin, who said, "I would put forth one point at the outset... if we are creating an EAC report, let create an EAC report. Tova and Job contract employees... I do not see why we can't use all, some or none of their work without footnote or comment."

The series of supporting charts can be found in the shared drawer under T:\RESEARCH IN PROGRESS\VOTING FRAUD-VOTER INTIMIDATION\Report\Consolidated Copy in the subfolders marked Case Charts and Nexis Charts. I continue to work on the formatting of these charts, but at least you and Edgardo can access them. (I would have attached copies to this message, but it would involve too many files.)

We may want to schedule a teleconference on this with the attorneys and Jeannie.

I hope you are feeling better. --- Peggy

Thomas R. Wilkey/EAC/GOV

10/25/2006 10:46 AM

To Margaret Sims/EAC/GOV@EAC  
cc  
Subject Question

Hi Peggy;

Sorry I missed you yesterday when you were here and hope you are beginning to feel better.

As you know the Voter Fraud and Intimidation Report is causing quite a stir.

Can you give me some ball park timeframe for how long it may take to wrap up our review and get a report to the Commissioners

Is there anything I can do to assist with getting you some help on this.

I know you have other things on your mind but I need to find a way to wrap this up soon.

Also I believe that there were some charts of some sort that were not included in the report we got from Tova and Job, are they available for Edgardo to find so that I may take a look at this.

Thanks so much and hope things are getting better for you.

Tom

Thomas R. Wilkey  
Executive Director  
US Election Assistance Commission  
1225 New York Ave, NW - Suite 1100

030586

Washington, DC 20005  
(202) 566-3109 phone  
TWilkey@eac.gov

030587



Paul DeGregorio /EAC/GOV  
10/23/2006 10:15 PM

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

Subject Re: The Fraud "Report" 

History:

 This message has been replied to

I think it's good idea, especially considering the media coverage and controversy. I spoke with Todd Rokita today and he was not happy at all about what he has read and feels the status report was misleading as the working group session held the day after the report was given came to different conclusions.

We also should make mention on Thursday about the 4th anniversary of HAVA, which is this Friday. It could give us an opportunity to talk about the positive things that have happened in election reform since its passage. Much of the talking points our media advisors drafted talk about this.

-----  
Sent from my BlackBerry Wireless Handheld  
Gracia Hillman  
--- Original Message -----

**From:** Gracia Hillman  
**Sent:** 10/23/2006 09:13 PM  
**To:** Paul DeGregorio; Thomas Wilkey; Donetta Davidson  
**Cc:** Juliet Hodgkins; Jeannie Layson  
**Subject:** The Fraud "Report"

I am recommending that we use Thursday's meeting, a public forum, to be on the record about this report.

My thought is that Tom should report the matter to us in his report. New Business?? Just stating the facts as they exist, including the nature of the study, how we have handled the numerous requests and inquiries that we have received, etc.

Please let me know what you think about this suggestion. Thanks.

-----  
Sent from my BlackBerry Wireless Handheld

030588



Gracia Hillman /EAC/GOV

10/23/2006 09:13 PM

To "Paul DeGregorio" <pdegregorio@eac.gov>, Thomas R. Wilkey/EAC/GOV@EAC, "Donetta Davidson" <Ddavidson@eac.gov>

cc Juliet E. Thompson/EAC/GOV@EAC, "Jeannie Layson" <jlayson@eac.gov>

bcc

Subject The Fraud "Report"

I am recommending that we use Thursday's meeting, a public forum, to be on the record about this report.

My thought is that Tom should report the matter to us in his report. New Business?? Just stating the facts as they exist, including the nature of the study, how we have handled the numerous requests and inquiries that we have received, etc.

Please let me know what you think about this suggestion. Thanks.

-----  
Sent from my BlackBerry Wireless Handheld

030599

Margaret Sims /EAC/GOV  
10/23/2006 05:39 PM

To Jeannie Layson/EAC/GOV@EAC  
cc bwhitener@eac.gov  
bcc  
Subject Request for Voting Fraud Status Report

I've received a request for the Voting Fraud project status report from a local election official. Are you and Bryan fielding all inquiries for copies of the report, or just the press inquiries? --- Peggy

030590

**Jeannie Layson /EAC/GOV**

10/23/2006 04:57 PM

To ghillman@eac.gov

cc sbanks@eac.gov

bcc

Subject Interview w/Hazel Edney

Commissioner,

Hazel asked for a copy of the draft fraud report. I explained to her that staff was currently working to complete a final report, and I sent her the status report. However, she said she may not be interested in interviewing you if we cannot provide the draft report. She is going to touch base with me tomorrow, and I will let you know what she says.

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

03059\*

Jeannie Layson /EAC/GOV

10/23/2006 11:49 AM

To twilkey@eac.gov

cc bwhitener@eac.gov, jwilson@eac.gov

bcc

Subject Fw: EAC Commissioned Report on Voter Fraud

tom,

who should get these emails? There's a petition out there, asking us to release the fraud report, so someone needs to be the point person on these.

— Forwarded by Jeannie Layson/EAC/GOV on 10/23/2006 11:47 AM —

Joyce Wilson /EAC/GOV

10/23/2006 11:47 AM

To Jeannie Layson/EAC/GOV@EAC

cc

Subject Fw: EAC Commissioned Report on Voter Fraud



Jeannie, Please respond, if appropriate or forward to proper person. If not you, please let me know the person that would handle responding to such inquiries. Thanks!

Joyce H. Wilson  
Staff Assistant  
US Election Assistance Commission  
202-566-3100 (office)  
202-566-3128 (fax)

— Forwarded by Joyce Wilson/EAC/GOV on 10/23/2006 11:44 AM —



"Mike Marsolek "  
<marsolek@gmail.com>

10/20/2006 04:58 PM

To HAVAINfo@eac.gov

cc

Subject EAC Commissioned Report on Voter Fraud

Honorable EAC Commissioners,

I ask you to release the EAC commissioned report on voting fraud. Regardless of political persuasion, voting is the bedrock upon which our representative democracy is built. Because of this your responsibilities are great. Currently there has been a rush of litigation intended to protect against voter fraud. There are real concerns that these protections will decrease voter turnout, and likely decrease turnout disproportionately in minority groups. This will obviously affect the parties differently, thereby creating a tense environment and adding to the strife in our society today. It is important, you can not disagree, that any laws regulating voting practices are only created and passed with honorable intentions, since if the voting process itself is compromised the whole of our representative democracy is as well.

I respect you are in difficult circumstances, but it is better for the country to know the results of

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an objective report than to be litigated under subjective pretenses and in a disenfranchising manner. All people in this country who are citizens deserve to vote, and this report can help ensure that they continue to have that right free of trappings whose intentions are not true. Thank you for your work and time.

Sincerely,  
Dr. Michael D. Marsolek

3261 Franklin Ave. E, #8  
Seattle, WA 98102



"Judith Schaeffer "  
<jschaeffer@pfaw.org>  
10/19/2006 10:48 AM

To bwhitener@eac.gov  
cc jlayson@eac.gov  
bcc  
Subject Report re voter fraud

Dear Mr. Whitener:

Thank you for taking the time to speak with me this morning. As you know, I was calling to request a copy of the complete report regarding voter fraud written by Tova Wang and Job Serebov. I am sending this in accordance with your request that I email our request for a copy of that report to you and that I "cc" Ms. Layson on the email.

I'd very much appreciate obtaining a copy of this report today. In the event that you can send it electronically or fax it, my contact information is below. If not, please let me know when and where I may pick it up

Thank you for your assistance.

Sincerely,

Judith E. Schaeffer  
Deputy Legal Director  
People For the American Way Foundation  
jschaeffer@pfaw.org  
202-467-2381 (ph.)  
202-293-2672 (fax)

030594



Gracia Hillman/EAC/GOV

10/17/2006 01:12 PM

To Jeannie Layson/EAC/GOV@EAC

cc "Sheila Banks" <sbanks@eac.gov>

bcc

Subject Re: NEED APPROVAL: Brennen Cen. letter 

The letter looks fine to me.

-----  
Sent from my BlackBerry Wireless Handheld

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

**From:** Jeannie Layson

**Sent:** 10/17/2006 10:06 AM

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

**Cc:** Thomas Wilkey; Margaret Sims; Karen Lynn-Dyson; Juliet Hodgkins; Gavin Gilmour; Bryan Whitener

**Subject:** NEED APPROVAL: Brennen Cen. letter

Commissioners,

I have not received input from everyone regarding the attached letter. It is a response to Wendy Weiser of the Brennan Center, who requested the staff voter fraud status report and the provisional voting draft report, both of which were presented to the Standards Bd. and the Bd. of Adv. at the May meeting. She also requested the draft voter ID report, which was not released at the May meeting. If possible, I'd like to get your input by the end of the day. The letter would go out under Tom's signature. Thank you.

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

030595



Paul DeGregorio /EAC/GOV  
10/17/2006 10:14 AM

To Jeannie Layson/EAC/GOV@EAC  
cc  
bcc  
Subject Re: NEED APPROVAL: Brennen Cen. letter 

The letter is fine with me.

-----  
Sent from my BlackBerry Wireless Handheld

---

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

**From:** Jeannie Layson  
**Sent:** 10/17/2006 10:06 AM  
**To:** Paul DeGregorio; Gracia Hillman; Donetta Davidson  
**Cc:** Thomas Wilkey; Margaret Sims; Karen Lynn-Dyson; Juliet Hodgkins; Gavin Gilmour; Bryan Whitener  
**Subject:** NEED APPROVAL: Brennen Cen. letter

Commissioners,

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

030596

October 17, 2006

Ms. Wendy R. Weiser  
Deputy Director, Democracy Program  
Brennan Center for Justice at NYU School of Law  
161 Avenue of the Americas, 12th Floor  
New York, NY 10013

Dear Ms. Wieser:

Thank you for your request for information regarding U.S. Election Assistance Commission (EAC) research projects on voter fraud and voter intimidation, provisional ballots and voter identification.

The status report on voter fraud and voter intimidation, prepared by EAC staff, and the draft report on provisional voting, prepared by the Eagleton Institute of Politics and the Moritz College of Law, are enclosed. EAC personnel are in the process of drafting a report about voter identification. The report will be made available upon completion.

Status documents about voter fraud and voter intimidation and provisional voting were presented to the EAC's Standards Board and Board of Advisors at a public meeting held in May 2006. Neither of these documents were final EAC reports. Per the Help America Vote Act (HAVA), the EAC works with its advisory boards to gather input on activities, including research projects. After discussing the provisional voting research with our advisory boards, they requested further research and clarification and noted that some of information was inaccurate or incomplete. Please see the attached resolutions passed by both entities outlining their concerns. As such, EAC is currently reviewing the draft report on provisional voting to address the concerns of the agency's advisory boards.

As a small agency of only 23 employees, including four commissioners, it is necessary for EAC to contract with third parties and experts to conduct research. The information provided by third parties is used by staff to develop EAC final policy or reports. No documents, drafts or third party recommendations submitted to EAC constitute official EAC policy or opinion and should not be identified or referred to as such.

Please note that our Standards Board and Advisory Board meetings are open to the public and are publicized on the EAC website at [www.eac.gov](http://www.eac.gov) and posted in the Federal Register.

Thank you for your interest, and let us know if we can be of further assistance.

Sincerely,

Tom Wilkey  
Executive Director

030597

Margaret Sims /EAC/GOV  
10/13/2006 04:40 PM

To Jeannie Layson/EAC/GOV@EAC  
cc twilkey@eac.gov  
bcc  
Subject Fw: Don't Believe Everything You Read

Jeannie:

Attached is the email I sent to Tova and Job, and Job's response. (I have not yet heard back from Tova.)  
--- Peggy

--- Forwarded by Margaret Sims/EAC/GOV on 10/13/2006 04:37 PM ---



"Job Serebrov"  
<serebrov@sbcglobal.net>  
10/13/2006 03:26 PM

To psims@eac.gov, wang@tcf.org  
cc  
Subject Re: Don't Believe Everything You Read

Peg:

We saw both the USA Today article and a similar thing was reported on Rush Limbaugh's show naming both of us. I had a talk this morning with folks at the EAC. I told them at this point there needs to be a press release sent out by the Chairman saying just what you stated. This is the only way to rehabilitate the work we did, the Chairman's credibility, and our reputations. I also fear that if this is not done the EAC will begin to receive calls from Congressman and Senators regarding the "report" and its effect on voter ID requirements.

Peg, up to now Tova and I have refused to speak with the press at all out of respect for the EAC and its mission. We both stand by our work and its conclusions. We both also feel that if a statement (as well phrased as you did in this e-mail clarifying the issue) is not forthcoming from the Chairman then I will have to correct this error with the Press. I explained this in my conversation this morning with the EAC.

Tova and I worked hard to produce a correct, accurate and truthful report. I could care less that the results are not what the more conservative members of my Party wanted. Neither one of us was willing to conform results for political expediency. I think its important for me to note that I was very impressed with Tova's members of the Working Group and I can't say enough about Tova's partnership effort in this endeavor. While neither one of us really care about outside opinions, we do care that the Chairman was quoted or misquoted in a way that would disparage our year-long effort and all of the tax payer money that went into it. For this reason, we believe that a press release clarifying the situation is necessary from either the Chairman or from me.

Regards,

Job

03059E

*psims@eac.gov* wrote:

Tova and Job:

I am home recuperating, but see that in my absence, a USA Today article has gotten everyone stirred up. The report to which the article refers is only the status report on the voting fraud-voter intimidation research project that was delivered to our Standards Board and Board of Advisors last spring. I provided a copy of this document to both of you. but have attached another copy for your information. This document is subject to public release because it was presented at a public meeting.

Due to internal resource allocation problems, your final report has not yet been reviewed by the Commissioners. It is considered a working document (not subject to public release) until it has completed the review process and the Commissioners have agreed to release it. There has been no attempt by the Commission to hold up the report. I bear responsibility for any delays in moving it along. Please be reassured that we would not release your report without letting you know.

Peggy Sims  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave, NW - Ste 1100  
Washington, DC 20005  
Phone: 866-747-1471 (toll free) or 202-566-3120 (direct)  
Fax: 202-566-3127  
email: [psims@eac.gov](mailto:psims@eac.gov)

030593

**United States Election Assistance Commission – Board of Advisors Meeting**

**Meeting Minutes – April 27-28, 2005**

Herewith are the Minutes of the meeting of the United States Election Assistance Commission (EAC) Board Of Advisors held on Wednesday, April 27, through Thursday, April 28, 2005. The meeting convened on April 27 at 8:30 a.m. in Cambridge, Massachusetts at the Marriott Boston Cambridge Hotel, 2 Cambridge Center and adjourned at 12:41 p.m. on April 28, 2005.

**Call to Order:** Chair Lewis called the meeting to order at 8:30 a.m.

**Roll Call:** Chair Lewis called the roll and found present Secretary Chris Nelson, Ms. Mary Herrera, Secretary Mary Kiffmeyer, Secretary Rebecca Vigil-Giron, Mr. Tom Wilkey, Ms. Wendy Noren, Ms. Helen Purcell, Ms. Beverly Kaufman, Mr. David Orr, Mr. Tony Sirvello, Mr. J.R. Harding, Mr. Noel Hillman, Mr. Hans von Spakovsky, Ms. Polli Brunelli, Mr. Wesley Kliner, Mr. Thomas Shortbull, Mr. Joseph Crangle, Ms. Sue Sautermeister, and Secretary Robin Carnahan. Chair Lewis also recognized that Mr. Jim Dickson and Mr. Christopher Thomas were not present at roll call, but were scheduled to arrive later in the day.

**Changes in Agenda:** Chair Lewis asked that the Board not take any official votes until they adopted a set of bylaws in the following day's business session. He then announced that the EAC Commissioners' Q and A session would be moved to 8:30 AM the following day.

**Updates and Reports:** Chair Lewis asked each member to describe a few concerns they wished to address. The members raised concerns in an effort to improve the development process of the Voluntary Voting Systems Guidelines. (VVSG). Amongst the various concerns raised were members' desires to discuss and integrate public comment into the process; concerns regarding the states' lack of guidance in acquiring systems prior to the release of the final voting systems guidelines; the development of Board of Advisors bylaws; means to improve voter registration systems and reduce voter fraud; and various other obstacles facing EAC, State and local election officials in administering the mandates set forth in HAVA.

**EAC Update:** Thereafter, Chair Lewis introduced EAC Chair Hillman, who provided the Board with an update on EAC. EAC Chair Hillman gave a brief

summary of the challenges facing EAC, as well as milestones from the previous year, including its move in April 2004 to its new office space at 1225 New York Avenue, the publication of State plans, disbursements of requirements payments to States and issuance of best practices

payments being EAC EAC Chair Hillman went onto to discuss the schedule of

made to the states. She noted that Alaska, Guam and New York had not yet received any Title II payments because they had not met the administrative complaints procedures or five percent matching requirements, mandated by HAVA. Additionally, she noted the schedule of 2005 meetings and discussed EAC's intention to hold public hearings in the field.

EAC EAC Chair Hillman then reported on EAC's success in obtaining an

increase in its 2005 budget to \$10 million for its operating budget and \$4 million for research projects. These increases allowed EAC and the Technical Development Guidelines Committee (TGDC) to move forward with the National Institute of Science and Technology (NIST) on the development of the Voluntary Voting System Guidelines (VVSG). EAC EAC Chair Hillman indicated that of this \$14 million budget, approximately half is devoted including the development of guidance and VVSG. EAC's fiscal year 2006 budget request is approximately \$17 million.

Furthermore, EAC EAC Chair Hillman discussed the FY 2005 cap of 22 full-

time employees and EAC's efforts for FY 2006 to have that number increased to 26, so that EAC may properly take over lab accreditation, voting system certification and the ongoing review and auditing of all state reports. EAC has decided to contract out a lot of the work it could do internally if it had more staff. Chair Hillman then described how the budget request process works.

EAC EAC Chair Hillman then told the Board that the Commissioners would receive recommendations from the Technical Guidelines Development Committee (TGDC) by May 9th. Thereafter, the guidelines will be posted for public comment for 90 days, at the end of which, EAC will make changes to the VVSG as appropriate. During the comment period, EAC plans to hold 3 public hearings. The entire process should take approximately 120 days and is required by HAVA.

EAC EAC Chair Hillman provided a summary of the research and study projects EAC is working on, including issuing guidance on provisional voting, the impact of voter ID requirements, issuing statewide voter registration database guidance, studying and surveying Election Day 2004, UOCAVA, and NVRA as required under HAVA. The Election Day study will establish baseline information and statistics for further study and comparison. In addition, EAC will do a study on electronic voting and a report on Free Absentee Ballot Postage some time in the near future.

EAC EAC Chair Hillman stated that all EAC meetings, including those of the Board of Advisors and Standards Board, are open to the public. General Counsel Juliet Thompson stated that the Board would be able to have telephonic meetings concerning upcoming studies as long as they are published.

Mr. Noel Hillman stated his concern that EAC does not yet have an Inspector General to oversee the process of disbursing funds and offered his help in securing Inspector General services for EAC. EAC EAC Chair Hillman stated that the Commission has been working to establish a cooperative relationship with another agency for the use of Inspector General services and they are close to establishing such a relationship. Commissioner Soaries added that they are aware of the need to secure such services.

Commissioner Martinez commented on the interface between the Single State Audit Act and the duties of the Inspector General and stated that the Commissioners recently received guidance from GAO. In addition the Comptroller General has an obligation to audit funds at least once during the life of the funds.

Commissioner Martinez further commented that although the Commission reviewed the state plans that were submitted, its due diligence is limited to certification that a state had received a Title II payment, had filed a state plan published in the Federal Register, had an administrative complaint procedure in place, and had put up a 5 percent match. EAC will rely on the states to inform itself when it makes a material change to its plan, but will also perform audits to ensure that funds are being used for the intended purposes.

Chair Lewis expressed understanding that data collection at the local levels can sometimes be difficult, but stated that the first data collection instrument was thorough and served as a good benchmark.

Chair Lewis introduced Mr. Mike Sciortino, Chair of the Standards Board, who stated that the Board recently elected and organized an executive board. The executive board met in Washington, DC with members of the Advisory Board and National Academy of Sciences to develop a framework for the proposed guidance on Statewide Voter Registration Database List. Commissioner Martinez thanked Chair Sciortino for his leadership and guidance. Commissioner Martinez also indicated that the Standard Board's meetings would be transcribed and open to the public. Mr. Wilkey requested that the Voting Standards Subcommittee convene briefly during the break.

**Recess:** The meeting was recessed until 10:45 AM.

**Reconvene:** When the meeting reconvened, Chair Lewis stated that those wishing to propose changes to the bylaws should discuss proposals at 1:15 p.m. at the back of the room towards the end of the working lunch. He also indicated to the Board changes to the Board contact roster should be submitted to Sheila Banks at EAC, who contact information is on the last page of the roster of the Board of Advisors. Chair Lewis then asked Mr. Wilkey, Chair of the Board's Standards Committee, to provide an update on voting systems standards.

**Voting System Standards:** Mr. Wilkey stated that he would be available to review the TGDC's proposed Voluntary Voting System Guidelines over the next few days. He encouraged Board Members not to be intimidated by the technical data and to ask for help in understanding the guidelines when necessary. He described the voting standards process as open and transparent and expressed amazement at its progress. Mr. Wilkey then stated that the 1990 standards took five years to develop and that there was a gap of time during which election officials determined what changes should be made to the standards.

Under HAVA, the TGDC and NIST had to produce its product in nine months and Mr. Wilkey stated that it was a monumental effort. Mr. Wilkey suggested that members of his committee, members of the board who were on the TGDC and a parallel group from the standards board convene for a day to get a briefing on the document. Mr. Wilkey asked Ms. Thompson if the contents of that meeting would be displayed on the website or otherwise be made available for the two groups. Mr. von Spakovsky asked when the latest version would be available and Mr. Wilkey responded that it would probably be available in the middle of June and that it

would be available on the website. Mr. Wilkey then encouraged everyone to read the overview enclosed in the booklets as a start.

Chair Lewis suggested that the Board of Advisors work like a legislative body and listen to recommendations its committees make to it. Commissioner Martinez informed Mr. von Spakovsky that the Commission intends to transmit the initial set of recommendation to Board of Advisors members when they receive them.

Chair Lewis asked Commissioner Martinez if there was sufficient time for Mr. Wilkey's committee and TGDC members to get together during the 90-day period. Commissioner Martinez stated that there would be ample time and that HAVA requires a minimum period of 90 days for review but as the Chair suggested, that period may extend longer than 90 days if necessary to ensure due diligence. Secretary Kiffmeyer suggested that the Board try to give guidance as early in the process as possible. Commissioner DeGregorio then suggested to Chair Lewis to request that Board members who worked with NIST on the standards in the past discuss their experiences.

EAC EAC Chair Hillman stated that the EAC has encouraged Board Members to review information as it became available and has sent letters in advance of the dates documents would be posted so that they could plan accordingly. Mr. von Spakovsky indicated concern over when Board Members would be getting a draft of voting standards for comments and EAC EAC Chair Hillman stated that the Commissioners would take his suggestion under advisement that the Board get a draft when the Commissioners receive their draft.

Chair Lewis requested that Ms. Purcell and Mr. Harding comment on their experiences as members of TGDC. Ms. Purcell stated that the TGDC broke into three subcommittees and met by conference call every week or every other week. In addition the TGDC had several plenary sessions and planned to issue the recommended VVSG to the Commissioners by May 9, 2005. Ms. Purcell stated that she was on the Security and Transparency Subcommittee and worked on Voter Verified Paper Audit Trail (VVPAT). Ms. Purcell also brought attention to the fact that what has been accomplished by TDGC to date is on the NIST website.

Mr. Harding stated that the reason the TGDC broke into committees is because it was the only way to manage the work since the document is so large. The TGDC also informed the NIST

officials of election officials' limitations and practical needs and resources. Mr. Harding suggested that a process be developed so that Board members can ask prompt questions to narrow the focus of comments.

Ms. Noren encouraged everyone on the Advisory Board to read the documents on NIST's website and to digest the technical standards as part of their legal obligation. She also stated that the Advisory Board has a huge duty to assure that standards are in place for the 2006 election.

Ms. Purcell commented that most election officials have been using the same equipment for decades and that the goal is long-term. She also stated that she was impressed with how fast the NIST was able to assimilate election information and how much time they devoted to learning about elections.

Secretary Carnahan asked if Version 1 would be finalized on May 9, 2005 and if Version 2 would be available by December 31, 2005. Ms. Purcell responded that they were aiming to finalize Version 2 in November. Secretary Carnahan then asked if vendors that would be able to meet the new guidelines as required by state law.

Chair Lewis stated that it was a false expectation to have the standards coincide with the availability of new equipment in compliance with standards.

Mr. Dickson asked if the final point of the document would be May 9, 2005, or after the comment period and Chair Lewis responded that it would be after the comment period and publishing in the Federal Register. Chair Lewis also indicated that there could be changes between the May 9, 2005, version and what goes into the Federal Register. Mr. Dickson finally asked what the thinking was in terms of a one-time purchase and the existence of evolving standards. Mr. Harding responded that election officials would need to purchase equipment as well as maintenance agreements with their sums.

Secretary Vigil-Giron stated that her state (NM) was moving toward uniformity of all systems and looks forward to the enactment of standards as a positive evolution.

Mr. Orr expressed confusion about the difference between the reality of purchasing compliant systems and the reality of the legal obligation to purchase compliant systems. Chair Lewis responded

that the first legal basis is that machines bought in compliance with the 2002 standards are still operable. However, the reality is that some political groups will expect the standards to be adopted immediately. Chair Lewis understands the frustration that follows from such expectations, but it is the reality.

Commissioner Martinez reiterated a point Ms. Noren made, that each state has to look at its own state law to determine which guidelines to follow and what equipment will be in compliance. The Commissioner also indicated that guidelines on VVPAT were intended to be the first of several different ways to achieve independent verification. Guidelines on others would be addressed in future iterations of VVSG.

Secretary Nelson asked what impact Version 1 will have on ITA certification and Commissioner Martinez responded that the Commission will consider whether grandfathering is appropriate in that regard. The TGDC has indicated to the Commissioners that any policy on grandfathering should be decided by the EAC and not decided by the TGDC.

Secretary Kiffmeyer expressed her concern that the Board considers public perception and she complimented the Board on their discussion.

Mr. Dickson asked if putting the expectation of updates into a contract with vendors would result in their taking advantage of that reliance. Ms. Noren stated that there may be a holdup problem, but that with guidance from NIST and EAC, vendors should be able to offer more accurate pricing.

Mr. Kliner and Commissioner Martinez discussed how grandfathering standards could affect legislatures' ability to plan for implementing new guidelines. Commissioner Martinez discussed the possibility of issuing guidelines with an implementation date far enough in the future to allow states to effectuate the changes. Ms. Paquette cautioned that Volume 2, which is available on NIST's website, may not accurately represent the balance in security systems that EAC wishes to achieve.

**Recess and Reconvening:** The meeting recessed for lunch at 12:13 PM and reconvened at 1:34 PM.

**State Voter Registration Lists:** Commissioner Martinez informed that under sections

311 and 312 of HAVA, EAC is obligated to issue guidance on the implementation of the administrative requirements in Title III. This includes Voting System Standards under Sections 301-303.

Commissioner Martinez indicated that EAC convened a working group to recommend draft guidelines on Statewide Voter Registration Lists. Among the members who participated were Secretary Nelson, Secretary Vigil-Giron, Ms. Sautermeister, Ms. Noren and Mr. von Spakovsky.

Commissioner Martinez noted that tab 7 in the Board's briefing book contains the draft guideline, which was published in the Federal Register on April 18, 2005.

EAC EAC Chair Hillman stated that in conversations with Members of Congress, she has suggested that they reserve judgment about how and when HAVA dollars are spent until critical deadlines have been met by the States. Although states have an idea of the cost of replacing voting systems, many are finding that it will be much more expensive to develop, implement or update the voter registration. They may therefore have to amend their HAVA spending plans.

Secretary Kiffmeyer stated that it was not explicit in the language in the draft guidance that the state list be the official list. She also expressed concern about the definition of the word "expedited." Commissioner Martinez responded that the working group gave much attention to the language in Section 303(a)(1)(VI). As an example, Colorado elected to use a real-time transfer to comply with the expedited basis language in the statute. However, other states may interpret "expedited" differently. California currently plans that its statewide system will pull information from local databases, which will not happen instantaneously. The working group agreed that the term expedited should mean at least once every 24 hours.

Secretary Kiffmeyer stated that her question had more to do with the time between when a voter is issued a paper card and when it is entered into the system. Commissioner Martinez stated that once the information actually goes into the local official's database, the guidance recommends an upload every 24 hours. The 24-hour period does not start until the local official enters the information into the database.

Secretary Nelson stated that the working group recognized the problems election officials might have in getting many

registrations at once. He also thanked EAC and other members of the working group for a good and productive experience.

Mr. Dickson asked about obligations under Motor Voter and Commissioner Martinez indicated that the statute requires that there be coordination of the statewide voter registration list with "other agency databases." The statute also requires that there be regular coordination between the Statewide Voter Registration List and death records and felony status. Question 10 of the draft guidance deals with how the Statewide Voter Registration list should be coordinated with other registration databases, which includes agencies defined by NVRA. Commissioner Martinez indicated that there was a great deal of discussion in the working group about the obligations created under Motor Voter.

EAC Chair Hillman noted that EAC has fielded concern from various groups that certain social service agencies are not meeting their responsibilities under NVRA. In some cases, when the agencies are not meeting their obligations, election officials may not follow up with them.

Mr. Thomas stated that the data will show who is complying and who is not. He asserted that where less than 50 percent of a state's registrations come through motor vehicles, that state is probably not doing their job in those offices. Mr. Thomas noted that HAVA specifically does not use real-time language and although real-time may be a nice concept, he doesn't believe it's necessary. In his state of Michigan, they do an update every 24 hours. Mr. Thomas stated that the draft guidance do not sanction bottom-up systems that are not functional. He stated that functionality should include the NVRA purging processes.

Secretary Kiffmeyer stated that her state of Minnesota built a real-time system for \$5.3 million. She then asked Ms. Herrera how long it took to enter her state's 13,000 registrations. Ms. Herrera responded that it took about 3 weeks to enter all the registration forms because there were duplicates and other problems in verifying the entries.

Mr. Kliner was appreciative of the language in response to question 10 because the worry in Tennessee was that integration in real-time would increase the chance for a security breach. He indicated that he thought the 24 hour batch process would allay fears that local elections might have about computerized processes.

EAC Chair Hillman noted that this was the first time EAC put together a working group and the Commission was pleased that it went so well. Commissioner Martinez expressed his appreciation for the people who participated in the process and invited comments in the upcoming weeks.

**Other Topics:**

Chair Lewis asked if anyone had a subject matter they wished to discuss. Ms. Sautermeister emphasized the importance of the voter registration process, especially as it concerns states being able to share information. Chair Lewis stated that one of the long-term goals would be integration from state-to-state, but until the state databases are functional in that manner, it would be unlikely.

Ms. Purcell informed about changes being proposed by the state legislature to Arizona's voter laws. She noted one such measure that would require identification and disallow a person from receiving a ballot if they did not have identification.

Mr. Shortbull stated that South Dakota uses an affidavit system that he thinks works out well. He complimented Secretary of State Nelson on his efforts to work out glitches in the affidavit system. He expressed concerns that voter ID requirements could result in denial of civil rights. Commissioner Martinez stated that EAC is limited by NVRA and HAVA, but that Justice has enforcement authority under Title III of HAVA. HAVA does not preclude a state from imposing an ID requirement. HAVA also states in Section 303(b) that if someone is unable to vote because of a lack of ID, they should still be able to cast a provisional ballot.

Mr. Dickson stated that the Carter-Baker Commission is considering the issues of identification requirements and state interactive voter registration databases.

Chair Lewis stated that the Board would bypass a discussion of voter registration problems for another time and invited comments on the National Mail-In Registration Form.

Karen Lynn-Dyson introduced herself as the research manger for EAC. She advised the board about EAC's efforts to update the NVRA mail-in voter registration form. She also noted that EAC is considering the idea of a web-based form that would be able to be updated frequently. EAC will produce a Spanish version of the form and is looking at translating the form into six other languages. The final draft should be ready for public comment in July.

Chair Lewis asked if EAC has determined that a registration must have a driver's license number or other unique identifier in order to be a valid registration. Commissioner Martinez responded that EAC has not given an interpretation to that particular question. Mr. von Spakovsky of the Department of Justice stated that voter registration for Federal office cannot be accepted or processed by a state unless the application includes a driver's license or similar identification.

Mr. Wilkey pointed out the problem of the high number of citizens who cannot read or write. He recommended that EAC have the form reviewed by a literacy expert and commented on how some states use graphics to make the form easy to read and fill out.

Secretary Vigil-Giron pointed out that there are three provisions of the Voting Rights Act that are due to expire in 2007 that will affect minority voters. Thirty-six or 37 states were told that they had 5 percent language minority populations and had to include election materials in those languages.

**Provisional Voting:** Chairman Lewis stated that the next topic was provisional voting and that there may be additional time for other topics at the end. He asked for a starting point for the discussion.

Commissioner Martinez briefed the board on implementation of provisional voting. He noted the variance among states regarding when a provisional vote would be counted. He stated that 27 states in the country require that for a provisional vote to be counted, it had to have been cast in the voter's assigned precinct. Ohio is an example of one of those states.

Other states provide that if you vote in the correct county, but not the correct precinct, at least a partial ballot will count for Federal office. Georgia and New Mexico are examples of these states.

EAC will likely develop practices on implementing provisional voting. He noted that EAC held a public hearing on this issue in Columbus, Ohio and found that many states had not codified their provisional voting procedures. Florida is an example of one state that has codified its provisional voting procedures.

Commissioner Martinez further stated that EAC will undertake an effort to survey all states to determine how states are handling implementation of provisional voting.

EAC Vice Chair DeGregorio stated that the use of statewide databases throughout the country should help eliminate provisional voting for a lot of people. The overall goal is to have as few provisional ballots as possible. He also noted that EAC is collecting data on the numbers of provisional votes cast and counted in the 2004 election.

Several board members commented on various efforts being made by states and local jurisdictions to assure accurate voter lists and access to this information on Election Day by poll workers. Ms. Herrera asked why EAC hadn't come up with guidelines on how to count or process provisional ballots since provisional voting is a HAVA requirement. Commissioner Martinez responded that HAVA gives responsibility for methods of compliance and implementation to the states. EAC will issue guidance and best practices to inform jurisdictions but the states will have to promulgate their own procedures.

A general information discussion ensued about various procedures and rates of provisional votes cast and counted.

EAC Vice-Chair DeGregorio stated that preliminary statistics collected by EAC indicate that in states that had a statewide database in place for the 2004 election, about 6/10ths of one percent of registered voters used provisional ballots. In states that did not have a statewide database, the rate is about 1.4 percent, approximately double. However, there was no difference in ballots that were ultimately counted; 65 percent in states with a statewide voter registration system and 64.4 percent in states without a statewide voter registration system.

Chair Lewis stated that provisional voting was obviously a contentious issue because elected officials cannot agree on how to handle it. EAC Chair Hillman added that HAVA leaves it up to the states to define the jurisdiction and determine how and when a provisional ballot will be cast. Nonetheless, she encouraged the board to exercise its prerogative and provide advice and suggestions to EAC on how it should approach its various areas of responsibility.

**Studies and Data Collection:** Chair Lewis then introduced the next area of discussion, EAC studies and data collection.

EAC Chair Hillman pointed everyone to tab five of their binder, the Help America Vote Act tab. At the beginning of Section 241, it states that on a periodic basis, EAC shall conduct studies. Section

241 specifies 18 areas and a 19<sup>th</sup> on such other matters as EAC determines appropriate.

Sections 271 through 283 talk about grants for research on voting technology improvements and testing of equipment and technology, but those provisions are not funded by Congress, so EAC does not have money to provide grants for research on voting technology improvements or to do pilot program testing. EAC nonetheless is conscious of its role in certifying labs and will find money to do testing as appropriate.

Sections 302 through 305 address provisional voting, voting information, computerized statewide voter registration list requirements, minimum requirements and methods of implementation left to the discretion of the states. All of these sections govern the areas where EAC will issue guidance. EAC has put mechanisms in place to complete studies required by NVRA and overseas voting and EAC Chair Hillman anticipates that the data EAC collects in the 2006 election will guide the work it does afterwards.

EAC Chair Hillman noted that EAC has scoped out the basic framework for the 2006 research and study agenda. By the end of August 2005, EAC will have broadly identified its research agenda and study activities for 2007.

Commissioner Martinez stated that EAC is trying to use their appropriation for 2005 to focus on their obligations under the statute; development of voting system guidelines through NIST, the convening of statutory bodies, the development of guidance pursuant to Sections 311 and 312, and the mandated research. The only project that EAC is doing that is discretionary is the Election Day survey, which was sent to the states and was important for establishing a benchmark. Section 241 of HAVA has a laundry list of items that Congress has suggested and that EAC should research eventually. The question is whether there will be funds available to do some of the suggested research, and the Commissioners are interested in input from the Board on what areas of Section 241 EAC should explore.

Chair Lewis stated that during the break, he was approached by two officials, one state and one local, who requested that EAC invite comment from election officials before they release the Election Day survey to the public. Chair Lewis then asked if the Commissioners had determined what studies they planned to do in 2006 and 2007.

EAC Chair Hillman responded that EAC had not yet identified specific studies it would conduct but rather had established a broad framework that was included with its FY 2006 budget request.

Chair Lewis requested that members of the Board look at Section 241 and then facilitated a discussion that resulted in the board recommending prioritized areas of study under HAVA Section 241.

The top five areas recommended are:

- (8) Methods of recruiting, training and improving the performance of poll workers.
- (2) Ballot designs for elections for Federal office.
- (3) Methods of voter registration, maintaining secure and accurate lists of registered voters (including the establishment of a centralized, interactive, statewide voter registration list linked to relevant agencies and all polling sites) and ensuring that registered voters appear on the voter registration list at the appropriate polling site.
- (5) Methods of ensuring the accessibility of voting, registration, polling places and voting equipment to all voters, including individuals with disabilities (including the blind and visually impaired), Native American or Alaska Native citizens, and voters with limited proficiency in the English language.
- (4) Methods of conducting provisional voting.

**Recess:** The meeting recessed for the evening at 4:46 PM.

**Reconvening:** Chair Lewis reconvened the meeting at 8:30 a.m. on Thursday, April 28, 2005.

**Updates and Reports:** Chair Lewis outlined the agenda for the day's proceedings. The first session would be a Q and A session with EAC commissioners. After that would be a report of the Executive Director Search Committee, which would be conducted with the Board of Advisors members only. At the conclusion of the committee report, the meeting will be reopened to the public for adoption of bylaws and election of officers. After that, the board can vote on any issues.

Chair Lewis outlined the voting procedures to elect officers and answered questions accordingly.

Chair Lewis then invited the Board to pose questions to the Commissioners. Thereafter, the Commissioners would ask questions of the Board.

A number of issues were discussed during the Q and A session. Mr. Harding indicated that members of the Access Board were at EAC's disposal to assist in developing a VVSG that could be digested by the general public. The Commissioners answered various questions regarding anecdotal statements being made about the November 2004 election; possible means to increase voter turnout; VVPAT and possible alternatives; possible scenarios for jurisdictions not in compliance with HAVA come January 2006; access to EAC website; the voting systems certification and laboratory accreditation processes; the high rate of turnover amongst volunteers at groups that do voter registration training; and obstacles facing state and local election officials.

**Executive Director Search Committee Report:** The Board then met in Closed Session for 20-30 minutes to receive a report from its Executive Director Search Committee.

**Adoption of Bylaws:** Chair Lewis stated that the meeting was reopened to the public and that they would move on to the business section of the meeting. According to Robert's Rules, the group would read the bylaws and consider them as individual sections. After adoption of the bylaws and review of the proxies, there would be elections of officers. He then invited Ms. Kaufman, Chair of the Bylaws Committee, to go through the first reading of the bylaws.

Ms. Kaufman reported that the Bylaws Committee consisted of Beverly Kaufman, Chair, Wendy Noreen, Sue Sautermeister, Ernie Hawkins, and Doug Lewis. The first draft of recommended bylaws was distributed to the Board via e-mail prior to the meeting and copies were distributed on April 27. The Committee members in attendance had a mini-meeting on the 27th and were joined by other board members (Mr. von Spakovsky, Secretary Kiffmeyer, Nelson, and Mr. Crangle) who submitted recommendations for amendment. After the discussion, their suggestions were accepted and distributed to the board.

Mr. von Spakovsky moved to dismiss the reading because everyone in attendance had the bylaws in front of them and the friendly amendments had been accepted by the committee. He also moved to accept the bylaws. Secretary Vigil-Giron seconded the motion.

Secretary Kiffmeyer agreed with the dispensing of the reading, but had a question about a proposed amendment. Chair Lewis asked if Mr. von Spakovsky would amend his motion to dispense with the reading first and Mr. von Spakovsky agreed; Secretary Nelson seconded. Chair Lewis agreed that they would proceed without reading the bylaws and would proceed to the consideration.

As to Article 1, hearing no objections, Chair Lewis asked that all in favor of adopting Article 1 say, "aye." The Board voted to adopt Article 1.

Mr. Harding asked if Article 2 should cite the Federal Advisory Committee Act and Chair Lewis responded that he thought it was cited. Mr. Harding stated that the Article refers to the Act without a citation. Mr. Harding agreed with Chair Lewis that the Board could incorporate the citation by reference and attach them to future editions.

As to Article 2, hearing no objections, Chair Lewis asked that all in favor of adopting Article 2 say "aye." The Board voted to adopt Article 2.

Chair Lewis stated that Article 3 came straight from the law, but contained an incorrect item. Item I should read, "two members appointed by the International Association of Clerks, Recorders, Elections Officials, and Treasurers."

Mr. Hillman observed that he knew the language came from the law, but for the record, there is no such thing as the Office of Public Integrity in the Department of Justice. It is the Public Integrity Division of the Department of Justice. Chair Lewis asked that the correct information be sent to EAC.

As to Article 3, membership, hearing no objections, Chair Lewis asked that all in favor of adopting Article 3 say "aye". The Board voted to adopt Article 3.

As to Article 4, terms of service and filling of vacancies, Chair Lewis asked that all in favor of adopting Article 4 say "aye". The Board voted to adopt Article 4.

As to Article 5, officers, no one voiced an objection that the Board shall elect a Chair, Vice-Chair and Secretary; and the officers shall be elected by secret ballot, each position lasting for a period of one year, with no officer serving more than two consecutive terms in one office. Chair Lewis stated that he noticed while looking at the

bylaws that there was no indication of when elections or meetings would be held. Ms. Sautermeister explained that they only have to meet once a year and did not want to limit it to a certain meeting. Secretary Nelson suggested that it specify the required meeting as the first meeting each year. Mr. Thomas asked if the term of office would be affected with no meeting specified and Chair Lewis suggested that the term be one year or until the next election is held, to which Mr. Thomas agreed.

Secretary Vigil-Giron asked if the Parliamentarian is going to adopt rules of order or if the Board would adopt Robert's rules. Secretary Carnahan asked if the Committee suggested having party differences between the Chair and Vice Chair. Chair Lewis stated that he was hoping not to do that although he would consider it. There are some members of the group who cannot be identified with a particular political party and should not be ruled out because of that. Secretary Carnahan commented that EAC is separated by party and so are Secretaries of State. Chair Lewis indicated his understanding, but stated that some people in the group are not supposed to engage in partisan politics. Secretary Carnahan suggested that the Board categorize people as part of a party or independent or undeclared.

Ms. Kaufman stated that she agreed and that the Committee discussed the same issue but decided it would be better left to discussion. Mr. Dickson pointed out that the group had half an hour and asked that they deal with the issue expeditiously. Secretary Carnahan proposed an amendment to include a statement that the party filling a seat shall not fill the same seat two years in a row and that the Chair and Vice Chair should be from different parties. Chair Lewis suggested that one person being unaffiliated should not preclude their predecessor from also being unaffiliated. Secretary Vigil-Giron seconded. Chair Lewis asked if there was further discussion on the amendment that the Chair and Vice Chair be of different political parties. Mr. Hillman asked for guidance from the General Counsel and stated that he assumed that a Board of Advisors was an apolitical entity, so party identification might be unusual.

EAC Chair Hillman state that HAVA specifically says that appointment to the Board shall take into consideration party affiliation so there is a balance. Mr. von Spakovsky stated that in the year and a half that the Board has been operating, politics has not played a part in the Executive Committee and he did not wish to introduce politics now. There is a large mix of members on the Board, from all levels of government and Mr. von Spakovsky

stated that he does not want to know what political party each member affiliates with because it is unimportant to the Board's work.

Mr. Crangle stated that he thought most Americans look at party affiliation in terms of public image, and in that sense, it may be advisable to adopt the amendment. Mr. Hillman agreed with Mr. von Spakovsky about because he believes that identifying people with political parties suggests partisanship. Mr. Shortbull called the question and Chair Lewis asked for a vote on whether to adopt the procedure that the Chair and Vice Chair should be from different political parties. Nine were in favor and twelve were opposed, so the motion failed.

As to Article 5, added to the number 3 was "or until the next election." Added to number four was "for a specific office." And added as number 6 is "elections shall be held at the first meeting of each calendar year." Hearing no further comment, Chair Lewis asked that all in favor say "aye." The Board voted to adopt Article 5.

As to Article 6, duties of the officers, Chair Lewis asked all those in favor say "aye." The Board voted in favor of Article 6.

As to Article 7, meetings, Chair Lewis noted that the amendments notice went from 30 to 45 days and may be waived by a majority agreement of the members; meetings may be held by electronic means. EAC Chair Hillman asked that the number of meetings per calendar year be subject to the availability of funds. Hearing no further objections, Chair Lewis asked that all in favor say "aye." The Board voted to adopt Article 7.

EAC Chair Hillman asked about the waiver in Article 7. EAC is required to post a notice of all meetings in the Federal Register and wanted to be sure that they still provided for notice in the Federal Register. Ms. Noren suggested adding, "but not less than 14 days prior to" and Mr. von Spakovsy suggested to the extent permitted by law. It was his amendment and he intended that if there were an emergency, the group could waive the period. Chair Lewis agreed to change the language to "as permitted by law" and amended since it was already adopted.

As to Article 8, quorum and proxy voting, Chair Lewis suggested that proxies be given up to the day of the session. Mr. Crangle moved on the motion and Mr. Shortbull seconded. Thereafter, the Board voted to amend to subparagraph 2 of Article 8 to include the

words "up to the day of the meeting." The board voted to adopt Article 8.

As to Article 9, standing committees, Secretary Kiffmeyer suggested that E and F use parallel language since they require separate members from NASED and NASS. Secretary Vigil-Giron seconded the motion and Ms. Kaufman stated that she did not want to dilute the representation of IACREOT or NACRC as a result. Secretary Vigil-Giron stated that the goal was to represent different perspectives. Ms. Sautermeister asked if the motion only pertained to Voting Systems Standards Committee, to which Chair Lewis responded in the affirmative. He also noted that he would be objecting to it because it did not include a representative from the Elections Center. He suggested the addition of an H and an I and that the Election Center be represented. Secretary Kiffmeyer asked Chair Lewis if he was suggesting an amendment to the amendment proposed and he responded yes.

Mr. Nelson stated that his original intention in the language was to make sure that there was at least one person representing the state level organization, not to include someone from every organization. Ms. Herrera stated that it was important to separate Secretaries of State and State Election Directors since they certify and qualify machines. Chair Lewis suggested that they say one member from NACRC, IACREOT, the Election Center, NASS, and NASED be part of it, eliminating E through G, and the Committee would be 11 members instead of nine. The two added members would be the Election Center and dividing NASS and NASED.

Mr. Dickson asked if the Board was properly balancing interest groups in terms of groups that represent citizens and Chair Lewis responded that there would be five from the groups they just talked about and one from disabilities. Chair Lewis asked if they should add more groups from non-elections organizations. Mr. Kliner stated that if they expanded the groups, some of the people that would like to serve but are not affiliated could participate. Chair Lewis asked Secretary Nelson if it would be possible to say that the Chair can select members who are not part of the organizations and Secretary Nelson responded that he could have three at-large appointments from the board. Chair Lewis suggested that the Chair of the Board of Advisors select from people who are not already representative of the five organizations mentioned. Ms. Kaufman suggested restating the language to read each of the five organizations mentioned could have only one representative on the Committee.

Secretary Vigil-Giron asked if the group needed to correct the IACREOT name, and Chair Lewis pointed out that it did need to be corrected throughout. Mr. Dickson requested that the language be specific as to the pool from which the Chair could select members since he hoped the document would be around for many years.

The Board voted in favor of amending E to read, "One member, excluding the Chair, shall represent each of the following organizations."

Mr. Dickson moved to create subsection F, which would allow the Chair to select members who are not members specified in section E. Thereafter, the Board voted in favor of this amendment.

As to Article 9, hearing no objection, Chair Lewis asked that all in favor say "aye." The Board voted in favor of Article 9.

As to Article 10, amendments, Chair Lewis noted that the bylaws could be amended not less than 30 days prior to an annual meeting. Mr. Dickson asked if the bylaws can only be amended at something designated as an annual meeting. Secretary Kiffmeyer suggested not using the annual meeting language since they struck it in an earlier adoption. Chair Lewis suggested eliminating the word annual, which would include electronic meetings as well. Ms. Kaufman asked if they would still need a two-thirds vote to adopt bylaws and Secretary Nelson responded that two-thirds was correct.

As to Article 10, as amended, Chair Lewis asked that all in favor say "aye." The Board voted in favor of Article 10, as amended.

**Proxy Voting:**

EAC Chair Hillman expressed her hope that the availability of a proxy vote would not encourage people not to attend in person. Of the 37 members of the board eight are not very responsive and EAC is doing their best to work on them, but that does mean that 29 members are active and EAC Chair Hillman hopes to see a majority at every meeting.

Mr. Dickson suggested that the bylaws committee should decide on whether or not to limit the number of proxies. Chair Lewis stated that the issue would be assigned to the bylaws committee for recommendations at the next meeting. Secretary Kiffmeyer suggested that the bylaws reconcile the timing for getting proposing bylaw changes and getting information out to members

so that the Chair has a reasonable ability to get proposals and pass them on without it having to happen on the same day. Chair Lewis stated that ordinarily the proxies would be submitted to a Proxy committee to verify them as legitimate, but he suggested doing a quick adoption. There were proxies from David Orr, Wendy Noren, James Elekes, Ernie Hawkins, Jim Carnes, and Secretary Kiffmeyer. Chair Lewis responded to a question by indicating that the proxy would vote for those not present.

Mr. Crangle asked how people could vote by proxy before the adoption of the bylaws and Chair Lewis responded that he told everyone in advance that there would be proxies assuming the adoption of the bylaws. The Board voted to accept the proxies as submitted for this meeting.

Chair Lewis stated that Mr. Harding, Ms. Purcell, Ms. Kaufman, Director Brunelli, and the Chair would vote for themselves and their proxies. Chair Lewis counted 19 present and 6 proxies, with one non-voting member present. He got agreement that a majority would be 13 and passed around the ballots.

**Election of Officers:** Chair Lewis asked for nominations for Chair. Secretary Vigil-Giron nominated Mr. Crangle. Ms. Purcell nominated Ms. Kaufman. Each candidate made brief presentations about their interests in serving as Chair of the EAC Board of Advisors.

Votes were cast, Chair Lewis counted the votes and found that Ms. Kaufman received a majority of the votes with 18. Mr. Crangle moved to have the vote cast unanimously, Mr. Hillman seconded the motion and the Board voted in favor of the motion. Mr. Lewis congratulated Ms. Kaufman, who immediately assumed responsibilities as chair of the Board.

Chair Kaufman recognized Mr. Sirvello, who nominated Mr. von Spakovsky for the position of Vice-Chair. Secretary Vigil-Giron nominated Mr. Thomas. Mr. Shortbull stated that he was uneasy about having a member from the Department of Justice as an officer of Board.

The votes were cast and the ballots were counted with Mr. Thomas winning a majority with 14 votes.

Chair Kaufman asked for nominations for the office of Secretary. Mr. Shortbull nominated Secretary Vigil-Giron, who declined because of her duties as NASS President, but nominated Mr. Sirvello. Former Chair Lewis moved for nominations to cease,

which Ms. Herrera seconded. The Board voted in favor of the motion. Thereafter, The Board voted in favor of Mr. Sirvello as Secretary.

**Items for Action:**

Chair Kaufman thanked Mr. Lewis for his invaluable services as the Board's first chair. She stated that she has some huge shoes to fill and is grateful for the opportunity.

Mr. Dickson moved to have the Advisory Board urge EAC to engage experts to help with ballot design. The motion was seconded.

Mr. Harding asked what Mr. Dickson's intent was in suggesting the motion. Mr. Dickson stated that he wanted to get at the hard science of ballot design. Secretary Nelson asked if it was appropriate to direct the Commission to work with a particular organization. Chair Kaufman suggested that Mr. Dickson change the wording of his motion to soften the directive. Mr. Dickson agreed to insert "such as" so that other groups could be considered.

Chair Kaufman restated the motion moved that the Board urge EAC to engage experts to help with guidance on ballot design. Specifically, she moved that they reach out to those in low literacy, such as Democracy Design and simplified language. The Board voted in favor of the motion.

Ms. Purcell requested that suggestions on the VVSG from the Board members be e-mailed to Ms. Purcell or Mr. Harding.

Mr. Shortbull moved that the Executive Director report to be moved to EAC, which was seconded by Mr. Harding. The Board voted in favor of the motion.

Mr. Thomas moved to adjourn. The motion was seconded by Secretary Vigil-Giron.

**Adjournment:**

The meeting was adjourned at 12:41 P.M.

## Eagleton/Mortiz Timeline

<b>Date</b>	<b>Description</b>
01/12/05	EAC staff draft proposes SOW for Provisional Voting
01/13/05	EAC staff presents draft proposed SOW for Provisional Voting to Commissioners
01/17/05	EAC staff drafts proposed SOW for Voter ID
01/18-02/14/05	EAC staff, in consultation with the Commissioners, draft proposed combined SOW for Provisional Voting and Voter ID
02/17/05	EAC staff meets with Commissioners and distributes SOW and outline of contracting process via email for Commissioner approval
03/02/05	EAC staff and Commissioners meet to discuss Provisional Voting and Voter ID Contract
03/23/05	EAC staff discuss Evaluation Criteria for the Provisional Voting and Voter ID RFP via email
03/30/05	EAC staff discuss Technical Evaluation Criteria for Provisional Voting and Voter ID Contract via email
05/24/05	EAC Commissioners Approve Contract Award to Eagleton
05/25/05	Eagleton notified of Contract Award
05/26/05	EAC Commissioner, EAC staff, and Eagleton meet at EAC office. Political balance of Peer Review Group amongst topics discussed. Commissioner DeGregorio subsequently suggests additional Peer Review Group participants
06/03/05	EAC staff notifies bidders via email that Eagleton has been awarded the Contract
06/06/05	Eagleton submits Revised Workplan extending deadlines to EAC staff via email
06/07-06/17/05	EAC staff and Eagleton conduct email discussion regarding Eagleton's plans to survey local election officials
06/09/05	EAC staff notifies Eagleton via email that 06/06 Workplan is not an acceptable deliverable
06/17/05	EAC staff receives Eagleton's revised workplan via email
06/20/05	EAC staff receives Eagleton's revised workplan via email
06/23-07/15/05	EAC staff and Eagleton discuss Peer Review Group via email
06/23/05	EAC staff emails Eagleton's proposed Peer Review Group to the Commissioners
06/27/05	EAC staff and Commissioners discuss the proposed Peer Review Group at briefing
07/06-07/07/05	Eagleton emails EAC staff information regarding Eagleton's local election official survey
07/08/05	Eagleton submits response to EAC staff's suggestion for additional Peer Review Group, including a list of proposed members
07/12/05	EAC Commissioners and staff hold teleconference with Eagleton

07/14/05	EAC staff and Eagleton discuss sample size and budget allocation for survey of local election officials via email
07/14/05	EAC staff receives Eagleton June 2005 Progress Report via email
07/15/05	EAC staff and Eagleton hold teleconference approving the composition of Eagleton's Peer Review Group
07/15/05	EAC staff emails Final Agenda for 07/28/05 hearing to Eagleton
07/15-07/26/05	EAC staff and Eagleton discuss details of 07/28 hearing via email
07/19-07/21/05	EAC staff and Eagleton hold email discussion regarding Eagleton's proposal for research regarding provisional ballot design. EAC staff declines Eagleton's proposal for adding ballot design to the project
07/19-08/08/05	Dates for meeting with EAC staff discussed with Eagleton via email
07/28/05	EAC Public hearing held at Cal/Tech in Pasadena. Eagleton briefs EAC Commissioners on progress of research
08/01/05	EAC staff and Eagleton discuss Peer Review Group via email
08/04/05	Vice-Chair DeGregorio provides EAC staff with a list of centrist/conservative groups via email in regards to Peer Review Group recruitment. EAC staff forwards list to Eagleton
08/08/05	Meeting with Eagleton on 09/06 at the EAC confirmed via email
08/09/05	Eagleton holds first teleconference with Peer Review Group regarding Provisional Voting Report
08/15/05	EAC staff receives July 2005 Progress Report from Eagleton via email
08/19-09/02/05	Commissioners, EAC staff, and Eagleton discuss potential members of Peer Review Group via email
09/01/05	Eagleton submits materials to EAC staff for 09/06 briefing via email
09/01-09/03/06	Eagleton emails answers to questions regarding the Provisional Voting Report analysis to EAC staff. Additional materials Fed Exed to EAC
09/05/05	EAC staff receives copy of Eagleton's PowerPoint presentation and alternatives document for 09/06 meeting via email
09/06/05	Commissioners and EAC staff hold briefing with Eagleton to review Provisional Voting Draft of Analysis and Alternatives Paper and discuss outline and direction of the Preliminary Guidance Document
09/14/05	Eagleton sends email to EAC staff requesting EAC Commissioner feedback on Alternative Next Steps
09/15/05	EAC staff receives Eagleton August 2005 Progress Report via email
09/21/06	Eagleton holds second teleconference with Peer Review Group
09/30/05	Teleconference with Eagleton, EAC staff, and Commissioner Martinez to discuss general direction and objective of research
09/30/05	EAC staff receives Provisional Voting Survey Report from Eagleton via email
10/17/05	EAC staff receives September 2005 Progress Report and Peer Review Group Summary Comments from Eagleton via email
11/14/05	EAC staff receives October 2005 Progress Report via email
11/14/05	EAC staff meets with Eagleton regarding execution of surveys
11/15-11/23/05	EAC staff and Eagleton discuss the status of the reports and the process for completion of reports via email

11/15/05	Eagleton requests No-Cost Extension and EAC staff initiates process via email
11/28/05	EAC staff receives Eagleton's Provisional Voting Report via email
11/29/05	EAC staff contacts Eagleton via email to request more detailed invoices for the new fiscal year
12/13/05	EAC staff receives Eagleton November 2005 Progress Report via email
01/17/06	EAC staff receives Eagleton December 2005 Progress Report via email
01/25/06	EAC staff approves Eagleton's no-cost extension request and notifies Eagleton via email
02/16/06	EAC staff receives Eagleton January 2006 Progress Report and inquires as to status of Voter ID Report via email
02/22/06	Eagleton holds teleconference with Peer Review Group regarding Voter ID Report
02/23/06	EAC staff discusses comments/edits to Eagleton via email
03/15/06	EAC staff inquires into ETA for Eagleton's Voter ID Report via email
03/15/06	EAC staff receives Eagleton Draft Voter ID Report via email
03/16/06	Eagleton Draft Voter ID Report distributed via email to Commissioners for comment
03/16/06	Eagleton emails Voter ID Report Appendix to EAC staff
03/16/06	EAC staff receives Eagleton February 2006 Progress Report via email
03/17/06	EAC staff emails Eagleton requesting explanation for using CPS rather than Election Day Survey data
03/21/06	Eagleton responds via email to EAC staff's inquiry into reasoning for use of CPS data rather than Election Day Survey
03/24/06	EAC staff informs Eagleton via email that it has requested Commissioner feedback regarding the Draft Voter ID Report by COB
03/28/06	EAC staff poses a number of questions via email regarding Eagleton's statistical manipulations, use of Census data, and statements made in Voter ID Report
03/28/06	EAC staff sends email request to Eagleton for confirmation that final payment invoice information is forthcoming
03/28/06	EAC staff participates in teleconference with Eagleton project staff, sharing general thoughts and posing questions about data and statements in Voter ID Report
03/31/06	EAC staff receives Eagleton's Draft Voter ID Report for 04/03 meeting via email
04/03/06	Commissioners Hillman and Davidson, EAC staff, and Eagleton meet in the morning to discuss Voter ID Report. Commissioners DeGregorio and Martinez, EAC staff, and Eagleton meet in the afternoon to discuss Voter ID Report
04/06/06	EAC staff sends email to Eagleton inquiring into next steps for the final Provisional Ballot and Voter ID Reports
04/13/06	EAC staff has teleconference with Eagleton regarding next steps for the final Provisional Ballot and Voter ID Reports. EAC staff requests that Eagleton convene a teleconference with Peer Review Group and EAC staff and/or Commissioners to discuss statistical analysis and Voter ID

	Report. EAC also reports that it will convene second Peer Review Group to seek further feedback. Eagleton also provides EAC staff with an extension timeline via email
04/14/06	EAC staff receives Eagleton's March 2006 Progress Report via email
04/19/06	EAC staff begins to process Eagleton's No-cost Extension request
04/21/06	Eagleton formally requests No-Cost Extension via email
04/25-04/27/06	EAC staff has email discussion with Eagleton regarding project timeline over next several weeks, including peer review, teleconference, and presentations at board meetings and public hearing
04/26/06	EAC staff approves Eagleton's No-Cost Extension Request and notifies Eagleton via email
04/27/06	EAC staff requests final draft of Provisional Ballot Report from Eagleton via email
04/28/06	EAC staff notifies Eagleton via email of Peer Review Group that the EAC has selected for Voter ID Report and sets 05/11 deadline for review and teleconference
05/01/06	EAC staff contacts Voter ID Peer Review Group via email regarding review and 05/11 teleconference
05/04/06	Eagleton distributes Revised Voter ID Analysis to EAC staff via email
05/05/06	EAC staff distributes Revised Voter ID Analysis to 2 <sup>nd</sup> Peer Review Group via email
05/08/06	EAC staff inquires via email as to the status of the final report on Provisional Voting from Eagleton
05/08/06	EAC staff receives Eagleton's Draft Voter ID Report via email
05/09/06	EAC staff receives Eagleton Draft Voter ID Report and Appendices and Distributes to Peer Review Group via email
05/09/06	EAC staff informs Eagleton via email that the Commissioners will review the final Provisional Voting and Voter ID Reports at their 05/16 and 05/18 meeting and that materials for distribution to the Board of Advisors and Standards Board must be ready by 05/18
05/09-05/17/06	EAC staff and Eagleton discuss details regarding presentations to the 05/23 and 05/24 Standards Board and Board of Advisors Meetings via email
05/11/06	Teleconference between EAC staff, Eagleton, members of the original Peer Review Group, and additional Peer Review Group members selected by the EAC regarding Voter ID Draft Report
05/12/06	EAC staff receives Eagleton's Draft of Provisional Voting Report for Review by the Standards Board and Board of Advisors via email
05/16/06	Commissioners and EAC staff hold briefing to discuss the presentation of Eagleton's Draft of Provisional Voting Report to the Standards Board and Board of Advisors. EAC staff emails feedback to Eagleton
05/17/06	EAC staff receives Eagleton's Draft of Voter ID Report and Appendices for Review by the Standards Board and Board of Advisors via email. EAC staff emails the information to the Commissioners
05/18/06	Commissioners and EAC staff hold briefing to discuss the presentation of Eagleton's Draft of Voter ID Report to the Standards Board and

	Board of Advisors. Commissioners elect to delay Eagleton's presentation of the Voter ID Report
05/18-22/06	EAC discusses details of Provisional Voting presentation with Eagleton via email
05/23/06	Eagleton presents Provisional Voting Report to EAC Standards Board
05/24/06	Eagleton presents Provisional Voting Report to EAC Board of Advisors
06/06/06	Eagleton sends letter to Commissioner DeGregorio regarding Provisional Voting and Voter ID Reports
06/08-06/26/06	EAC staff and Eagleton discuss conclusion of the Contract via email
06/05/06	EAC Executive Director sends letter to Eagleton regarding lack of clarity and ETA for final results of Voter ID study
06/29/06	Final Provisional Voting and Voter ID Draft Reports received by EAC staff from Eagleton via email. Attachments sent Fed Ex
06/30/06	EAC staff sends letter to Eagleton regarding remaining tasks to close out Contract
07/05/06	Telephone conversation between Eagleton and EAC staff regarding EAC's 06/30/06 letter regarding remaining tasks to close out Contract
07/06/06	Eagleton emails written summary of remaining tasks to close out Contract to EAC staff
07/19/06	Eagleton submits June 2006 Progress Report via email
07/20/06	Eagleton submits April 2006 and May 2006 Progress Reports via email
08/16/06	Eagleton submits final letter regarding Study Release to EAC staff via email and requests release of both Reports
08/24/06	Commissioners and EAC staff hold briefing regarding Eagleton Provisional Voting Draft Report and EAC Statement
08/24-09/06/06	EAC Commissioners and staff discuss Eagleton Provisional Voting Draft Report and EAC Statement to be released
08/28/06	EAC staff notified via email by Michael McDonald that Eagleton has released data from Provisional Voting and Voter ID Reports
08/31/06	EAC Executive Director notifies Eagleton that it is not authorized to release the Voter ID Draft Report as the Report has not been finalized and has not been officially released by the EAC.
09/15/06	EAC Commissioners and staff discuss release of information from the Voter ID Report to Hill staffers
09/28-09/29/06	After meeting with EAC staff, HR Communications edits Eagleton Provisional Voting Report for clarity and tone. HR Communications emails edits to EAC staff
10/02/06	EAC staff emails the professionally edited draft of Provisional Voting Report to Commissioners
10/03/06	EAC Commissioners and staff discuss the Provisional Voting Report at briefing
10/03/06	Eagleton contract closed and \$2,910.77 balance remaining deobligated
10/04/06	EAC staff and Eagleton review via email what information has been released regarding the Eagleton Reports
10/27/06	Eagleton writes to EAC Executive Director requesting an approximate

	date of release for the Voter ID Report
01/23/07	Federal Reporter Notice published regarding 02/28/07 Public Hearing
01/30-02/06/07	EAC staff discusses Eagleton Voter ID Draft Report and potential talking points for Voter ID segment of Public Hearing
02/06/07	Eagleton submits draft text of Presentation for 02/08 EAC Public Hearing to EAC staff via email
02/08/07	EAC holds Public Hearing where Eagleton provides Testimony and submits Voter ID Draft Report
03/06/07	Commissioners and EAC staff hold briefing regarding Eagleton Draft Voter ID Report and EAC Draft Statement
03/07/07	Commissioner Davidson appears before House Appropriations Subcommittee on Financial Services
03/06-03/20/07	EAC staff and Eagleton discuss edits to Voter ID Draft Report via email
03/21-03/29/07	EAC staff, and Eagleton discuss edits to Press Statement accompanying release of Eagleton Voter ID Draft Report
03/30/07	EAC releases Eagleton Voter ID Draft Report and Statement, Commissioner Rodriguez and Eagleton interviewed by NPR

*GAVIN'S  
COMMENTS*

**EAC REPORT ON VOTING FRAUD AND VOTER INTIMIDATION STUDY**

**INTRODUCTION**

*Confidential*  
Voting fraud and intimidation are phrases familiar to many voting-aged Americans. However, they mean different things to different people. Voting fraud and intimidation are phrases used to refer to crimes, civil rights violations, and, at times, even the correct application of state or federal laws to the voting process. Past study of these topics has been as varied as its perceived meaning. In an effort to help understand the realities of voting fraud and voter intimidation in our elections, the U.S. Election Assistance Commission (EAC) has begun this, phase one, of a comprehensive study on election crimes. In this phase of its examination, EAC has developed a definition of election crimes and adopted ~~some~~ research methodology on how to assess the existence and enforcement of election crimes in this country. *walking*

**PURPOSE AND METHODOLOGY OF THE EAC STUDY**

Section 241 of the Help America Vote Act of 2002 (HAVA) calls on the EAC to research and study various issues related to the administration of elections. During Fiscal Year 2006, EAC began projects to research several of the listed topics. These topics for research were chosen in consultation with the EAC Standards Board and Board of Advisors. Voting fraud and voter intimidation are topics that the EAC, as well as its advisory boards, felt were important to study to help improve the administration of elections for federal office.

EAC began this study with the intention of identifying a common understanding of voting fraud and voter intimidation and devising a plan for a comprehensive study of these issues. This study was not intended to be a comprehensive review of existing voting fraud and voter intimidation actions, laws, or prosecutions. To conduct that type of extensive research, a basic understanding had to first be established regarding what is commonly referred to as voting fraud and voter intimidation. Once that understanding *12* was reached, a definition <sup>was</sup> had to be crafted to refine and in some cases limit the scope of what reasonably can be researched and studied as evidence of voting fraud and voter intimidation. That definition will serve as the basis for recommending a plan for a comprehensive study of the area. *along side*

To accomplish these tasks, EAC employed two consultants, ~~Job Serebrov and Tova Wang~~,<sup>1</sup> who worked with EAC staff and interns to conduct the research that forms the basis of this report. The consultants were chosen based upon their experience with the topic and to assure a bipartisan representation in this study. The consultants and EAC staff were charged to (1) research the current state of information on the topic of voting

*under the supervision of*  
<sup>1</sup> Biographies for Job Serebrov and Tova Wang, the two consultants hired by EAC, are attached as Appendix "1".

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fraud and voter intimidation; (2) develop a uniform definition of voting fraud and voter intimidation; and (3) propose recommended strategies for researching this subject.

EAC ~~consultants~~ reviewed existing studies, articles, reports and case law on voting fraud and intimidation and conducted interviews with experts in the field. EAC consultants and staff then presented their initial findings to a working group that provided feedback. The working group participants were:

**The Honorable Todd Rokita**  
Indiana Secretary of State  
Member, EAC Standards Board and the Executive Board of the Standards Board

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

**J.R. Perez**  
Guadalupe County Elections Administrator, Texas

**Barbara Arnwine**  
Executive Director, Lawyers Committee for Civil Rights under Law  
Leader of Election Protection Coalition

**Benjamin L. Ginsberg**  
Partner, Patton Boggs LLP  
Counsel to national Republican campaign committees and Republican candidates

**Robert Bauer**  
Chair of the Political Law Practice at the law firm of Perkins Coie, District of Columbia  
National Counsel for Voter Protection, Democratic National Committee

**Mark (Thor) Hearne II**  
Partner-Member, Lathrop & Gage, St Louis, Missouri  
National Counsel to the American Center for Voting Rights

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

*Technical Advisor:*  
**Craig Donsanto**  
Director, Election Crimes Branch, U.S. Department of Justice

Throughout the process, EAC staff assisted the consultants by providing statutes and cases on this subject as well as supervision on the direction, scope and product of this research.

The consultants drafted a report for EAC that included their summaries of relevant cases, studies and reports on voting fraud and intimidation as well as summaries of the interviews that they conducted. The draft report also provided a definition of voting fraud and intimidation and made certain recommendations developed by the consultants or by the working group on how to pursue further study of this subject. This document was vetted and edited by EAC staff to produce this final report.

at what point do we stop harp on who... i.e. lots more to stop the book + then speak of "EAC actions" ?