

1

2

3

4 U.S. ELECTION ASSISTANCE COMMISSION

5 BOARD OF ADVISORS MEETING

6

7 Taken at the Hamilton Crown Plaza Hotel

8 1001 14th Street, Northwest

9 Washington, D.C.

10

11 Taken on the date of:

12 Tuesday, May 23, 2006

13

14

15

16

17

18

19

20

21 Start time: 10:00 o'clock, a.m.

22 Taken before: Jackie Smith, court reporter

1

P-R-O-C-E-E-D-I-N-G-S

2 MR. DEGREGORIO: Good afternoon,
3 everyone. I want you to continue eating because
4 this is an eat-and-listen type of luncheon.

5 First of all, the first thing I want
6 to do is welcome all of you to the Election
7 Assistance Commission Board of Advisors Meeting,
8 and we're starting off today with a lunch. The
9 Chair of the Board of Advisors, Beverly Kaufman,
10 is on her way here. Her plane landed at five to
11 12, so she asked me to go on with the program at
12 lunch time here, and she'll be certainly here in
13 time for the plenary session that starts at
14 1:30.

15 I want to take this opportunity to
16 welcome you on behalf of my fellow
17 Commissioners. I am the new federal officer of
18 the Board of Advisors, took over from the former
19 Chair, Gracia Hillman, and I have responsibility
20 for making sure that all your needs are taken
21 care of by law, in fact.

22 I want to welcome you to Washington,
3

1 and hope that you have a productive two days
2 here. We have a full agenda, as you see, that
3 we have worked on with your Chair to put
4 together. We have a lot of presentations to
5 make. That is why we're starting quite early

6 with this one lunch, because we have four to
7 give presentations during this lunch who have to
8 give the same presentation to the Standards
9 Board two floors below, so that's why we have to
10 begin.

11 I want to do just a little
12 housekeeping so you're aware of some things. We
13 have a wonderful transcriber who has been with
14 the EAC and doing work with us as a contractor,
15 but she does wonderful work, Jackie Smith, here,
16 has done a lot of things. And we were talking
17 on the elevator coming up here how she has
18 worked with this agency from the beginning in
19 her time transcribing, which she's transcribing
20 what I just said to you. We need to make sure
21 that when you do speak, when you do ask a
22 question, or whenever you might speak here today

4

1 and tomorrow, that you say your name clearly so
2 Jackie can pick it up and make sure that she
3 identifies the remarks with the person for the
4 transcription.

5 In the front there, you see Anita
6 Owens and Theresa Chang, who is also here in the
7 back there. They are signers for the meeting,
8 and we welcome them. I will try to talk slow

9 instead of fast for them. And doing the sound
10 is Eric over here, to make sure that you all can
11 hear what we're saying. These devices, as you
12 can see, you press down on the silver button to
13 activate the microphone and turn it off when
14 your finished speaking, and so Jackie can get
15 the transcription. We ask that you turn your
16 cell phones to at least vibrate, so we can have
17 an uninterrupted meeting for the next couple
18 days.

19 If I might, we have a couple
20 certainly of our staff members present. He was
21 a member of this committee until he had to
22 resign to become our executive director in June

5

1 of 2005, Tom Wilkey, is right here in the middle
2 of all of you, and he is going to be in and out
3 of our meetings. So it's good to have Tom join
4 us.

5 And I'm sure all of you have heard
6 from or gotten e-mails from Amie. Amie is my
7 special assistant, and you want to remember
8 Sheila Banks, with Commissioner Hillman. Amie
9 has taken over the responsibilities to make sure
10 everything goes smoothly. She worked to assist
11 with your travel and other things that we do
12 here. Any kind of needs that you might have

13 over the next two days, please see Amie, and
14 she'll make sure that she takes care of those
15 needs, whatever they might be. Amie is here
16 with us.

17 It is a joy to have all of you here.
18 You know, you last met in August of '05 in
19 Portland, and that was a very good meeting. I
20 attended portions of it, but it was a very good
21 meeting. We have accomplished a great deal
22 since that time. I won't go into detail, but

6

1 let me note a few of the highlights.
2 Since that time, we distributed all
3 the 3.1 billion dollars that Congress
4 appropriated under the Help America Vote Act.
5 That's a big step. Certainly, you all know, as
6 you debated last time, the Voluntary Voting
7 System Guidelines, we got that done in the
8 nine-month period prescribed by HAVA, and we
9 issued them in December of 2005. We're working
10 diligently this year on our certification
11 program. I know it's our top agenda item. It's
12 a top agenda item every day to get that done.
13 We have issued guidance since we last met on
14 statewide databases. We answer questions and
15 offering guidance every day from the states.

16 Many of you folks from the states deal with
17 Peggy Sims, I know. And what we do, we have
18 many research projects which you're going to
19 hear about the next two days.

20 Our inspector general is up and
21 running. Roger Laruge and his staff have done a
22 lot of work actually since last August. And, of

7

1 course, we issued the California audit a week
2 ago Friday, which you probably saw that, but we
3 have other work that they are doing in other
4 states to insure proper spending of HAVA funds,
5 and we're doing that.

6 An EAC newsletter, Jenny Layson, our
7 PR person, launched that on April 6th, a monthly
8 e-mailed electronic newsletter to keep people
9 informed of what we're doing. We issued many
10 reports. All of you should have received copies
11 of our Election Day Survey, of course, the VPSD,
12 the ULKE HAVA Survey that we issued in March of
13 '06 about the 2000 election, our annual report,
14 our various surveys that we issued on
15 provisional voting on lever machines and Section
16 301.

17 So we have accomplished a great deal
18 since last August, with not much. We're one of
19 the smallest agencies of the Federal Government,

20 as you all know. We only have 23 full-time
21 people, and that includes the four
22 Commissioners, but we have worked very hard

8

1 every day to accomplish our mission and goals.

2 And it takes a lot of extra effort by our staff,

3 and they have made that extra effort to do so.

4 This has been a busy year for the

5 Commissioners because it's an election year, and

6 it's a busy year for many of you, whether you

7 are election officials, or advocates, or

8 involved in this process one way or the other.

9 And we know that a third of the

10 country is transitioning to new equipment this

11 year. Special attention is being paid to those

12 states, and we're doing that as well as just in

13 the last three weeks, I visited North Carolina,

14 Nebraska, Pennsylvania, for their primaries to

15 observe firsthand the transitions those states

16 have gone through with the new equipment.

17 I would say, generally speaking, it went well in

18 those three states. There have been some

19 problems along the way in a few states, and

20 there is one common thread that I have seen.

21 Since we all started, all four Commissioners

22 have been out, but it is about poll workers,

9

1 poll worker training. We're going to talk about
2 that when we have our folks from IFES come, but
3 it is a common thread that we hear about the new
4 equipment, that poll workers need this hands-on
5 training of the equipment.

6 Chicago, they had probably the
7 biggest challenge I have seen in my lifetime.
8 Nobody ever wants to go through what they went
9 through on March 21st, but David's here who
10 survived it. He survived it, and I know they
11 are going to have a great election in November,
12 but they were presented with many challenges,
13 not just transitioning to new equipment, but new
14 laws and new procedures imposed by the Illinois
15 legislature.

16 So it is a challenging year for all
17 of us, but we're up to that challenge and up to
18 meeting that challenge, and know that over the
19 next few days, we're going to hear from you as
20 we have these discussions, as you hear from our
21 staff, and look toward to any input and guidance
22 that you may give us over the next two days so

10

1 that we can serve the nation and do what HAVA
2 wants us to do, provide assistance to the

3 states, the District of Columbia, and the
4 territories of the United States.

5 So, well, our first presentations
6 will be given by Edgardo Cortes of our office.
7 He is a young man who has done tremendous work
8 since he started with the EAC about less than a
9 year ago, and he's done very good work. And the
10 first two topics that he's going to actually
11 discuss with you, the first one involves Spanish
12 and Asian Language Working Groups. We have
13 convened these working groups, consisting of
14 election advocates, and Edgardo will describe
15 them more in detail, to help the EAC assess the
16 prospects of several language specific projects
17 that include a translation dictionary for
18 election terminology and the NVRA terms. He'll
19 talk about that first, and then he is going to
20 go into a discussion of our public access portal
21 projects, where he is researching these public
22 access portals that many states of the nation

11

1 have not been using, and the election
2 jurisdictions have been using to conveying
3 information to voters. We want to look into
4 that, share that type of information with the
5 election officials and the voters.

6 So Edgardo, I will turn it over to

7 you for the first two presentations.

8 MR. CORTES: Thank you, Mr. Chairman.

9 Can everybody hear me?

10 Good afternoon. As the chairman

11 mentioned, my name is Edgardo Cortes. I have

12 been with the EAC for a little better than a

13 year. I started in late July of last year.

14 Prior to coming to the EAC, I was a director of

15 a national voter registration program focused on

16 registering Puerto Rican/Latino communities

17 throughout the U.S., and I also did some

18 political consulting work around the country.

19 So right now I am working with Peggy

20 Sims, who as the chairman, worked a lot on a lot

21 of the HAVA funding questions. So if you all

22 hear from me, it is probably with HAVA funding

12

1 questions. We deal with the requirement

2 payments, the college poll worker program, which

3 the RPs just went out, and we're awaiting issues

4 surrounding the National Voter Regulation Act or

5 NVRA. And so it's my pleasure to share

6 information on the two projects that I am

7 currently working. The Spanish & Asian Language

8 Working Groups will be the first topic that I

9 discuss.

10 As many of you know, there's been a
11 lot of demographic changes in the country in the
12 past decade or so, and a lot of jurisdictions
13 that did not used to be are now experiencing or
14 coming up against having new communities that
15 depend on alternative languages that don't have
16 English as their primary language. And so we're
17 very aware that administrators are coming up
18 against a lot of issues that they haven't dealt
19 with previously.

20 Prior to my arrival, some folks at
21 EAC started to form this contest of bringing
22 together a series of working groups to bring

13

1 election administrators, advocates, and language
2 specialists together to determine what the
3 issues were, and what difficulties the different
4 language minority groups were experiencing, and
5 what research we might be able to do to assist
6 all of you in dealing with those issues.

7 As many of you know, HAVA Section
8 241, which is the section that lists all the
9 different studies in election administration
10 that the EAC should conduct, one of them is to
11 conduct research on what would be the most
12 convenient, accessible, and easy to use for
13 voters, including members of uniformed services,

14 individuals with disabilities, and voters with
15 limited proficiency in the English language. So
16 under HAVA, one of the mandates is to conduct
17 research to figure out how to provide access,
18 help to provide access to these voters.

19 It was under this that the Commission
20 approved the initial working group which was
21 focused around Spanish language issues. And
22 this group was brought together to guide and

14

1 recommend particular projects that will assist
2 the states in addressing issues affecting the
3 Spanish language community.

4 The Spanish language working group
5 was convened first. We looked at what issues
6 were out there, in terms of language, and we
7 looked at the size of the communities and the
8 impact that the work would have. We decided
9 that the Spanish language was by far the largest
10 language other than English that's used in the
11 administration of elections. And so we decided
12 to approach that first, and start our work on
13 that. So that first working group was actually
14 convened on August 1st of 2005. Actually, that
15 was probably my first project at the EAC. I got
16 there exactly one week ago today that I got

17 there. I had to help with bringing this group
18 together. So that group was brought together on
19 August 1st. And we had folks representing
20 different advocacy organizations. We had
21 election administrators from jurisdictions that
22 provide Spanish as one of their alternative

15

1 languages and are covered by Section 2.03 of the
2 voting rights act. And we also had some folks
3 from the Hill from different offices that had an
4 interest in these issues.

5 Now, following that, following that
6 working group, our next step was to bring
7 together a group to deal with the five
8 languages, the five Asian languages covered
9 under the voting rights act, which are Chinese,
10 Japanese, Korean, Vietnamese, and Togola. And,
11 of course, all these bring up different issues,
12 in terms of the different sets of characters
13 that's used for translating materials, and the
14 fact that a lot of jurisdictions are dealing
15 with having to provide services in multiple
16 languages.

17 That Asian Languages Working Group,
18 we actually had the first meeting of that group
19 on April 26th, so just a little bit less than a
20 month ago, we brought that group together. And,

21 again, it included election administrators,
22 advocates and different folks interested in the
16

1 process.

2 Our next step is going to be, in
3 terms of bringing groups together, we're hoping
4 to sometime next year be able to bring together
5 a native American working group, and that, I
6 think, will be really interesting for us
7 because, in that one, we'll be dealing a lot
8 with languages that don't have a written form.
9 These are purely spoken languages which we know,
10 aside from alternative language access, not
11 having a written form brings up a whole another
12 set of issues when we talk about providing, you
13 know, the same materials for those folks to
14 participate in the election process.

15 So we're looking towards doing that
16 sometime next year. We've been trying to space
17 them so out so we can focus our attention in
18 getting each of the first meetings for each of
19 these groups. Number one, getting a good set of
20 folks to come out and participate in the group,
21 and also to have time to do some research prior
22 to, and really come up with what the discussion

1 points will be, and start thinking ahead, of
2 what we want to come out of it.
3 Essentially, we're hoping that the
4 working groups will help the EAC assess
5 prospects for doing certain projects. Some of
6 these which we have discussed is a translation
7 dictionary for election terminology. That would
8 essentially be providing for each of the
9 languages we're dealing with, providing a
10 dictionary from the EAC that has English to that
11 alternative language translation for election
12 terms.

13 We realized from both working groups
14 that we have had and from the things that we
15 hear coming from the states, the biggest -- one
16 of the biggest hurdles to providing the
17 information and alternative languages is that
18 the translation services that are available
19 aren't always the greatest, and there's always
20 problems with going from an English translation
21 and doing a very literal translation, and in not
22 having the same meaning in another language.

18

1 And so we're hoping to be able to provide you
2 all some tools to help mitigate those problems
3 by providing a standard set of translation terms

4 that can be available for everyone to access
5 around the country.

6 The other thing, the other big
7 project that we're working on will be the
8 translation of the national voter registration
9 forms. Unfortunately, that form has for not
10 been provided in the Asian language, in accord
11 with Section 2.03, since the form was initially
12 created by the FEC. Now that that
13 responsibility is passed on to the EAC, we're
14 working very hard to get those translations out
15 and bring the form up to date. So that for
16 those of you that are in jurisdictions where
17 those languages are covered, you will be able to
18 have access to voter registration forms in those
19 languages.

20 Now, we currently or we recently did
21 an update, both to the English and Spanish
22 versions, which are posted up on our web site.

19

1 We did some updates to the state instructions
2 for both of those. The other thing that we're
3 essentially doing is trying to get new ideas for
4 what other research might be out there.

5 We have a lot going on at EAC, but we
6 feel that it's best to hear from the election
7 administrators and the folks in these

8 communities as to what issues are actually
9 impacting them, so we can use that to set the
10 agency's priorities, in terms of doing the
11 specific language projects.

12 But the two I mentioned, we really
13 have found seem to be the most pressing issues
14 and things that we're able to do in a fairly
15 quick fashion and, hopefully, get that out to
16 you sooner rather than later. So that's
17 basically what we have so far with the language
18 work.

19 If anybody has any questions about
20 those or wants to participate or wants
21 additional information, I think, in one of the
22 tabs, I believe it's Tab 7, that there is an
20

1 agenda from the Asian Language Working Group
2 which we recently held at the EAC offices, if
3 you all want to get an idea for some of the
4 issues that we discussed. So that's that part.

5 One of the things that I found, there
6 are different acceptable translations for
7 certain types of terms in Spanish. Some of it
8 is based on the country of origin.

9 UNIDENTIFIED SPEAKER: Is there going
10 to be within the dictionary acceptable

11 distributions and which languages they must

12 interpret for?

13 MR. CORTES: Yes. That's one of the
14 issues that came up during the working group is
15 that difference in dialects, depending on
16 country of origin. That is one of the things
17 we're trying to address.

18 We're also trying to get some
19 consensus to see what terms we can standardize
20 and which ones we'll have different options for,
21 but at least will be available so that if you're
22 in a smaller jurisdiction and you just come

21

1 under Section 2.03 coverage or you have an
2 influx of Spanish-speaking community that you
3 need to provide resources for, we want folks to
4 be able to go to the EAC web site and download a
5 document that will provide for them really a vet
6 of all these terms that will make the
7 translation easier for them to prove the work,
8 if they contract for translation services.

9 UNIDENTIFIED SPEAKER: Another thing,
10 were you aware of the Mexico Election
11 Commissions providing translation?
12 I know there's copies.

13 MR. CORTES: We have looked at that.
14 We've looked at -- I can't remember the other

15 one. There is another similar dictionary.

16 Actually, the FEC had previously, back in the

17 early, very early '80s done a Spanish language

18 dictionary of terms.

19 With the Spanish language, we're

20 really a lot further ahead than with the Asian

21 languages, although, for instance, the Asian

22 language working group, we had somebody there

22

1 from LA County who actually has their own set of

2 translation terms, listing of translation terms,

3 which we spoke about using that as a basis for

4 the EAC's work in being able to expand and

5 update that.

6 Okay. So the next project -- and if

7 anybody has any questions, please feel free to

8 contact me via e-mail.

9 UNIDENTIFIED SPEAKER: Excuse me.

10 Before you continue, Madam Chairman, on your

11 dictionary idea, and you specifically mentioned

12 your Hispanic and Asian languages, and perhaps I

13 will show my ignorance in terms of that Section

14 2.03 I think you referenced, some states like

15 Florida have Haitian and Creole. Will we also

16 be going after some other languages or will we

17 allow the states to perhaps use your framework

18 and enable the states to create their dictionary
19 as well for some of their unique languages or
20 challenges that might be present?

21 And then related to that, since an
22 election dictionary of sorts is perhaps a

23

1 vocabulary to speak to voters, would it also
2 then include folks with disabilities, and
3 alternative language, and sign language, and
4 those kinds of issues as well within this
5 reference book?

6 MR. CORTES: Well, in terms of
7 getting back to Section 2.03 of the Voting
8 Rights Act, those are covered. Those are going
9 to be our initial focus. Because we have
10 limited resources to do these projects, we want
11 to focus on those first. Because there are a
12 lot of jurisdictions out there, we want to make
13 that as easy a process as possible, and assist
14 them in meeting those obligations.

15 I think, in terms of other languages,
16 that is something we could look at in the
17 future. I know that states do often deal with
18 other languages that are not necessarily covered
19 by the Voting Rights Act. And in terms of the
20 sign language issue, that's something that I
21 think we can definitely look into. And I will

22 bring it up to the Commissioners, if that's

24

1 something that we can study for the future.

2 And I really need to, so now I'm

3 going to move on to the next topic, which are

4 the public access portals. There is one graph

5 here to show. Last fall, we awarded a contract

6 to conduct a study and create our best practices

7 document concerning public access portals, a

8 nonprofit, 5501(c)(3) organization based in

9 Detroit, Michigan. They have to this point done

10 an excellent job in their research, and their

11 project is ongoing. I will give a time line at

12 the end of this, but I want to kind of give

13 folks an idea of what they have been working on,

14 what we're looking to get out of this.

15 Before I go into that, I want to

16 briefly talk about the terminology that's used.

17 When we began this project, we were using the

18 term, "public access portals," figuring that

19 that encompassed the different sorts of web

20 sites that we were trying to look at that

21 provided this information to voters.

22 However, once we started getting into

25

1 the research, and started making calls to folks

2 that ran these web sites, and talked to them
3 about the issues, nobody really knew what we
4 were talking about when we referred to public
5 access portals. What we found out through a lot
6 of having to go through the explanations and
7 contacting so many people, that a lot more
8 usable terms and more easily understood terms
9 are just voter information web sites. When you
10 tell people about voter information web sites,
11 you grasp right away what the concept is. So we
12 are really moving towards using that terminology
13 to make it a lot easier for people that go on
14 EAC's web site to figure out what we're talking
15 about. So I just want to mention that because
16 we'll be making that switch.

17 This is a map that, essentially,
18 shows by the state what sort of voter
19 information web sites they have, whether it's
20 statewide, whether it's independent, municipal
21 programs, county programs. And, basically,
22 from September to December of last year, they

26

1 went out and they researched and tried to find
2 all the web sites that were out there at all
3 these levels, and they ran into approximately
4 425 of these voter information web sites.

5 Starting in January, they started doing a more
6 in-depth study that includes going in, getting
7 screen shots of what you actually see through
8 the whole process going through the web site,
9 talking to the folks in the election offices
10 that set up those web sites. We have the
11 administrator, the ID folks, doing that. Then
12 they really have been striving to get a mix of
13 state level web sites, county level, municipal
14 level, as well as geographic diversity so that
15 when the final document is produced, we will
16 have the ability to say in different parts of
17 the country, this is what's working and this is
18 what's not. So, essentially, that's what they
19 have been doing up to this point.

20 One of the unique additions that
21 we're able to add to this, this spring, was
22 actually Louisiana set up a statewide site to

27

1 provide information to displaced voters before
2 the New Orleans Special Election. So they were
3 actually able to track the information that got
4 posted on there, and use that as one of the case
5 studies for this project.

6 I think I have about a minute here,
7 but just to give you an idea of where we're
8 going with this, we should have a draft document

9 by mid to late summer, probably in July at
10 sometime, which I'm going to work with the
11 Commissioners to see how we distribute it before
12 the Board of Advisors and the Standards Board
13 folks are able to look at it, provide feedback
14 on the document, before we actually issue a
15 final report.

16 And so if that comes out of the mid
17 summer, we're hoping that we can get a final
18 report done in the early fall, and have that out
19 there. Because this year, a lot of folks, most
20 folks, had HAVA deadlines. This really wasn't a
21 focus for everybody, but what we're hoping is to
22 have this information available so that early

28

1 next year, as we start looking towards the '08
2 Presidential Election and people have time to
3 kind of do this and test it out and do it with
4 some time, that this information will be out
5 there for everybody to use and have access to,
6 so they have sufficient time to set it up prior
7 to those elections.

8 That's all the time I have. Thank
9 you, very much.

10 MR. ELEKES: Jim Elekes, from the
11 U.S. Access Board. Of the sites that you

12 assessed, how many of these met IEEE compliance
13 for requirements for web sites?

14 MR. CORTES: I would have to check us
15 on that.

16 MR. ELEKES: Was it a small amount,
17 were they building accessibility in from the get
18 go or was it an afterthought?

19 MR. CORTES: It depends on which of
20 the web sites. Some of the web sites have been
21 really comprehensive, have looked at making sure
22 that the information that's on there is

29

1 available for everyone to access, and dictate a
2 lot of pre planning ahead of time to look at all
3 those issues, make sure that it met those
4 standards. Some of them did it as an
5 afterthought, I just want to throw something up
6 to have it out there, and have been building on
7 it to improve it.

8 MR. ELEKES: And so the published
9 report will likely make recommendations that
10 since you have a population of about 56 million
11 Americans that are disabled and of eligible
12 voting age, the report will promulgate they
13 comply with the Section 508 standard under the
14 rehabilitation and accessibility.

15 MR. CORTES: I will check with them

16 but I'm pretty sure they are. We have
17 definitely, and that's one of the issues that I
18 stressed with them at the beginning, was in
19 terms of making sure that we were looking at the
20 issues of disability access when they started
21 this project. So they have been looking at
22 that. I can get you the exact numbers but that
30

1 will be in the recommendations, yes.

2 MR. ELEKES: Thank you.

3 MR. DEGREGORIO: Thank you, Edgardo.

4 I just want to note the presence of
5 the chair, Beverly Kaufman. She has arrived.
6 She's eating her lunch so we wouldn't ask her to
7 say anything, but to welcome her to this lunch.

8 The next person I'd like to introduce
9 to you is someone who provides us with daily
10 legal advice. She's a person of tremendous
11 ability and experience. She's from the state of
12 Louisiana, served as Board of Elections
13 Secretary of State in Louisiana before she
14 joined us. It is a pleasure to introduce Julie
15 Hodgkins.

16 Julie will talk to us about our
17 legal, on-line information clearinghouse. This
18 is an important project for us. We're supposed

19 to focus our efforts on clearinghouse activities
20 to share information, and this is one of those
21 projects that really does that. And we'll do
22 that to provide a web page that is going to

31

1 provide tremendous legal resources and
2 comparative analysis of election law information
3 from all of the states and territories. So,
4 julie, I will turn it over to you for your
5 presentation.

6 MS. HODGKINS: Thank you,
7 Mr. Chairman, and members of the Board of
8 Advisors. Thank you for allowing me to come and
9 talk about projects -- all right, there we go.
10 Thank you for allowing me to come and talk about
11 a project which, as a lawyer, is somewhat near
12 and dear to my heart but something that I think
13 will be of great value, not only to the
14 elections community, but to the public at large.

15 As the Chairman mentioned, back in
16 the days when I was the legal counsel at the
17 Department of Elections in Louisiana, I would
18 frequently get questions from the state
19 legislature, well, how does Texas handle early
20 voting or how does California handle provisional
21 balloting, and it was always a struggle to try
22 to get that information to them in a concise

1 fashion, and be able to get them the answers
2 that they needed to be able to draft
3 information. So I guess about a year ago, I
4 approached the Commission and said, what do you
5 think about putting together a legal resources
6 clearinghouse, a database that would,
7 essentially, provide one source for all of the
8 election administration laws, regulations,
9 cases, in the country. And they thought it was
10 a pretty good idea, so I shopped that around to
11 sort of a focus group, if you will, of election
12 administrators, and they thought it was a pretty
13 good idea, and this is where we're headed.

14 We're looking for a web page that
15 would provide all of you access to legal
16 information related to election administration,
17 something that would not only provide you with
18 some information, but up to date information,
19 and something that would provide you access to
20 that in a user friendly way.

21 We started our focus pretty narrowly.
22 We can always expand this database. We said,

1 let's start with election administration, start
2 with federal statutes and constitutions. So we

3 started with the U.S. Constitution, the Help
4 America Vote Act, NVRA, ULK HAVA, all these
5 different acts that impact you from a federal
6 level. We have also included your state
7 statutes, administration statutes and
8 regulations. We have had those categorized by
9 state and topic area.

10 So if you get a frantic call from
11 your legislator who wants to know how some
12 county in a neighboring state is processing
13 provisional ballots, you will be able to go to
14 provisional balloting and search, based either
15 on the state or that topic. In addition, if you
16 are looking for something a little broader, you
17 will be able to enter a key word and get a
18 panorama of the United States and how they are
19 dealing with those issues.

20 We, of course, do not want to leave
21 out cases but we didn't want to tax your time by
22 asking you to read an entire case to determine

34

1 whether or not it was relevant. So we asked our
2 contractor to provide some summaries of the
3 cases. First thing you will see pop up is a
4 summary of a case that will give you some
5 procedural history as well as the subject matter

6 of the holding of the case, and what affect it
7 had in the legal arena there. There will, of
8 course, be links, not full text. So if you find
9 something you like, you will be able to pull
10 down the whole thing, take a look at it.

11 We started our focus rather small,
12 focusing on state and federal cases related to
13 the Help America Vote Act and NVRA.
14 We will likely expand that to provide you more
15 information on Voting Rights Act cases that
16 particularly related to election administration
17 and other such acts.

18 As far as our time line, our
19 contractor has done some great work. They have
20 identified, as you can see, about 95 percent of
21 all the resources that would need to be in the
22 database and are currently in the process of

35

1 summarizing some several thousand cases out
2 there on these issues. And they will, of
3 course, be populating the database with this
4 information. We have asked them to prioritize
5 this so we can get this piece to you sooner,
6 asking them to focus on the newer cases, the
7 ones that are particularly related to HAVA
8 implementation so we can get that information,
9 as I said, out to you earlier.

10 I am really pleased to be able to
11 give you a couple of screen shots. I know these
12 are small but I hope you can get a view of what
13 it will look like. You will be able to access
14 this resource off of the EAC's home page. I'm
15 not sure if it is going to be titled, "legal
16 resources," or "legal database."

17 This is a view of the key word
18 search. So you would enter in the words that
19 you're looking at. You can search, as you can
20 see, by case. HAVA plans, various different
21 resources that you can search there. Or if
22 you're interested in looking at just a

36

1 particular state or a particular topic area,
2 there will be drop down menus where you can
3 focus on those areas.

4 This is a view of what you'll see as
5 your result. Various attachments will pop up
6 with hot links. You can click on those to be
7 able to go to the case statute or whatever the
8 case may be.

9 And last, this is just a little bit
10 more in depth view, looking at one particular
11 state, to be able to browse by states cases that
12 will all just pop up on a case-by-case basis.

13 Well, this is our vision for providing a
14 resource that I hope will be helpful to you all.

15 If you have any questions, I'd be
16 happy to answer them.

17 UNIDENTIFIED SPEAKER: When do you
18 think you will be operational?

19 MS. HODGKINS: Boy, that's the same
20 question I got in the last group. I think, in a
21 month to month-and-a-half, we'll have something
22 that will be up. It may not be fully populated

37

1 at that time. Again, we're trying to prioritize
2 so we can get some information to you faster.

3 Anyone else?

4 MR. HARDING: James Harding.

5 Mr. Chairman and Julie, I guess to follow-up on
6 Jim's question earlier, of course, we'll follow
7 the 508 standard and accessibility issues?

8 MS. HODGKINS: Absolutely. Our web
9 site is accessible, and this portion of the web
10 site will be accessible as well.

11 MR. DEGREGORIO: Thank you for that
12 question.

13 Julie, thank you for that
14 presentation. I know that this web site will be
15 of great benefit to people all over the nation
16 as legislators think about what tinkering they

17 might want to do with election laws. It will be
18 helpful to everyone across the country, and I
19 appreciate your work in leading, watching over
20 it.

21 Our next presentation will be by
22 Karen Lynn-Dyson of our staff. Yes, I'm sorry.

38

1 Dana.

2 MS. SANDERS: Dana Sanders, from
3 Austin, Texas. Paul, I'm sorry, one last
4 question, please. I'm just wondering if there
5 is anything further in our book today on that?

6 MS. HODGKINS: I'm sorry, I didn't
7 hear.

8 MR. DEGREGORIO: Do you have a hand
9 out, is there a hand out for us?

10 MS. HODGKINS: I can certainly make
11 those available. I didn't print them but I can
12 make them available tomorrow.

13 MR. DEGREGORIO: Thank you.

14 Karen Lynn-Dyson from our staff, who
15 oversees a great many projects that we have been
16 working on, has been with us over a year. She's
17 joined today by Rick Gravey, and Rick is the CEO
18 of the American Institute of Graphic Art, which
19 is the professional association for design, the

20 AIGA, as it's known, the oldest and largest
21 professional organization of designers in the
22 United States.

39

1 As you all might know, the EAC has
2 entered into a contract with the Design For
3 Democracy, which is a nonprofit affiliate of the
4 AIGA, and the EAC has sought assistance for
5 developing best practices regarding the design
6 of ballots and voter information that is posted
7 on Election Day. These best practices and
8 design will take into consideration literacy,
9 readability, usability, alternative languages,
10 especially those covered by Section 2.03 of the
11 Voting Right Act, Braille and audio
12 accessibility as well as ADA compliance.

13 This is significant work. This is
14 work that we fully expect to benefit every
15 election jurisdiction in the nation. Certainly,
16 when I go out and I visit and I see polling
17 places on Election Day and I see the various
18 type of posters or information that is presented
19 to the voters or to the poll workers, this is in
20 varying stages of rehabilitation. And so what I
21 think the Design For Democracy will do is give
22 us their professional advice on how to improve

40

1 this process for poll workers and for the voters
2 of the nation, and improve the process
3 throughout the country.

4 So, Karen and Rick, I will turn it
5 over to you for your presentation. Thank you.

6 MS. LYNN-DYSON: I'm going to say,
7 very briefly, I think most of you all know me,
8 and I'm hoping that throughout the next couple
9 of days, that you will feel very free to grab me
10 in the hallways if you have questions or if you
11 have concerns as you think about this agency and
12 its research agenda. And as we particularly
13 begin to move away from our HAVA-mandated
14 research studies and into more of an ongoing
15 role as a clearinghouse for the elections
16 community, share with me your ideas for
17 additional research for clearinghouse
18 information functions that we can provide.

19 Chairman DeGregorio has heard me say
20 this a number of times before, that I see this
21 as a continual process in which we do research,
22 research that is requested by you all that seems

41

1 to be indicated as needed in the elections
2 community. We get it on our web site, get this
3 information out in the elections community, and

4 then we feed back again into research work that
5 we do, again, that is applied research, that is
6 research that is of use to you all as you
7 attempt to do effective elections.

8 I'm going to just let Rick continue.
9 Again, he is the CEO of the American Institute
10 of Graphic Arts. The American Institute of
11 Graphic Arts is the umbrella organization for
12 Design For Democracy, Design For Democracy being
13 the nonprofit organization who is doing this
14 contract work for us.

15 We just came from downstairs and we
16 had the benefit of being able to point right
17 across the hall. I can't do so up here but Rick
18 will mention to you that we will actually have
19 these exhibits, the polling place signage and
20 the ballot designs, downstairs. He has two
21 staff members here on-site. They will be here
22 for the next two days. They are there to hear
42

1 you all. They are there to get your feedback.
2 This is really an interactive experience and
3 they need to hear from you all. So, please, at
4 any point in the next two days, make a point to
5 go downstairs and actually take a look at these
6 exhibits.

7 MR. DEGREGORIO: By downstairs, you
8 mean on the bottom level?

9 MS. LYNN-DYSON: Where the Standards
10 Board is meeting.

11 MR. DEGREGORIO: We're going to have
12 our joint luncheon there tomorrow.

13 MS. LYNN-DYSON: I think where
14 everyone checked in, at that staircase, if you
15 just go down to the bottom of that staircase,
16 you will see the exhibit. And they are great,
17 they are all there for you to take in and
18 comment on.

19 MR. DEGREGORIO: Rick, if you could
20 use the mic.

21 MR. GRAVEY: Sure. Maybe it's easier
22 -- right.

43

1 I want to thank you for giving us
2 this opportunity. I am Rick Gravey, director of
3 AIGA. I think one of the advantages of working
4 on this project has been you've got the full
5 depth of the design process available wherever
6 needed.

7 This is a project that's extremely
8 important to us. It is something we started as
9 Design For Democracy in '99 on the concept that
10 clearer communication can increase trust in

11 Government. It's at a level where we're dealing
12 with some very real problems. The project that
13 we're working on at the moment is the design of
14 ballots, creating a uniform design of ballots
15 for paper and electronic use, and also polling
16 place signage.

17 The concept is to draw from research
18 experience and expertise to develop a universal
19 guide that can be applied locally that can
20 recognize not only the constraints of HAVA
21 compliance, but also the constraints of
22 technical needs, and yet respond to the ability

44

1 to adopt to local requirements and, ultimately,
2 that will be characterized by simplicity and
3 clarity. And, certainly, I'm not going to
4 actually show you examples of what we have
5 developed to date, although they are available
6 under Tab 5 in all of your notebooks.

7 The point that Karen made a moment
8 ago, quickly, because I am going to go through
9 this quickly, because, ultimately, the object is
10 for us to listen to you. Mary Grant is here,
11 who is an experienced strategist with us and
12 Elizabeth Hare. Most of them will be here in a
13 room today that's just opposite where people are

14 meeting at the lower level, and then there is
15 another board room where they will be tomorrow
16 from ten to six. And we welcome your
17 involvement your joining us to look at some of
18 the exhibits, and comments on them and to share
19 the most significant concerns that you have
20 concerning the design of ballots.

21 One of the things that I wanted to
22 mention to you, in terms of process, process of
45

1 design, is not simply creating a ballot design,
2 but rather understanding the experience,
3 breaking it into segments, and understanding how
4 people react to information.

5 Right now, we're at the Steps 5 and 6
6 for this sort of 12-step process here. It's
7 about gathering information, developing
8 prototype ideas. If you've got a good designer
9 working for you, what they do is they listen
10 carefully and then they develop prototypes for
11 you to react to. This reaction, this setting is
12 not to evaluate whether we got it right. It is
13 to listen carefully so we can respond to what we
14 hear. The exhibits that we have downstairs are
15 all marked draft because that's exactly what
16 they are. They are there to provoke
17 conversation with all of you.

18 In terms of the work that we've done
19 so far, we start with the concept that we're
20 trying to create a useful, usable design.
21 Beautiful design, in our mind, is design that
22 works; useful, usable, and effective. That is
46

1 where the beauty lies. It is simple, it is
2 clear. The way we start is we draw from
3 research that we already know, things like you
4 should minimize use of capital letters, you
5 should not do center alignment, you should
6 minimize the number of type sets. Those have
7 been proven by research. We also will share
8 information that deals with the technical
9 challenges of the equipment options. We will
10 deal with what we know from research in almost
11 any area of what information people receive to
12 be most important, and then also suggestions on
13 how to scale and order information, so sort of
14 an universal guide.

15 Basically, what happens is we start
16 with a concept and then move on to our own
17 expert project advisor, and we look for advice
18 from you and the people downstairs. You are the
19 ones who have the experience at the field level.

20 I hope to get a chance to meet

21 everyone. Questions?

22 MS. NOREN: Wendy Noren. You
47

1 mentioned you're going to start testing it on
2 voters. Would you also test it on poll workers?
3 One of the criticism with the ballots in
4 elections is giving voters the wrong ballots,
5 and which style of ballot they are supposed to
6 get.

7 MR. GRAVEY: The EAC has as a
8 complimentary project -- Karen, do you want to
9 comment?

10 MS. LYNN-DYSON: Go on.

11 MR. GRAVEY: We have worked on that
12 in other jurisdictions.

13 MS. NOREN: If the poll workers
14 should be testing, can they tell the difference
15 between Style 1 and style 2 under your version?
16 which I think is rather murky.

17 Also, are you doing these within the
18 confines of the particular state laws of the one
19 you're doing it in, for example, the use of
20 capital letters?

21 MR. GRAVEY: It will be possible to
22 modify this. In Cook County, we did encounter
48

1 the issue of capital letters. It's a usability
2 issue.

3 MS. TURNER: Sharon Turner. I am
4 interested in the vendor response to our need
5 for having uniform ballot design. Because in
6 doing so, it certainly homogenizes the system.
7 What kind of responses are you getting?

8 MR. GRAVEY: We have worked with a
9 number of vendors in the past on this project.
10 We haven't come to that point yet. The idea
11 here is to provide universal guidelines and not
12 commend a specific format. What we hope to get
13 out will be something that will be very useful
14 to vendors in helping them as well as us, in
15 terms of addressing the issue.

16 We haven't gotten negative response.
17 One of the things we have discovered from
18 vendors recently, they have been pretty
19 realistic about the need for design as a result
20 of the consequence of the last couple elections,
21 where in the past, they might have been less
22 sensitive to it. They realize there's things

49

1 about usability that they don't know. They can
2 solve it in an engineering sense, but they
3 haven't been on some of the issues that they are
4 eager now to solve.

5 Our experience so far has been
6 relatively positive, but we haven't done a
7 collaboration on all of this yet.

8 MR. HARDING: J.R. Harding, Access
9 Board, Tallahassee, Florida. First, thank you.
10 Second, is there any collaboration with your
11 usability study and the National Institute of
12 Testing and their technical guidelines group in
13 their usability human factors component?

14 MR. GRAVEY: Absolutely.

15 Karen, did you want to comment?

16 MS. LYNN-DYSON: No. Go ahead.

17 MR. GRAVEY: We actually developed
18 with the design standard for NIST, so there is
19 certainly a collaboration there and with their
20 staff ,and there shouldn't be any issue there of
21 lack of collaboration with the outcome
22 requirement.

50

1 MR. HARDING: Well, that's part one.
2 The second part, I was wondering since you
3 specifically mentioned Braille and ADA
4 requirements, the fact that you even know what
5 those two things are is nice. But within the
6 ADA, you know, voting systems is not uniquely
7 articulated. And this is really kind of a new

8 phenomenon of creating a new beast and applying
9 separate sets of standards.

10 Could you kind of expand upon your
11 thoughts and ideas of how Braille and reasonable
12 accommodation or compliance would fit into this
13 vision or yours?

14 MR. GRAVEY: I can tell you, at the
15 moment, we're at a point where we're listening
16 and we're trying to gain input from others on
17 that. We certainly welcome any thoughts you
18 have on that, to deal with those issues, but the
19 process that we're going through now is just
20 beginning, in terms of trying to get help.

21 MR. HARDING: Then I guess I should
22 be quiet, because other members have comments,

51

1 but there are some national groups right here in
2 Washington who I am certain, like APD or the
3 National Organization of Disabilities, and then
4 many states have their own little groups, and
5 particularly centers for independent living, who
6 collaborate at the state level with polling and
7 so forth, would be very useful to you.

8 MR. GRAVEY: Thank you. We do have a
9 plan, in terms of being involved with the groups
10 out of Washington. I don't think we have
11 actually set up a mechanism for getting to the

12 state level groups but we certainly welcome any
13 thoughts on the best people to be dealing with
14 on that.

15 MR. LEWIS: Doug Lewis, from The
16 Election Center. Have you looked at
17 jurisdictions that have very long ballots? And
18 it cannot be just what is good, visual graphics
19 without also thinking about cost of production,
20 because if the ballot looks pretty and is spread
21 out over many pages, it ends up being something
22 that's not going to be used by very many

52

1 jurisdictions.

2 So are you looking at those issues?

3 MR. GRAVEY: We are, indeed, looking
4 at that. I can assure you with this theme,
5 looking pretty is not the idea but being
6 effective and recognized in the constraints of
7 the local jurisdictions.

8 MR. LEWIS: If you look at Tennessee,
9 it is their longest ballot ever because they run
10 on eight-year cycles where they put all their
11 judicial candidates on, so there is going to be
12 an exceedingly long ballot. California
13 sometimes has these where they have 945 issues,
14 and you will end up looking at some of those

15 where, in the initiative state, where they have
16 long, long ballots.

17 MR. GRAVEY: We have done the work in
18 Oregon, which certainly has a lot of
19 initiatives, and in Cook County. I understand
20 the issue. And the question of being sensitive
21 on cost and implementation is something that we
22 will definitely keep in mind.

53

1 MR. DEGREGORIO: Thank you for that
2 excellent presentation. And I know that you and
3 your staff will be around for the next couple
4 days for any comments. We appreciate the work
5 that you and your organization is doing. It is
6 very important work, great partnership to bring
7 professionals together with election officials
8 to serve the voters of this nation, and we
9 certainly appreciate everything that you're
10 doing. Thank you.

11 MR. GRAVEY: Everyone be sure to
12 visit downstairs when you get a chance.

13 MR. DEGREGORIO: Thank you.

14 Madam Chair is here, and we're going
15 to, I guess, Madam Chair, take about a
16 six-minute break so you can start on time.

17 CHAIR KAUFMAN: All right.

18 MR. DEGREGORIO: We'll be back in six

19 minutes to start with the general section.

20 Thank you.

21 (Short Recess.)

22 CHAIR KAUFMAN: We're going to call
54

1 this meeting to order in 30 seconds. All right.

2 Ladies and gentlemen, we're five minutes behind

3 schedule, so I'm going to call the meeting of

4 the Board of Advisors, our first plenary

5 session, to order and give you my belated

6 welcome to the meeting. And it's good seeing

7 all of you, and I am very pleased to have such a

8 good turnout of the members of the committee

9 here.

10 If you will look at your agenda, the

11 first business and order is the appointment of a

12 parliamentarian. And I would like to appoint

13 Mr. Craig Donsanto, with the Justice Department,

14 to serve as parliamentarian. Do you accept?

15 MR. DONSANTO: I accept. No food

16 fights.

17 CHAIR KAUFMAN: All right.

18 Hopefully, you will not be called upon to serve,

19 but it's good to have you.

20 Mr. Secretary, are you ready to call

21 the roll? Attention, please. The secretary is

22 going to call the roll in order to determine how

55

1 many voting members are here. If any of you has
2 a proxy, when that person is called out, would
3 you chime in and let us know you have a proxy to
4 be considered by our proxy committee, which will
5 be introduced. If you sent in a copy you are
6 withdrawing, you are also to notify the chair
7 that you are here.

8 So with that, I'm going to recognize
9 the secretary, Mr. Sirvello. Please proceed.

10 MR. SIRVELLO: Thank you, Madam
11 Chair. Please answer, "present" or "here."
12 Chair, Beverly Kaufman?

13 CHAIR KAUFMAN: Here.

14 MR. SIRVELLO: Vice-Chair,
15 Christopher Thomas?

16 VICE-CHAIR THOMAS: Here.

17 MR. SIRVELLO: Secretary Tony
18 Sirvello, here. Polli Brunelli?

19 MS BRUNELLI: Here, and I did send in
20 a proxy, Madam Chair.

21 CHAIR KAUFMAN: So noted.

22 MR. SIRVELLO: Sharon Turner Buie?

56

1 MS. TURNER-BUIE: Here.

2 MR. SIRVELLO: Robin Canahan?
3 MS. CARNAHAN: Here.
4 MR. SIRVELLO: Joseph F. Crangle?
5 MR. CRANGLE: Here.
6 MR. SIRVELLO: Keith Cunningham?
7 MR. CUNNINGHAM: Here.
8 MR. SIRVELLO: James C. Dickson.
9 MR. DICKSON: Here.
10 MR. SIRVELLO: Craig Donsanto?
11 MR. DONSANTO: Here.
12 MR. SIRVELLO: James Elekes?
13 MR. ELEKES: Here.
14 MR. SIRVELLO: J. R. Harding?
15 MR. HARDING: Here.
16 MR. SIRVELLO: Ernie Hawkins?
17 MR. HAWKINS: Here.
18 MR. SIRVELLO: Mary Herrera?
19 MS. HERRERA: Here.
20 MR. SIRVELLO: Wesley Kliner, Jr.?
21 CHAIR KAUFMAN: He is here. He is
22 just outside.

57

1 MR. SIRVELLO: Linda H. Lamone?
2 MS. LAMONE: Here.
3 MR. SIRVELLO: Doug Lewis?
4 MR. LEWIS: Here.
5 MR. SIRVELLO: Chris Nelson?

6 MR. NELSON: Here.
7 MR. SIRVELLO: Wendy Noren?
8 MS. NOREN: Here.
9 MR. SIRVELLO: David Orr.
10 MR. ORR: Here.
11 MR. SIRVELLO: Douglas Palmer.
12 MR. PALMER: Here.
13 MR. SIRVELLO: Helen Purcell?
14 MS. PURCELL: Here.
15 MR. SIRVELLO: Cameron Quinn?
16 MR. QUINN: Here.
17 MR. SIRVELLO: Christopher Rants?
18 MR. RANTS: Here.
19 MR. SIRVELLO: Sam Reed?
20 MR. REED: Here.
21 MR. SIRVELLO: Sue Sautermeister?
22 MS. SAUTERMEISTER: Here.

58

1 MR. SIRVELLO: Hilary Shelton?
2 MS. SHELTON: Here.
3 MR. SIRVELLO: Thomas Shortbull?
4 MR. SHORTBULL: Here.
5 MR. SIRVELLO: Sheldon Silver?
6 MR. SILVER: Here.
7 MR. SIRVELLO: Tamara Somerville?
8 MS. SOMERVILLE: Here.

9 MR. SIRVELLO: Ashley Taylor?

10 MS. TAYLOR: Here.

11 MR. SIRVELLO: Abigail Thernstrom?

12 MS. THERNSTROM: Here.

13 MR. SIRVELLO: Rebecca Vigil-Giron?

14 MS. VIGIL-GIRON: Here.

15 MR. SIRVELLO: That concludes the

16 roll call.

17 CHAIR KAUFMAN: I will ask again, are

18 there any proxies. The Chair hearing none, I'm

19 going to name the proxy committee who have

20 nothing to do at this point. I'm going to name

21 the proxy committee who have no role to play at

22 this point, but should a member have to leave

59

1 and turn in a proxy at some later point, even

2 then the proxy committee will be called into

3 order. The members are Linda Lamone, Keith

4 Cunningham, and Cameron Quinn. How many votes,

5 Mr. Secretary?

6 MR. QUINN: I am Tom Fuentes from

7 California, and my name was not called.

8 CHAIR KAUFMAN: Apologies. New

9 member?

10 MS. HEGARTY: Mary Hegarty, Grand

11 Rapids, Michigan, and I was not called.

12 CHAIR KAUFMAN: All right.

13 Keith Cunningham, you called him,

14 didn't you? Now, how many votes?

15 MR. SIRVELLO: Twenty-six present.

16 CHAIR KAUFMAN: Twenty-six. Thank

17 you.

18 Now, we do have some first time

19 attendees, new members of the Board of Advisors,

20 and I'd like to formally recognize you and

21 welcome you. Mr. Fuentes was appointed by

22 Speaker Hazzard. Mr. Fuentes, would you tell us

60

1 your background in elections, and make yourself

2 known to us.

3 MR. FUENTES: Thank you, Madam Chair

4 and colleagues. I am the chairman emeritus for

5 twenty years of the Republican Party of Orange

6 County, the largest serving chair in the history

7 of California. I am also a local elected

8 official. I serve as the trustee of the South

9 Orange County Community College District. I am

10 a member of the Bush administration, as a member

11 of the board of directors of the Legal Services

12 Corporation.

13 CHAIR KAUFMAN: And we have a mutual

14 friend, and one Charlotte Mozell?

15 MR. FUENTES: Oh, indeed we do.

16 CHAIR KAUFMAN: Welcome, sir.

17 Ms. HEGARTY?

18 MS. HEGARTY: Hello, I am Terry

19 HEGARTY, City Clerk in Grand Rapids, Michigan.

20 I worked for the city for 28 years. I have been

21 a clerk for over 11 now. And in Michigan, as

22 you probably know or may know from Chris Thomas,

61

1 we do conduct the elections, so all of the

2 elections, whether they are school or local or

3 federal elections, are conducted at the local

4 level. Grand Rapids, 123,000 are registered

5 voters, our second largest city in the state.

6 I have been fortunate enough to be on

7 lots of commissions and boards, and I currently

8 serve on the counsel of election officials in

9 the state, and I also was on the Secretary of

10 States HAVA Advisory Board. And we just

11 recently introduced a new optical scan system,

12 replacing our punch card system last August. We

13 had a precinct count punch card system like Cook

14 County had, so we have had a lot of involvement

15 with HAVA, and appreciate the opportunity to

16 work with all of you. I am really excited about

17 that.

18 CHAIRMAN DEGREGORIO: You were

19 appointed by the new house administration

20 Hailers?

21 MS. HEGERTY: Yes.

22 CHAIR KAUFMAN: And my old friend,
62

1 Keith Cunningham, who was also appointed.

2 MR. CUNNINGHAM: Yes. My name is
3 Keith Cunningham, Director of Elections in Allen
4 County, Ohio. Prior to assuming this position
5 nine years ago, I held an elected office in our
6 community for approximately 14 years. And I am
7 also in the private sector past life a printer
8 by trade so it's pretty beneficial. I have
9 served on Secretary Blackwell's Ohio election
10 systems study committee in 2002, and I am a
11 private graduate of the Election Center Program
12 in 2004. That will cost you a beer.

13 CHAIR KAUFMAN: Keith and I became
14 friends as Election Center students, and I would
15 sit next to him and help him, unsolicited, with
16 his crossword puzzles.

17 MR. CUNNINGHAM: You actually made
18 fun of me because I couldn't get them done.
19 Would you like some help, kid.

20 CHAIR KAUFMAN: It was like, I hope
21 none of my voter precinct voter people assist
22 the voters the way I helped Keith with his

1 crossword puzzle.

2 All right. Mr. Donsanto.

3 MR. DONSANTO: I am Craig Donsanto,

4 with the election crimes branch of the U.S.

5 Department of Justice. I have been in criminal

6 law enforcement capacity since '72. I oversee

7 investigations, prosecutions, involving voter

8 and campaign financing.

9 CHAIR KAUFMAN: And you succeed Knoll

10 Hillman, who is a Federal Judge now.

11 MR. DONSANTO: Well, he is on his way

12 up there. I don't think he's been confirmed

13 yet.

14 CHAIR KAUFMAN: One of our former

15 members is on his way to the federal bench.

16 Congratulations, Knoll. Thank you.

17 Cameron.

18 MR. QUINN: I am Cameron Quinn. I am

19 the former secretary of the State Board of

20 Elections in Virginia for about four-and-a-half

21 years, and spent three years doing elections

22 consulting, mostly through IFES, formally known

64

1 as the International Foundation for Election

2 Systems. And now I am the special counsel for

3 voting matters in the civil rights division,

4 Department of Justice.

5 CHAIR KAUFMAN: Thank you. I know

6 Chairman DeGregorio introduced some of the

7 support staff earlier in the meeting, but I

8 wanted to give special recognition to our court

9 reporter sitting behind me, Jackie Smith,

10 because Jackie and I knew each other in another

11 life. She was an outstanding freelance court

12 reporter in my county. And for about five

13 years, I was the master for the County Judge,

14 and I served as Judge over liquor license

15 protest hearings, and she was one of my mainstay

16 court reporters through some long days of

17 hearings about neighborhood complaints. We had

18 a lot of work because there is no zoning in

19 Harris County or anything in the City of Houston

20 so we would always have neighbors who kicked the

21 bars out of our residential neighborhoods. It

22 was a wonderful surprise to walk in and see an

65

1 old friend sitting in here. And another remind,

2 for the record, when you speak, please

3 acknowledge who you are, for the record, and

4 keep those cell phones off or on vibrate.

5 Now, having said that, proceeding

6 with the agenda, our bylaws provide that the

7 Vice-Chair serves -- or rather rules that we
8 passed in Oregon provide that the Vice-Chair
9 serves as chairman of a resolutions committee at
10 each of our meetings. And so I have asked David
11 or Doug Lewis, J.R. Harding, and Rebecca
12 Vigil-Giron to make up the rest of that
13 resolutions committee. And I will recognize
14 Vice-Chair Thomas as chair of that committee for
15 meeting announcements right now.

16 MR. THOMAS: Thank you. Chris
17 Thomas. We would like to meet right before
18 lunch tomorrow. Any resolutions that you have,
19 please submit them by that time. It will be the
20 deadline. They will be taken up in the latter
21 part of the afternoon tomorrow in the business
22 meeting.

66

1 I do have just some resolution
2 guidelines here. I don't know if you all want
3 to carry this around. I will have them
4 available for anyone who wants them, should you
5 be interested in putting a resolution together.
6 So we will convene that meeting just prior to
7 lunch tomorrow, and then see what type of
8 resolutions have come in, and at that point, we
9 will probably work on it right after lunch and

10 be ready to report to the full board in our 3:00

11 meeting. Thank you.

12 CHAIR KAUFMAN: Thank you, Chris.

13 Next on the agenda is a review of the
14 meeting book materials. Has everyone picked up
15 their credentials in their meeting books? Your
16 pound of paper to carry home.

17 Going through the tabs, do you want
18 me to describe this stuff or do you want someone
19 to put it together to describe it Mr. Chairman.

20 MR. DEGREGORIO: Well, let me just
21 say, Madam Chairman, if you go through these
22 tabs, they follow the presentations that are

67

1 being given to the committee over the next two
2 days. Certainly, they have had some of the
3 presentations already at lunch, but if you see
4 this, basically, it's just the presentations.

5 Follow the presentations. I think there may be
6 other handouts that will be given out but that's
7 what the material is in the book.

8 CHAIR KAUFMAN: Tab 2 is the law that
9 authorizes our existence. Three is an updated
10 roster of our members. Tab 4 is the minutes
11 which we'll be addressing monetarily on the
12 agenda. Five is back-up material from
13 presentations we have already heard. And then

14 all the rest of it is back-up information from
15 the presentations on the agenda, as Chairman
16 DeGregorio indicated.

17 So any questions about the materials?

18 MR. HARDING: Madam Chairman?

19 THE COURT: Yes, Mr. Harding.

20 MR. HARDING: Because we have four
21 new members today, and I would suspect that the
22 next time this group gets together, there will
68

1 be at least one more new member, one of the
2 things that I was thinking of is a mentoring or
3 some kind of shadowing to assist people who have
4 not been a part of the last two years worth of
5 activities. And then anyone who may be coming,
6 again, because some of the appointments are
7 staggered, and what mechanism our group and
8 specifically the EAC may have into making sure
9 the ball's not dropped and the new member is
10 fully engaged and capable of being able to pass
11 that ball around. And I say all of that because
12 this will be my last meeting.

13 CHAIR KAUFMAN: No.

14 MR. HARDING: Unfortunately, yes.

15 CHAIR KAUFMAN: Who will I pick up on
16 if you leave?

17 MR. HARDING: Jim.

18 CHAIR KAUFMAN: Well, you're going to
19 be missed. So I am glad I put you on the
20 resolutions committee. You have been a very
21 productive member of this group and have
22 contributed mightily, so thank you. Jim?

69

1 MR. ELEKES: Madam Chair?

2 CHAIR KAUFMAN: Yes, Jim.

3 MR. ELEKES: As long as J.R. is
4 announcing, as of July 1st, the U.S. Access
5 Board will be given its Section 508 and Chapter
6 255 refresh, and will be upgrading the
7 regulations for the first time since 1998. I
8 was called this morning by our chairman, David
9 Bibb, who offered me the chairmanship of the two
10 committees, and I have graciously accepted, so
11 this too will be my last meeting.

12 However, as the chair of the 255 and
13 508, he has advised me that I will be in a
14 technical role. If there are any questions that
15 one of the persons replacing me needs to have
16 addressed while we're doing rule making, I'll be
17 the one coming back or responding to the
18 communications.

19 CHAIR KAUFMAN: And, likewise, we're
20 grateful for your service, and you have made a

21 great contribution to the successes that we have

22 had thus far.

70

1 Let me just say that I have, at the
2 prompting of Chairman DeGregorio, spoken with
3 Secretary Sirvello, who by the bylaws chairs the
4 bylaws committee, to take a look at language in
5 our bylaws pertaining to the length of terms of
6 our members so that we can put a little more
7 definition into the length of a term. Say, if
8 someone is appointed to replace someone in the
9 middle of a term, but there wasn't enough notice
10 time available for us to address it at this
11 meeting. So that will be coming to your
12 attention for your consideration at a meeting
13 yet to be designated, but it's on the burner.
14 So that as we go along, we're going to have to
15 continue to massage these documents that govern
16 us, so they are clear for us and for everyone in
17 the future.

18 And with regard to new members, this
19 is a very gregarious group of folks. And if you
20 do get lonely, just go join the standards
21 committee group because they are a lot more
22 gregarious than we are. So you shouldn't have

71

1 any trouble finding a friend for dinner or
2 companionship, or just someone to talk shop
3 with, so don't be shy. And those of you who are
4 veterans, please be sensitive to our new members
5 in that regard, even though we're here for a
6 short meeting.

7 The proxy committee, we will keep you
8 dangling with bated breath for your future
9 report.

10 The adoption of the agenda, having
11 had an opportunity to review the agenda, is
12 there a motion to adopt the agenda as published?

13 MR. HARDING: so moved.

14 CHAIR KAUFMAN: Who made that?
15 Rebecca Vigil-Giron, Sharon Turner-Buie.

16 Any discussion? Are you ready for
17 the question? All in favor of adoption of the
18 agenda, please say yea. Opposed, no. The
19 motion carries.

20 Now, under Tab 4, the minutes as
21 published from our meeting in Portland last
22 August 4th and 5th, you have had time to review

72

1 them, and I understand and agree, Mr. Crangle,
2 you have an issue that I agree with. You're
3 welcome to raise it.

4 MR. CRANGLE: The restitution that we
5 passed at our last meeting that we looked
6 forward to a report subsequent to the HAVA Act
7 of sub title C which deals with the feasibility
8 of the legal holiday and the reason why they
9 have it the first Tuesday after the first Monday
10 and so forth, in talking to the staff at the
11 EAC, she was able to find the remarks by Chris
12 Thomas, who was chair of the resolutions
13 committee, that reported out my resolution that
14 dealt with the studies being conducted by the
15 EAC which would deal with that subject. I don't
16 want to go through it all, but we incorporate
17 that in the minutes, and we ask the EAC to give
18 us a report as to how they want to proceed with
19 this study that's required by HAVA.

20 CHAIR KAUFMAN: Without objection, we
21 will ask the secretary to correct the minutes to
22 so note the passage of your resolution, which I

73

1 well remember because I voted in favor of it
2 myself, and I apologize to you that that wasn't
3 in there, and that I didn't catch it.

4 Okay. Any other corrections to the
5 minutes from the previous meeting?

6 MR. CRANGLE: I move that we adopt
7 the minutes as corrected.

8 MR. HARDING: There was an item
9 missing from the minutes, and I sent a note to
10 Tony. I haven't had a chance to review the
11 minutes, and I don't know if that's been added
12 or not.

13 CHAIR KAUFMAN: Mr. Sirvello.

14 MR. HARDING: At all right last
15 meeting, there was a motion made that was
16 defeated regarding applying the guaranteeing
17 privacy and independence to all people with
18 disabilities, including people with limited hand
19 capacity, and it was a roll call vote. It
20 wasn't in the minutes.

21 CHAIR KAUFMAN: All right. Well, the
22 chair will direct the secretary to review the
74

1 record and to make that correction as well.

2 Mr. Crangle, your motion to approve
3 the minutes as corrected?

4 MR. CRANGLE: Yes, Madam Chairman.

5 CHAIR KAUFMAN: Is there a second?

6 UNIDENTIFIED SPEAKER: Second.

7 CHAIR KAUFMAN: All in favor, say I.
8 Opposed, no. Well, efficiency is my middle
9 name. That concludes the agenda for this part
10 of our plenary session.

11 And since we have some extra time and
12 since we're electing officers tomorrow, I spoke
13 to the vice-chair and asked what he thought
14 about calling for a declaration of consensus
15 this afternoon, just to let everybody know
16 what's going on. Open book, who wants to do
17 what, so you'll kind of know and kind of make
18 your plans. I don't like surprises. So I think
19 I'll ask if anyone is going to be a candidate,
20 to raise your hand and we will let you make that
21 announcement. Mr. Thomas.

22 MR. THOMAS: Thank you, Madam Chair.
75

1 Yes, I am a candidate for chairman tomorrow. I
2 sent an e-mail out to everybody, talked to a
3 number of you, and appreciate the feedback I
4 have gotten, and look forward to running.

5 CHAIR KAUFMAN: Thank you. This will
6 not preclude someone from being nominated
7 tomorrow that doesn't announce today, of course.
8 Any other candidates?

9 UNIDENTIFIED SPEAKER: Point of
10 order, are we going to be using this screen any
11 time soon? Because if not, the lights are
12 distracting on this end.

13 CHAIR KAUFMAN: We may be using it
14 for the next presentation that comes up at 2:30.

15 You can turn it off until then, if you'd like.

16 Thank you, and we apologize.

17 Any candidate for vice-chairman,

18 Mr. Kliner?

19 MR. KLINER: Madam Chair, Wes Kliner.

20 I have enjoyed my time. The majority leader

21 asked me if I would serve two more years, I will

22 be on the board two more years, and I'd enjoy

76

1 working with whoever the chair is. I like to

2 roll up my sleeves, get in and work hard. So

3 I'd like to be an adjunct for the chair.

4 CHAIR KAUFMAN: Thanks, again, for

5 your brilliant service as chairman of the

6 standards committee. We couldn't have gotten

7 through in Portland without your wonderful

8 guidance.

9 Any other candidates? Mr. Sirvello,

10 are you going to run for re-election? Do you

11 want to get drafted?

12 MR. SIRVELLO: Madam Chair, in light

13 of the problems with the minutes, I'm not sure.

14 CHAIR KAUFMAN: This was a bad time

15 to ask, wasn't it. I apologize.

16 MR. SIRVELLO: I would be glad to

17 serve one more time, if nobody else wants the

18 position. Thank you.

19 CHAIR KAUFMAN: Any other
20 announcements or comments from anybody?

21 Okay. Then without objection, we're
22 going to stand in recess until tomorrow's

77

1 plenary session, and we will come back into
2 session for the Commission presentations at
3 2:30. So if you don't have a room, go get one.

4 (Recess.).

5 CHAIR KAUFMAN: Let's return to
6 order, ladies and gentlemen. At the 2:30 time
7 on your agenda, discuss research, poll worker
8 training and retention, including college poll
9 workers. And I'm going to turn the chair back
10 to Chairman DeGregorio because these reports
11 through the residue of this afternoon are
12 reports on the EAC efforts to us. And so I'll
13 let Paul do the introductions.

14 MR. DEGREGORIO: Thank you, Madam
15 Chair.

16 Before I introduce and turn the
17 program over to Karen Lynn-Dyson of our staff to
18 introduce our speakers, presenters, let me just
19 say that this is a very important topic for the
20 EAC. Since I started in January of '04, we have
21 heard from certainly election officials but

22 others across the nation about this issue of
78

1 recruitment, training, and retention of poll
2 workers. And I think that never before have we
3 faced not necessarily a crisis with this issue
4 but a real need to focus on it because we have
5 certainly seen since the 2000 election so many
6 jurisdictions transitioning to new equipment and
7 certainly electronic equipment we saw in 2002
8 and 2004. And now this year, one-third of the
9 country is transitioning to new equipment, and
10 the voters love it.

11 I think we've seen in many primaries
12 certainly this year and in other states in
13 previous years that the voters seem to like and
14 adopt to this new equipment very well, but it's
15 the poll worker that has to turn it off and turn
16 it on, and deal with the issues that are
17 involved with new electronic equipment. And I
18 have certainly seen my share this year of
19 challenges by poll workers in dealing with the
20 new equipment, but it's not just the equipment
21 actually they are dealing with. They are
22 dealing with new laws, and not just the Help

79

1 America Vote Act and its requirements for

2 provisional voting and IDs for first time voters
3 and statewide databases, but also state laws.
4 And we've seen this around the nation where
5 states have put forth early voting, as an
6 example, for David Orr and the folks in Illinois
7 had to deal with for the first time with 18 days
8 of early voting. At the same time they are
9 receiving new equipment and training poll
10 workers on the new equipment, they had to train
11 them, talk about the early voting, and the fact
12 that these early voting ballots had to be
13 counted at the polling place, which is a further
14 complication in the process or it's now changed.

15 MR. DEGREGORIO: It's now changed.
16 So I think that we're asking a lot of these
17 wonderful 1.5 million Americans -- and I have
18 had the opportunity to see hundreds of them over
19 the past few weeks throughout the nation serve
20 their fellow citizens.

21 And so this study that we're doing
22 that is being developed by IFES and by Cleveland

80

1 State University is very important to the work
2 of the EAC. And so I'm going to turn it over to
3 Karen Lynn Dyson to introduce our presenters
4 today, to talk about the thrust of their work.

5 And we have ample time here. It's an
6 hour-and-a-half, to get your input on this
7 important subject.

8 So, Karen, I will turn it over to
9 you. Make sure you use the microphone, Karen,
10 this time.

11 MS. LYNN-DYSON: This is better. The
12 order of this presentation will be, first,
13 Jennifer Collins-Foley will make her
14 presentation of the IFES general poll worker
15 recruitment training project, and then Abby Horn
16 of Cleveland State University will make her
17 presentation on the college poll worker
18 recruitment training and retention project.
19 I think that just about everybody here in the
20 room probably knows Jennifer Collins-Foley, who
21 is a lawyer, and has done democracy development
22 assistance around the world since 1989, working

81

1 with election administrators, civil
2 organizations in the former Soviet Union,
3 Central Asia, and the Middle East, and in the
4 U.S.

5 Jennifer has served in the elections
6 administration community since 1996, spending
7 seven years as assistant registrar of voters in
8 LA County. Jennifer, through her poll worker

9 Institute, is a subcontractor to IFES, IFES
10 being our primary contractor on this project.
11 And, again, I think probably everyone in the
12 room knows IFES, which was established in 1978,
13 as a nonprofit, non-partisan organization which
14 provides assistance to promote elections, the
15 rule of law, civil society, and good governance
16 in more than a hundred countries.

17 IFES, as I think everyone knows, is
18 headquartered in D.C. and has offices in nearly
19 30 countries, and it specializes in technical
20 assessment, poll worker training programs,
21 technical observations, election management
22 reviews and election equipment and commodities

82

1 procurement assistance.

2 It is rather an interesting
3 coincidence that our second speaker and
4 presenter, Abby Horn, has spent many years with
5 IAD, the U.S. agency for international
6 development, supporting projects for electoral
7 accountability and transparency, electoral
8 reform, and civic participation. I think it's
9 interesting, that international elections
10 experience connection. And for the Ruth Ratner
11 Center, Abby directs research, public forums and

16 those programs and projects, and pull them all
17 together in creating these draft manuals that
18 you have before you.

19 So it is the agency's -- the EAC's
20 sincere hope that at the end of this effort,
21 which will really culminate with pilot projects
22 that will run this summer, that we should have
84

1 some of what we hope will be some of the best
2 thinking in the country around the most
3 effective strategies for recruiting, training,
4 and retaining poll workers in the general
5 population, and also college poll workers.

6 So with that, I will turn it over to
7 Jennifer. Jennifer, before you begin, if I may
8 inform all of you all that we have been joined
9 by Commissioner Gracia Hillman, who all of you
10 know because she has worked with all of you all
11 of last year as the public officer for the Board
12 of Advisors.

13 Commissioner Hillman, I don't know if
14 you want to say few words.

15 MS. HILLMAN: No. I will just say
16 hello so you can whip through the agenda.

17 MS. COLLINS-FOLEY: Is it all right
18 if I stand up? I'm a little bit more

19 comfortable that way.

20 I wanted to start by saying what a

21 pleasure it has been to work on this project.

22 There's some of you out there who would have

85

1 wanted to work on this project, because poll

2 workers is such an important thing that we're

3 all concerned about, it has been an honor for me

4 to work with the EAC on this, and to work with

5 IFES and Cleveland State University, and so many

6 people who just poured out their hearts and

7 spend hours pouring over drafts, and its been

8 wonderful.

9 As we all know, the Help America Vote

10 Act mandated a study on poll workers, just to

11 show you the level of interest in recruiting,

12 retaining, and training of poll workers.

13 We were awarded the contract in September of

14 2005 to conduct a 15-month applied research

15 project.

16 To quickly go through this again,

17 IFES was created in 1987 to offer technical

18 assistance globally, and has since expanded to

19 offer technical assistance throughout. I have

20 been fortunate to work with IFES and to find

21 work in Franklin, Ohio, Washington, D.C, around

22 the country. They certainly bring their global

1 experience to the U.S. and also their U.S.

2 Experience with their global partners.

3 The Poll Workers Institute is a

4 relatively new nonprofit organization that I am

5 the president of. Tracy Warren is our executive

6 director, and we are fortunate to have three

7 board of directors, a relatively new

8 organization, but with some powerful board

9 members. And we also brought together a team of

10 consultants, very experienced election, mostly

11 retired election people who have been working

12 with us on this project. And, of course, we're

13 very lucky to have also pulled in the League of

14 Women Voters, which I'm sure I don't need to

15 introduce the League of Women Voters. It is a

16 nonpartisan political organization which has

17 fought to improve our system of Government and

18 impact our public policy through education and

19 advocacy.

20 I want to quickly go through the

21 different pieces of our contract before we get

22 to the big thing, which is our guidebook.

1 First, we were required to compile the statewide

2 laws as they pertain to poll workers. We were

3 to compile field tested practices. We have
4 brought together some really heavy hitters for a
5 working group, which has been guiding us since
6 the very beginning. The League of Women Voters
7 -- and we will go through some of the findings,
8 we're developing a how-to guidebook, and you all
9 have the table of contents which was handed out
10 later. It is not in your books. It is a
11 separate handout, and we're looking forward to
12 testing that guidebook in some pilot programs
13 this fall.

14 We partnered with Cleveland State
15 University Center of Election Integrity to
16 compile state laws. It didn't make sense for us
17 to compile 50 states laws and then to compile 50
18 state laws, so they did the yeoman's work. They
19 interviewed people, you can imagine, and think
20 about where your state laws are. They are not
21 little election pieces of the law. They are all
22 over the place, right there in every different

88

1 code or regulation at your state level. This
2 was a huge project and we found there was some
3 consistency between their focus on college poll
4 workers and our more general focus on the main
5 impediments that impact innovative poll worker

6 recruiting.

7 One is age requirement. Obviously,
8 if we want to have more young people in the
9 process, having high school students serving,
10 there is an age requirement that is a hurdle to
11 be overcome in some states, and many states have
12 passed laws enabling young people to serve.

13 Residency requirements is a big one
14 as well. For instance, with college poll worker
15 programs, you may have somebody who is, of
16 course, registered at their parents' home and
17 doesn't want to re-register but wants to serve.
18 Residency requirements can also be an impediment
19 to bringing county poll workers into service
20 because they might live across a county line.
21 Of course, many of us have statutory
22 requirements that the poll worker live in the

89

1 jurisdiction in the precinct. And then, of
2 course, there is another and maybe in some ways
3 one of the biggest hurdles is the requirement in
4 some states that the poll worker be recruited
5 through the political party. And, of course,
6 I'm sure if we had a chance to chat, there would
7 be some of you who would say, you know, my
8 political party gives me good people, they are
9 wonderful, they serve. And then there are some

10 of you who would have some horror stories to
11 tell about the kind of people that are nominated
12 by political parties and their ability to serve
13 these long days.

14 So we won't get into that because I
15 have seen some smiles. I know you wonder what
16 I'm talking about.

17 In terms of compiling successful
18 practices, we started from -- some of the
19 organizations here have already compiled some
20 terrific successful practices. We started at
21 what has already been out there and recognized
22 as successful practices. Achievement Award,

90

1 National Association Secretary of States, the
2 National Association of State Election
3 Directors, IACREOT, the EAC best practices. We
4 pulled all those together as the initial
5 benchmarks, and then went on, going out and
6 exploring what people are doing with those
7 particular practices, and how they are growing
8 them, how they are finding they don't work for
9 their particular jurisdictions, and how they are
10 adopting them, so we can share them in this
11 project.

12 We also brought in some important

13 outside perspectives. We have, one, state
14 election directors, two, local election
15 directors. I will tell you after who they are
16 because I would imagine someone might say, hey,
17 I wanted to be on there. We feel we brought
18 together some really good people from large and
19 small jurisdictions, and geographically
20 disbursed. We have one academic advisor and one
21 research organization helping us. We're very
22 fortunate to have somebody from the adult

91

1 learning world and somebody who is a training
2 expert with a private sector firm. And then we
3 have met with and have in our working group
4 community advocates from the multilingual and
5 voters with disabilities groups.

6 We brought in more voices before we
7 started to write. We brought in volunteer
8 experts. Some of us may not agree that poll
9 workers are volunteers. Of course, we have
10 different opinions on that, but there were some
11 very valuable messages that we got from the
12 volunteer organizations like the Points Of Light
13 Foundation and the National Corporation For
14 Civic Activism.

15 They told us that as far as
16 volunteers go, the messages that you need that

17 they would advise us when talking to potential
18 poll workers have to be very specific, that
19 people are looking for what they call episodic
20 opportunities to volunteer. Poll worker
21 qualifies as that once or twice a year, and they
22 told us that the best messages are very

92

1 specific. Uncle Sam needs you, is terrible.
2 And what they told us is that you need to say,
3 your community needs you. It needs you on this
4 day for this many hours in this part of the
5 county or whatever that you're going to get
6 paid.

7 I thought that was interesting
8 because I have seen wonderful posters out there,
9 but the volunteer expert said, maybe you want to
10 think about a little bit more specific message.
11 We have been very lucky to talk to some election
12 training experts. Mr. Ernie Hawkins, we spoke
13 with him for a couple hours one afternoon,
14 giving us wonderful ideas on jurisdictions to
15 follow up that we haven't come across. So more
16 voices before we started writing. And then we
17 also had voters with the disabilities round
18 table last week, actually to talk -- or two
19 weeks ago, to talk about how to recruit poll

20 workers with disabilities. Of course, that is a
21 wonderful resource. We need all the poll
22 workers we can get.

93

1 And also some pointers on sensitivity
2 training, we're going to be giving in this
3 guidebook actually a couple of sample pages for
4 a poll worker manual on this topic. We're proud
5 of this because we didn't make this up. This
6 comes from some of the best experts. Jim
7 DICKSON weighed in on this. And we feel like
8 we're putting together something that has some
9 of the best folks in the country to weigh in on
10 it.

11 We did a series of focus groups.
12 Like I said, League of Women Voters did a series
13 of focus groups across the country, 19 focus
14 groups in about two months. This was a huge
15 feat to pull off. They, of course, worked with
16 their local election administrators. I can't
17 tell you where because, apparently, that
18 violates some focus group research thing. We
19 talked about election officials, poll workers,
20 stakeholders, and some corporate poll worker
21 programs. Objectives were to identify
22 successful practices and to underscore some

94

1 potential pitfalls.

2 And I'm sure election stakeholders,
3 you're going to be familiar with some of the
4 shocking findings that the League of Women
5 Voters came up with. They said that election
6 officials run on shoestring budgets. I bet you
7 didn't know that. They said that election
8 officials have limited staff. I bet you didn't
9 know that either. And they said that election
10 officials work in a system that has historically
11 had little need for change.

12 This was really interesting for us
13 because these were things we had been kicking
14 around for a long time, but it was good for a
15 systemic focus group to kick this back and say,
16 yes, what you think is true. They found from
17 talking with hundreds of people that there are
18 some add agents of change. Of course, HAVA
19 being one of them that has more of a spotlight
20 on the poll worker aspect of elections. There
21 is also increased public scrutiny. We didn't
22 used to be a sexy industry. Now, if we drop a
95

1 pencil, that makes the news.

2 Another thing that has been an agent
3 of change is margins of electoral victory from

4 recent elections. We all remember reading every
5 bit of detail about the Kent County elections
6 last summer. I'm sure we're going to see more
7 of that this year.

8 Also demographic changes have been
9 agents of change. We talked about the aging
10 poll worker pool and different demographic pools
11 needing more bilingual poll workers. They told
12 us that was another big agent of change. They
13 pulled together some of the most common
14 recruiting practices. This is where we started
15 to build our chapters for the guidebook, picking
16 some that had been award winners and through the
17 ringer of best practices, and adding onto it
18 more, creating practices such as word of mouth,
19 which in some jurisdictions that is all they use
20 is word of mouth.

21 The value of underscoring payment for
22 services, this was an interesting thing that was

96

1 brought back, that in some places, the money is
2 actually probably in your states and counties,
3 the money can be a big deal. It is a completely
4 lost issue. People are not doing it for the
5 money. There were several places that had
6 practices where the lead poll worker selects

7 their own team. Some people would say, oh, my
8 gosh, that snaps of nepotism. Some people would
9 say it works for us, and they only want to bring
10 their best folks in, to get the best possible
11 people on their team.

12 There was an array of fliers and
13 posters of other successful practices where
14 people bring in -- this is where a potential
15 poll worker contacts the election official.
16 Most of these are that model where you would get
17 the benefit of your outreach by somebody
18 contacting you. The league brought back other
19 innovative recruitment methods. When you look
20 at the table of contents, you will see those
21 reflected. We have our public governmental
22 employees, private sector employee programs.

97

1 Some people call them corporate. We have our
2 high school and college student programs. Of
3 course, we have our bilingual citizens.

4 Another thing that the focus groups
5 came back with which, again, I think some of you
6 will say, yes, I knew that it's generally more
7 difficult to recruit poll workers in very high
8 economic areas and very low economic areas. In
9 my jurisdiction, not my home jurisdiction
10 anymore, but the one I am most familiar with,

11 serving as a poll worker is not Beverly Hills
12 version of community service. A \$2,500 plate at
13 the Beverly Wilshire, that is community service.
14 We haven't found too many models that
15 specifically have figured out ways to address
16 the problems or specific challenges of
17 recruiting in very wealthy areas and recruiting
18 in low income areas. As a matter of fact, if
19 you were to read our full guidebook right now, I
20 think everybody was sent an electronic copy, you
21 will see that that chapter says, "under
22 construction," because, indeed, we really --

98

1 after speaking with hundreds of low income
2 jurisdictions, we haven't found some really
3 successful practices for dealing with this
4 challenge. We're still working on it.
5 Some interesting strategies with
6 mixed results, one, as I said before, recruiting
7 in partnership with political parties. Some
8 jurisdictions have sensed no problem, this is a
9 great thing. I hate to say the majority of
10 jurisdictions have said this is the biggest
11 problem we face, is that we anticipate for these
12 poll workers to be given to us at the last
13 minute, and find out that the majority of them

14 can't work for us or shouldn't work for us.

15 Another strategy which is very
16 controversial, split shifts. You could talk to
17 the man on the street, as the focus groups did,
18 the voters or potential poll workers would say,
19 if you only offered split shifts, I would come
20 work for you. We found out in the focus groups,
21 talking with dozens of people across the
22 country, is that it is much more complicated
99

1 than you think.

2 On the voter side, they don't want to
3 find their own partner. They want the election
4 official to find the partner. They want to be
5 paid for the full day. They want to be paid for
6 the training and the partnership as well. Then,
7 of course, on the election official side, this
8 is also an issue of accountability and the
9 integrity of the process. Almost universally,
10 no one let's the lead poll worker split a shift.
11 We have tried -- jurisdictions that tried
12 aggressively tried to offer split shift options
13 have done away with it.

14 I chased a whole line of people
15 around. Virginia, Charlottesville does it, we
16 used to do it, try Arlington. Everybody thinks
17 it should be practiced, but in reality, it can

18 be much more complicated than we first thought.

19 One interesting thing that has been a focus

20 through our entire project is that surely that

21 there are strategies to get you enough poll

22 workers, enough bodies, as we all joke about the

100

1 breathing test. We're happy in LA if we can get

2 25,000 breathing bodies, but are they the best

3 bodies, are they good for that neighborhood, are

4 they able to go to training and not fall asleep,

5 are they able to read the manual, are they able

6 to withstand this long day, all, these different

7 things that we worry about.

8 We're also pushing -- I think you

9 will see when we finally get ready to go live

10 with the entire guidebook to a bigger audience,

11 we're pushing on the side of evaluating the poll

12 workers, not just anybody will do but let's try

13 to get and retain the best kinds of poll

14 workers.

15 Another thing that the focus groups

16 unearthed which I thought was interesting were

17 successful messages based on a personal ask.

18 The people we talked to who were potential poll

19 workers said some kind of a personal ask, either

20 from their neighbor, their family, their

21 co-worker, or somehow, some kind of a
22 connection, their teacher, professor, boss,
101

1 these were all good ways to get a message to a
2 potential poll worker.

3 Again, the focus group reenforced
4 this idea that when the where, the how, what
5 they would be doing, and even the money, were
6 good messages to get out there. They said
7 stressing benefits to the community as opposed
8 to Uncle Sam or the Government was a very good
9 message. The League of Women Voters Focus
10 Groups found providing materials and handouts
11 easy to reference, lots of good tabs, tables of
12 contents, and highlight changes to the election
13 process, are good things to focus on in poll
14 worker training. And also they found that poll
15 workers, paying the poll workers, and instead of
16 doing the training brings up to the people that
17 go to training, and in the back of our guidebook
18 we're going to be putting together a spectrum of
19 poll worker pay race. And this is, obviously,
20 going to be a picture in time because people are
21 constantly raising their poll worker stipends
22 and also doing add-ons. Ten dollars to go to

1 training or fifty dollars to pick up your
2 supplies, or whatever it is. We're doing this
3 for two reasons, to give people an idea about
4 what the trends are in poll worker pay. And the
5 other is, we hope it can be a tool for
6 jurisdictions on the low side so they can use it
7 for their budget request. Look, I am in the
8 middle of the country or low side in what we
9 pay, so that will be in the final guidebook.

10 And another finding from the
11 focus groups is that role playing and setting up
12 mock polling places and training classes may be
13 challenging, but it is also a very good
14 educational technique. And the focus group
15 authors recommended more evaluation of poll
16 worker performance, and we can get into this a
17 little later.

18 The most important thing to arise
19 from the discussions from all the stakeholders
20 is there is no magic bullet. This came to us
21 loud and clear, that jurisdictions have
22 different numbers of amounts of resources, staff

103

1 wise, budget wise, different supports from their
2 governments. And so we need to find the right
3 balance for the jurisdictions' needs. And so
4 what we decided to do with our guidebook is to

5 provide a book that's kind of like a recipe,
6 look -- and I know this is a little campy, but
7 we all have the Betty Crocker version of the
8 cookbook. In our guidebook, you have the
9 Hamburger Helper, you have some of the most
10 basic kind of recruiting in there. You have
11 person-to-person calling, you have fliers at
12 polling places that say we need you. I would
13 call it like the Betty Crocker version of
14 recruiting. We have put in there some of those.
15 Then you might have the Oprah Winfrey version of
16 a cookbook, and that would be like the diet
17 version. That is for models strapped for funds.
18 So we hope we have included recipes for that as
19 well. I was going to wear an apron. Be glad I
20 am not wearing an apron. You have the
21 connoisseur cookbook, and that would be for
22 counties that really want to go to the cutting

104

1 edge of recruiting and training; fancier Power
2 Points, videos, fancier poll worker evaluation
3 programs, poll worker report cards. Not
4 everybody's a connoisseur, not everybody will
5 read those chapters. We know that, but we're
6 offering it. And, of course, we have the New
7 York cookbook, buffalo wings and stuff like

12 discussion throughout the project, which is --
13 there is a big chapter that says how to evaluate
14 whether your programs are working for you. And
15 we came down to three different pieces that
16 we're offering to election officials and other
17 stakeholders when reading the book, and also
18 looking at their programs; is it sustainable, is
19 that a practice that is going to be a one
20 election wonder, and then from then on, if you
21 don't pay attention and have the right number of
22 staff working and the right amount of money, is
106

1 it going to fall apart, is it measurable, is it
2 a practice that is kind of amorphous or is it
3 something you can actually put on bar charts and
4 show the growth or diminishment of return, and
5 the other, is a duplicative, is it something
6 that only works in a particular jurisdiction, or
7 can it be copied successfully without need for
8 adaptation.

9 What the guidebook is not, it is not
10 a magic bullet. Nobody's going to read the
11 whole thing and wake up and say, oh, I have the
12 perfect plan for the perfect election. It is
13 something people are going to have to pick and
14 choose different chapters, try it out, as they

15 go along. It is not a poll worker management
16 program. This is something a lot of us had a
17 hard time with because, of course, you feel like
18 you're being negligent if you don't provide the
19 management piece of it.

20 Our contract says provide successful
21 practices for poll worker recruitment and
22 retention. We did put trouble shooter programs

107

1 in there, even though that's more of a
2 management thing because, as we all know, those
3 people save our butts on Election Day. We left
4 management things out because EAC guidelines
5 will pick that up. Things like, okay, so you
6 have your five poll workers, and how do you kind
7 of mix up the team from one precinct to another
8 to make sure that you have the strongest team
9 across the country. That's the kind of thing
10 that we didn't get into it because it is beyond
11 the scope of our contract.

12 The one thing we hope is that our
13 guidebook is not a static document. Every day,
14 it is changing and growing, and we hope that
15 over the summer, as we work with our pilot
16 jurisdictions because we're going to do some
17 pilot programs, that we're going to have this
18 book tested. And we hope that once it is

19 finally promulgated by the EAC, maybe this year
20 or the following year, that you all will be very
21 active in getting it out to your constituency,
22 providing a speaker circuit, maybe at election
108

1 center conferences.

2 It would be really terrific if you
3 could all think about ways -- maybe at state
4 association summer meetings, to talk about this.
5 Because the real sad thing would be is after all
6 this work and all the wonderful effort put in by
7 hundreds of election officials, to have this
8 thing sit on a shelf somewhere.

9 So in our feedback forum, which is at
10 the back of the table of contents, we're asking
11 you to kind of think about what innovative ways
12 to make sure this has not become a static
13 document.

14 One last thing, we're going to be
15 testing this guidebook in pilot programs in
16 three places around the country. We're going to
17 Santa Fe, New Mexico, Milwaukee, Wisconsin.
18 Santa Fe is a county. Milwaukee is a city. And
19 Hamilton County, Ohio. We picked these in
20 conjunction with our partners to be
21 geographically distributed to have a county and

1 systems. We tried to make it as diverse as
2 possible. So we're really testing the
3 guidebooks. We're not going to be testing the
4 consultants helping these counties. We're at
5 the testing to see whether the guidebook stands
6 up to the test of does it work in the field.

7 Just as a personal note, I have been
8 asked to come back to Los Angeles County to get
9 through a particularly difficult election. I
10 don't know if anybody else is from California --
11 knows that the college and high school students
12 who we used to think were a mainstay of our
13 election team, and turned out when we moved our
14 election to June instead of March, we lost
15 almost 5,000 bodies, and good bodies, and so
16 that was a little ouch. And then the law
17 changed, which I'm sure none of you have ever
18 experienced this, at the last minute, and we had
19 to create 500 new precincts. So we started the
20 election 7,500 bodies down and we're still 4,000
21 down, and like two weeks away is our election.

22 And the interesting thing for me is that as
110

1 somebody who was a big chapter writer of these

2 more fancy programs, we're back down to the
3 basics chapter one, the absolute cold calling,
4 doing the calling from the street index, things
5 like that, and it works.

6 So for me personally, its been an
7 interesting test to know that when you depend on
8 all these fancy programs, in the end, you can go
9 back to some of the basics and they will work
10 for you too. I think that's it.

11 Some of the things we're going to be
12 testing from the guidebook in these
13 jurisdictions is, we're going to be tracking
14 poll worker recruiting strategies with our
15 partners. That means that every kind of
16 strategy you have out there, radio,
17 advertisement in the newspaper, corporate poll
18 worker program, is tracked so that the
19 jurisdictions can focus on what's working for it
20 and what's not. Especially with tight budgets,
21 we need to know we're putting money into things
22 that are working.

111

1 We're going to be working with
2 jurisdictions to do more adult learning-based
3 training and also some performance mechanisms,
4 everything from a very strict poll worker
5 performance mechanism; three strikes, you're

6 out, and then some models that are more, okay,
7 we're going to counsel this poll worker, find
8 out if we should change our training techniques,
9 our training materials, to make it more
10 conducive to poll workers doing their job well,
11 and also some feedback for the poll workers on
12 doing a better job.

13 I might have gone over.

14 CHAIR KAUFMAN: Thank you, Jennifer.

15 Well done. Your board members are proud of you.

16 Before we go to the next segment, are

17 there any questions of Jennifer, just five

18 minutes, no more, for questions.

19 Jim DICKSON.

20 MR. DICKSON: Was there any screening

21 used to identify what is in the book currently

22 as opposed to the practice? How do you know

112

1 that the practices lists were -- what

2 measurement was there?

3 MS. COLLINS-FOLEY: For one thing,

4 you will notice it was not called best

5 practices. It is called successful practices.

6 Like any good cookbook, we brought together some

7 cooks. The book is what is developed by

8 experienced election officials, and it has input

9 from other election official across the country
10 repeatedly going out and asking people what
11 worked for them. Every chapter headed -- was by
12 a different author. Chapter one was Charlotte
13 Cleary. Every person was interviewed for a
14 practice -- was asked these questions: Was it
15 sustainable, is it measurable, how do you know
16 it was measurable, and is it replicable, and how
17 did you know it was replicable.

18 Every practice was screened by the
19 authors, and there were some practices we have
20 either diminished or taken out. For instance,
21 we set up a chapter on tips for implementing for
22 out sourcing your recruiting, and we found out

113

1 from talking to about 15 jurisdiction that had
2 tried to out source recruiting, that it wasn't
3 particularly successful, so we dropped it out.
4 So you will see more of not just what's in
5 there, how we tossed things out.

6 We packed a lot of stuff in there on
7 the pitfalls because we realize it is something
8 election officials need to know others have
9 tried. Sometimes we left things in there as
10 somewhat successful, but we explained what the
11 pitfalls are so we can see it is not a ranking
12 success.

13 What else did we do, we talk about it
14 in the book, how what we decided what to include
15 and what we decided that was either to down,
16 de-emphasize it, or take it out altogether.

17 CHAIR KAUFMAN: Terri, I think you
18 had your hand up.

19 MS. HEGARTY: Terri Hegarty. I am
20 interested in the recruitment aspect you talked
21 about. When you talked about Government
22 employees and public employees, if we had

114

1 Election Day be a national holiday, they would
2 all be free, which would be great, because now
3 it's hard to recruit them because they have to
4 take a day off from work, use their vacation
5 time. So for the private sector, how did that
6 work. Do they have to take the take off work or
7 maybe they give the money that they earn to a
8 charity? Do you have any ideas about the
9 programs?

10 MS. COLLINS-FOLEY: Yes. We talked
11 about five or six different jurisdictions that
12 have corporate poll worker programs, and we
13 provide information. Some of them do give
14 employees the day off with pay, and sometimes
15 the employees do turn over their stipend. The

16 corporate partners will tell you whether or not
17 they want this person to have an extra stipend.
18 Most jurisdictions do pay the extra stipend.

19 Interesting enough, we found out,
20 following up on Jim's question, we found out
21 that in some places this program can be a raging
22 success. In other places, they have moved on.

115

1 Like in Johnson County, Kansas, the registrar
2 was one of the first people to come up with the
3 model. They had dropped it because it wasn't
4 sustainable in Johnson County. In LA, we
5 dropped it because it isn't sustainable. In
6 places in Delaware, it is incredibly successful.
7 What we've done is put in pitfalls and tips
8 which may work for one jurisdiction and not work
9 for another.

10 CHAIR KAUFMAN: Okay, thank you.
11 J.R. Harding.

12 MR. HARDING: Thank you, Madam
13 Chairman. I'd like to thank you for your work
14 and specifically Chapter 8 persons with
15 disabilities, inclusion of us. That's a loud
16 statement to our population. Is this document
17 final, and if not, how and whom can we get to
18 contribute to Chapter 8 for us?

19 MS. COLLINS-FOLEY: It is definitely

20 not final. The next hard deliverable we have is
21 June 1st to the EAC. There is a new version at
22 that point, but we're going to be tweaking it
116

1 all summer, doing round tables with political
2 parties and other kinds of stakeholders. We're
3 going to be testing it in pilot programs.
4 Really, I think the cutoff date might even be
5 November, December. It's after the election.
6 We're testing it, so lots of time, and you are
7 very welcome, we're really looking for more
8 input. And you did receive the electronic copy.
9 I know from working with you before, J.R., you
10 will get me some really good stuff.

11 MR. HARDING: Thank you. I would
12 really like to suggest ADP stuff as well as the
13 access portal stuff on some of those issues.
14 And then on your resources in the document, you
15 specifically mention libraries as a host source
16 of information. Perhaps you might include some
17 of the national advocacy groups, and
18 particularly, what is called the Centers for
19 Independent Living, because that's where the
20 communities might find their bodies.

21 MS. COLLINS-FOLEY: Exactly. And
22 this is something that Jim has offered to give
117

1 us some specific names. And also, Jimmy
2 Dermendos from IFES is familiar with this area.
3 We're going to be getting very specific resource
4 names. I think even Sharon, you're going to
5 give me the mayor's committee because it's not
6 only in Kansas City. These types of resources
7 are all over the place.

8 CHAIR KAUFMAN: Okay. Last one. We
9 recognize Keith Cunningham.

10 MR. CUNNINGHAM: I want to mention in
11 Ohio, there was a law passed that allowed public
12 employees to take the day off, not lose pay, not
13 use sick time. It is contingent upon the
14 legislative authority of the jurisdiction
15 agreeing, and then we work directly with the
16 department heads so that we don't really raid
17 departments, but it's been effective and gives
18 us a whole set of people that have experience
19 dealing with the public and also have experience
20 in technology. So I believe there's House Bill
21 62.

22 MS. COLLINS-FOLEY: If I could be so
118

1 bold to ask you if you could send me that,
2 because that would be a nice case study for that

3 chapter.

4 CHAIR KAUFMAN: We recognize and
5 appreciate your work. We think it will probably
6 flower across the country and I wish you well.

7 Can we recognize Ms. Horn for the
8 next presentation. The Chair recognizes Abby
9 Horn of Cleveland State University.

10 MS. HORN: Thank you. Let's see if I
11 can pull up my program. Well, thank you very
12 much for having me today. It has been really an
13 honor working with the EAC. Can you hear me?
14 Let's see if I can talk as loudly as Jennifer.

15 In Jennifer's first project, she
16 compares the Betty Crocker cookbook. Ours is
17 sort of Chicken A to Z. We have taken a slice
18 of the poll worker guidebook and we're
19 specifically looking at how to recruit, train,
20 and retain college poll workers. This has been
21 an incredibly fun project for me, so I hope you
22 enjoy it.

119

1 I am from the Center For Election
2 Integrity at Cleveland State University. We're
3 a research center there, the law school and the
4 school of urban affairs, which is where I work.
5 So I have to tell you that I practiced this
6 presentation on the plane, and so the good news

7 is that it was very entertaining bad news. It
8 took me the entire plane ride, so let's hope we
9 will move through this faster, because I know we
10 have got -- I want to leave plenty of time for
11 question.

12 Why college poll worker programs? I
13 have a list of various reasons why the EAC and
14 many folks out there believe in using college
15 poll workers. One, they tend to be in learning
16 mode. They are fast learners. They are tech
17 savvy, and they tend to be young and energetic.
18 They are, generally, physically able to carry
19 the supplies and set up heavy equipment. They
20 are often times more flexible. We will talk
21 about that more later. This is my absolute
22 favorite. That perhaps if we hook them now, you
120

1 can really engage them in a life long commitment
2 to civic engagement.

3 That's the heart of the college poll
4 worker program. Of course, they haven't been
5 around long enough to have any actual evidence
6 that this is true, but maybe we should start
7 tracking that now and seeing if, indeed, people
8 who were poll workers in college do commit life
9 long, if not necessarily as poll workers, to

10 being engaged within the community and the
11 democratic process.

12 Here's the bad news, they are not a
13 panacea. Towards the end of my presentation, I
14 will start talking about some of the legal
15 hurdles, as well as structural, administrative
16 hurdles in the college poll workers. They are
17 not always registered to vote in the same state.
18 Some jurisdictions have created special
19 positions so they don't have to actually be
20 registered to vote. That's a model that we can
21 discuss. Many times, they are only willing to
22 work for one or two elections, or they are often

121

1 times not on campus during primaries. And so in
2 many, many cases, you can really only count on
3 them during the general election. And, again,
4 that flexible schedule, classes and assignments
5 do conflicts with giving up a whole day towards
6 Election Day. Again, I will talk about a lot of
7 those in more detail in a little bit.

8 Now, our project is set up in very
9 much the same way that Jennifer's project is,
10 and so I am going to go real quickly through
11 that structure. Project working group, it is a
12 seven-person team; three professors or college
13 administrators involved in college programs,

14 and, indeed, a college student. They were all
15 selected for their individual areas of
16 expertise, including the college student who was
17 extremely engaged within her university. They
18 review all of our deliverables and provide a
19 sounding board and really a wonderful tool for
20 us.

21 Okay. The first dealt with effective
22 strategies. In 2004, the EAC made grants to 15
122

1 different universities, colleges, and
2 non-profits, to do a pilot college poll worker
3 program, so we had all of their materials. We
4 reviewed, and called all of them, and spoke to
5 most of them, and did structured telephone
6 interviews, and got a good sense of what worked
7 and what didn't. We went on collecting other
8 examples, a lot of different surveys from the
9 new millenium, best practices, and talked to a
10 lot of different states as well as the NACO
11 survey, talking to a lot of the different
12 counties. And, of course, talking to Jennifer,
13 who was collecting things far and wide. She
14 channeled my way. So it's been a wonderful
15 collaborative experience.

16 Surprisingly, there are really very

17 few ongoing, structured programs. Some states,
18 some counties out there are certainly contacting
19 universities and colleges in so sort of an ad
20 hoc way, recruiting students, but ongoing
21 structured programs are not all that common. So
22 that's sort of an interesting challenge for us
123

1 as we set out to collect strategies.
2 We started looking at effective
3 strategies which was looking at sort of the
4 piece someone was doing here and thinking, well,
5 how could this become something that really is
6 sustainable over time. And so we really have
7 the three areas we would look at; practice,
8 feasible, and sustainability. Sustainability is
9 where I put the biggest emphasis because, again,
10 you don't want something that cost a lot of
11 money, year in and year out, and that takes a
12 lot of staff time. So really thinking through
13 the balancing there.

14 Focus groups. I'm actually going to
15 break the rule that Jennifer laid out. These
16 were our focus results and I present them
17 because I think it's interesting. We wanted to
18 have a variety of state universities, community
19 colleges, and a four-year private school. These
20 are the four sites. We, where applicable, held

21 two focus groups, one who had participated in
22 poll worker programs, and we had students who
124

1 had not. We drilled down on incentives for
2 being a poll worker and hurdles to being a poll
3 worker. Fortunately, we found their responses
4 reiterated what we had found in our research
5 leading up to that. They were a lot of fun. It
6 was great fun talking to the students.

7 Okay. The state statute compendium
8 requirements of being a poll worker. Jennifer
9 mentioned this. We had a lead attorney working
10 on this, and she had a group of law students
11 following up with her. They reviewed the
12 election statutory law of every state,
13 Washington, D.C., and four territories. They
14 also looked at, where applicable, admin codes,
15 state constitution and case law. The case law
16 they looked at was only if it pertained to
17 college poll workers, and they involved a
18 compendium. And I actually brought some of
19 them. I have about 20. I thought you guys
20 might like to see what they looked like. We're
21 going to give the EAC all of these. There are
22 three or four pages that someone could download

1 per state or per territory. We simplified them
2 to a graph, a chart that's in the back of our
3 guidebook, so you all have that, although I
4 apologize if you're from Virginia. Virginia got
5 out of the chart, but it exists and I have
6 copies in my bag, if you want in color, that
7 also have Virginia, but let me just split these
8 in HAVA.

9 Indeed, we worked very hard to
10 confirm all of the data that we got from the
11 states. We went to the meeting of NASED. We
12 sent all of the states the data and asked them
13 to confirm it by e-mail. We made phone calls.
14 There are a few outstanding but we feel
15 confident in the research that we did that said
16 if you would like, if you have seen your state
17 and there is anything you would like to add or
18 change or tweak, please feel free to contact me.
19 Again, my e-mail will be at the end of the
20 presentation.

21 There are 20 random states, and I'm
22 sorry if yours is not there. You're not going
126

1 to find your state necessarily. I think there
2 are two Oklahomas. Again, they should be seen
3 as a living document because several states have

4 pending legislation. And, really, the most
5 interesting findings that we found from the
6 compendium are where they had potential legal
7 impediments to the projects.

8 You can see them in front of you but
9 the main areas that we selected, registration
10 requirements, political party affiliation, term,
11 compensation, training. And the four pieces,
12 you all have some examples there, so I won't go
13 into great detail on all that was collected.

14 Okay. The guidebook, our chicken A
15 to Z. Our current phase, we're gathering input
16 on this version 1.0. If you are excited about
17 college poll workers and you want a color
18 program, I did bring some with me. The EAC is
19 going to be hiring a graphic artist who is going
20 to work with Jennifer and our guidebook to give
21 it the branded look of the EAC. And so in the
22 end, they are going to look really similar which

127

1 is great because they are companion pieces. Our
2 objective it to make it as easy friendly as
3 possible.

4 One real challenge, our guidebook is
5 for very two different audiences, election
6 officials, as well as college and university
7 representatives who want to get their students

8 more involved. So as you read it, if you have
9 any guidance in terms of language or formatting
10 that might make it easier or more appealing to
11 one or more of the audiences, that would be
12 great. I would say that was something I
13 struggled with throughout, so that it worked for
14 both audiences. And as you will, see the
15 guidebook can lead you through a time line or be
16 used as a cookbook, sort of turn to the chapter
17 that concerns you.

18 We have the handy hints, for example,
19 one was considering using students prior to
20 Election Day in your election offices. We have
21 how-to boxes, and so an example was how to
22 develop a course list. This is specifically for
128

1 a professor who wants to include working as a
2 poll worker as part of a class, which is
3 something we go into detail in the guidebook.
4 We offer readings that you might involve in that
5 class. And three, which is, "ignore your own
6 risk." It sounds a little scary. I am thinking
7 of changing it just to pitfalls, to be in line
8 with Jennifer's language, but ignore at your own
9 risk has such things as in designing recruitment
10 materials, be careful not to inadvertently

11 insult your older, veteran poll workers, so all
12 sorts of little gems.
13 This is the table of contents. I
14 want to mention campus champion is a term that
15 we use throughout that emphasizes finding
16 someone at the college to champion the program,
17 and be the liaison with the election
18 jurisdiction. We talk about who that might be
19 and how to go about finding that person. Also,
20 before recruiting, we talk in detail about the
21 idea of perhaps signing a memorandum of
22 understanding between the college and the

129

1 election jurisdiction so that everyone knows
2 that is playing what role and what's going to
3 happen throughout the process, as well as
4 developing a frequently asked question sheet for
5 students. They really need to have the concrete
6 information so they know up front what is the
7 pay, what am I going to be doing, where is it,
8 what's the requirements, and so on. There's
9 several places, such as in training and in
10 retention, where we're going to be referencing
11 Jennifer's guidebook. In fact, what we found
12 with the college poll worker program is that
13 because students are only there four years,
14 generally, except for in community colleges,

15 often times they do live in the community for
16 longer than their four years, but generally, if
17 you're lucky, you will get a student for four
18 years, and probably you are not going to get
19 them for four years. So we're looking at not
20 only retention so much as sustainability of the
21 program. It's not a question of keeping that
22 same person forever. It's keeping that

130

1 relationship going forever, and so that you can
2 always depend upon those 200 students or those
3 generic 200 students.

4 Real quick, there are lots of
5 different ways of cooking chicken, and lots of
6 different ways of having college poll worker
7 programs. One example, a professor builds poll
8 work into their curriculum as a service learning
9 assignment. So students actually have to do
10 this, and they get it as an assignment within
11 class. Maybe they then have to write a paper on
12 the experience. This has been used. So maybe
13 you get 25 to 30 students that way. Two, a huge
14 campus wide recruitment campaign with posters,
15 information tables, and the media. This model,
16 when followed, might get 150 students.

17 Another example, a political science

18 department in a large university decides they
19 are going to provide five extra credit points to
20 any students who works as a poll worker.

21 And they have ten intro political science
22 classes so this generates 250 students who end
131

1 up working. A sorority decides to adopt a
2 polling place, similar to the adopt a poll model
3 elsewhere, so maybe you get five students that
4 way. And this is the lowest common denominator,
5 asking universities to sent out a mass e-mail.

6 We just did it in Cleveland, not for the
7 election, but for a hand count that Kioka County
8 had to do after the primary. They came to me
9 because they knew we were working on this
10 project -- contacted the presidents at the three
11 universities, three major universities, a
12 community college, a private school and
13 Cleveland State, which is state run, and they
14 all three sent out mass e-mails, and they got a
15 large number of students despite the fact that
16 it was during reading week/exam week.

17 So that was impressive.

18 We also will be doing pilot projects
19 to field test the guidebook, and our real help
20 here is to use it as on evaluation tool to get
21 structured feedback on how the guidebook is

22 serving their needs. The main criteria for us

132

1 was finding very strong interest by both the
2 election official and the school because we're
3 really looking for such a thorough assessment of
4 the guidebook as they move along.

5 How late am I?

6 CHAIR KAUFMAN: You're not, you're
7 fine.

8 MS. HORN: I am going to go over some
9 of our preliminary findings, and this is what
10 came out of the focus groups and all the
11 research that proceeded that, the whole picture.
12 Starting early, again, this gives you time to
13 develop the relationship. That is what is going
14 to make it a sustainable program, by knowing who
15 the people are from the get-go, maybe sit down
16 and have lunch. It also gives you the time to
17 get faculty involved, which can be a major
18 problem. If you want, in fact, to enter great
19 poll workers into a curriculum, you have to give
20 faculty a whole semester ahead of time so they
21 can think how they are going to do that. Two,
22 identifying again a campus champion as well as a

133

1 main liaison at the election jurisdiction. The

2 who do I call when there is a question, and

3 students know who to call.

4 Clarifying roles from the get-go,

5 requirements, and again, as I mentioned, we

6 suggested signing a memorandum of understanding.

7 I should mention that, in fact, we haven't found

8 anyone that has done that, so not a best

9 practice. It is our suggested practice.

10 Something that we have used at Cleveland State

11 for other types of programs with the Government

12 and other community partners. So it's there.

13 Excused absences. That's something

14 that we suggest should go into, for example, a

15 memorandum of understanding. That came up for

16 the focus groups over and over again. Well, if

17 I had an excused absence from all of my classes,

18 I would do it. And often times they race the

19 issue, well, I couldn't, I was given the

20 opportunity to be a poll worker but I didn't do

21 it because that was in one class, but the next

22 class, I had an exam or I had a paper due. So

134

1 getting an university wide policy of excused

2 absences is really important if you're going to

3 have large scale engagement of the student body

4 as poll workers. Students have really special

5 skills. One thing they like to be active, and
6 so these roles or Election Day, technician
7 roles, actually serve them really well. They
8 tend to have the technology skills that they
9 need, and they like the idea of moving around
10 and seeing the different sites.

11 Some of the students we talked to,
12 indeed, had served as poll workers and stayed in
13 one precinct, and they talked a lot about how
14 much they really liked getting to know the
15 community better and talking to life long
16 community members. So you have a bit of both.
17 But I raised just the idea of there are
18 different ways of bringing students into the
19 mix. Okay. Recruit by stressing the important
20 role poll workers play in insuring the right to
21 vote. Tying this with my bottom note, which is
22 the two best incentives by far were money and
135

1 the extra credits. So we heard over and over
2 again, if you're going to pay me ten dollars an
3 hour, I'm in. I will skip any class. So money
4 is a big incentive for a lot of students. From
5 other students, we heard it was the extra
6 credit. Structuring it into a class where they
7 know they are going to get five extra points is
8 a great incentive, but at the same time, because

9 they are --

10 CHAIR KAUFMAN: Could I interrupt you

11 before it escapes my brain. We often times

12 supply our voting equipment for student

13 elections at universities, and having the

14 equipment out there for the students to use for

15 their own elections is another good opportunity

16 to recruit workers in context with that.

17 I just want to do throw that in for you.

18 MS. HORN: Great. Yes. And I would

19 really welcome getting other examples and ideas

20 from all of you. And so as things arise or if

21 you know of other examples out there, I am in

22 receiving mode, so please do.

136

1 Retention. Again, there I am talking

2 about from the application process to actually

3 serving on Election Day. Make it a really

4 simple process, and remind students over and

5 over again. They are used to getting multiple

6 e-mails. That is, keeping in touch over time,

7 up to Election Day is important. Best

8 recruitment method, again, this very much perils

9 what Jennifer said. It is personal contact,

10 having the professor say to you, I think you

11 should be a poll worker, it would be a great

12 experience. Or having a friend say, I am doing
13 it, it's so cool, you should be one too, or
14 having a trusted advisor, having that personal
15 ask is clearly the best recruitment method, and
16 also increasing campus-wide awareness. So many
17 students just said, I didn't know that I could
18 be a poll worker. How do you do that? So
19 racing awareness campus wide is important.
20 Train on campus. Make it as easy as
21 possible for the students to get there, and when
22 you do train, make it a hands-on experience.

137

1 Bring the equipment, have role playing, a lot of
2 questions. Students raise the issue of being in
3 training where they felt intimidated to ask
4 questions, and they left feeling very much
5 overwhelmed, and include a discussion about the
6 proper etiquette as well. And we have some
7 discussion in the guidebook recommended by
8 election officials. Again, future elections,
9 e-mail and cell phone numbers, forget their
10 address. It's probably going to change every
11 year. Phone numbers, most of them don't even
12 have land lines, so it's cell phones and e-mail
13 for keeping track of the students. Evaluate
14 your program, what recruitment methods work best
15 so you can fine tune it as you go along.

16 Real quickly, some of the hurdles.
17 Off year elections are not sexy. Definitely,
18 lots of examples of students working primaries
19 and working wherever elections you need, but
20 your biggest hit's going to be every four years.
21 Again, students are intimidated by the idea they
22 might be required to work more than one. Don't
138

1 make me sign on anything that says I have to
2 work two or four. That's an issue. Again, time
3 commitment. Although they are flexible, they
4 are students was raised as a major hurdle for a
5 lot of them. Class assignments. So that brings
6 up the issue of having excused absences, having
7 that faculty buy in from the get-go.

8 Related to that faculty, not always
9 cooperative. They often times see it as an
10 extra burden on them something that interrupts
11 their class time to have someone come in and
12 talk about the opportunity, or being asked to
13 actually change their curriculum that they have
14 been doing for the past 20 years. You are not
15 going to have across-the-board cooperation.

16 And the political party buy in, from
17 the compendium, only six states don't require an
18 affiliation with a political party or giving a

19 preference to the political party. And as you
20 know, often times, you do have to end up working
21 with the political parties, and they don't
22 always necessarily want to work with students,
139

1 who are sort of an unknown entity for them.
2 Students want to work with friends.
3 That's something to sort of weigh. One
4 experience a group had is people were dropping
5 out, if they were not placed with friends. I
6 think if you clarify that up front, that you are
7 not going to be placed with a friend
8 necessarily, and this is laid out up front, be
9 clear from the get-go what the job is and what's
10 going to happen, and there should be fewer
11 problems with that.

12 Sometimes students are seen as less
13 reliable, again, multiple reminders, text
14 messages, e-mailing. Some of the EAC programs
15 in 2004, the campus champion would call all the
16 students the night before. It depends on the
17 level of involvement and how large the program
18 is, but you can definitely have a good show on
19 Election Day if you're persistent. Some
20 students may need transportation, and students
21 really want fast verification. And, in
22 particular, if it's included in the curriculum

1 where they are going to be getting class credit,
2 the teachers have to know really right away
3 because it could be just hitting fast.

4 Some of the legal impediments that
5 impact college poll worker programs that came up
6 in the compendium states required poll workers
7 to go registered voters of the state or county.
8 About 30 of the states gives preference to the
9 precinct level. Most of them, that's what the
10 statute says. Most end up drawing from the
11 county. There are seven states that allow you
12 to pull anywhere from the state. That's really
13 good for a college poll worker program. Of
14 course, for a lot of the four-year private
15 schools, they are drawn from all across the
16 country. And so unless students are voting,
17 there are problems with registration.

18 There are some states that make it
19 hard for a college student to register to vote
20 in the town where their school is so there is
21 definitely this conflict. Political party
22 affiliation, as I mentioned, is required. Only

1 six states don't require some sort of
2 affiliation. Then there is the term requirement

3 issue. This one might not be one of those
4 issues where policy and practice aren't
5 necessarily in sync because states all have some
6 term requirement, and yet what I am hearing is
7 that, in practice, is that most jurisdictions
8 are happy to take someone who is only going to
9 be working for one election.

10 There I am. Thank you. Please send
11 me your thoughts, send me your comments. Again,
12 if you want a color version or if you want
13 Virginia in your chart, let me know.

14 CHAIR KAUFMAN: Thank you, very much.
15 We will take five minutes for a few questions.
16 I will recognize Mr. Harding. He had his hand
17 up first.

18 MR. HARDING: Thank you, Madam Chair.

19 With your college students for your
20 public universities especially, they all have
21 what's called the office of disabled student
22 services. So that would be another area in

142

1 which you could recruit and retain and have
2 access to a critical mass of students with
3 special needs.

4 MS. COLLINS-FOLEY: Great. And I
5 will add that to the list. There are a lot of

6 different students organizations that are great
7 places to look for groups of students already
8 engaged within their college community, and sort
9 of a logical leap for them to become more
10 engaged in the local community.

11 CHAIR KAUFMAN: Thank you.

12 Recognizing Wendy Noren.

13 MS. NOREN: Yes. You had mentioned
14 that you looked back at the grant recipients
15 from the last cycle. And I noticed that you had
16 anecdotal information about that. How many
17 college students were actually recruited and
18 worked from those grants, do you know?

19 MS. COLLINS-FOLEY: Do you remember?

20 MS. LYNN-DYSON: because I oversaw
21 that. There were 4,500 students who actually
22 worked. That was pretty remarkable because we

143

1 only had about six weeks getting that program
2 together.

3 MS. NOREN: And how many have worked
4 since then? How many of those 4,500 have ever
5 worked in elections since then or plan on it?

6 MS. LYNN-DYSON: We don't know, but
7 you're probably aware of the fact that -- we
8 have just advertised too, we'll be doing a
9 second EAC college poll worker grant program.

10 Peggy Sims and I will watch to see if we get the
11 same -- some of the same applicants.

12 MS. NOREN: That's the jurisdiction.

13 I'm talking about the kids, did they go back and
14 work?

15 MS. LYNN-DYSON: We don't know that.

16 We haven't tracked them at all.

17 MS. NOREN: That wasn't part of the
18 grant that they report back and say whether --

19 MS. LYNN-DYSON: No. The program
20 basically ended after the '04 election.

21 MS. COLLINS-FOLEY: I can tell you
22 about two of them. One, actually, Roxbury

144

1 Community College in Boston, they had a really
2 special program in which they developed and
3 independent one-credit course, and they brought
4 someone in who runs like a leadership program
5 for minority students, and he had twenty
6 students. One of the requirements was being a
7 poll worker. It was also all about the right to
8 vote, and the history of elections, and the
9 history of civil rights. And he brought in a
10 group of different speakers that really spoke to
11 this particular group of students. I think we
12 had ten of the 20 in the focus group, and eight

13 of the ten had gone on to work again.

14 So I was really impressed because at
15 the same school in the focus group that we had
16 with students who had not been poll workers,
17 total disengagement, no interest unless we were
18 going to pay them 20 dollars or more an hour, no
19 interest in being a poll worker, what has
20 democracy done for me lately sort of attitude,
21 but this group that had this group that had been
22 in the course talked about civil rights and the

145

1 importance of being a voter, being in your
2 community, they were active and had gone on to
3 be poll workers in future elections.

4 MS. NOREN: I am in a college town.
5 In 28 years, I have tried almost everything
6 trying to get these people.

7 CHAIR KAUFMAN: Thank you, Ms. Noren.

8 Mr. DICKSON, do you want to be
9 recognized or have you said anything ever wanted
10 to say?

11 MR. DICKSON: I said everything I
12 wanted to say.

13 CHAIR KAUFMAN: Anybody else have a
14 question? Going once, going twice.

15 We're going to stand in recess until
16 4:15.

17 (Afternoon Recess.)

18 MR. DEGREGORIO: Excuse me. Would

19 have you take your seats for the next session.

20 Okay. We're going to get started here so that

21 we can finish on time today because we're going

22 until 5:30.

146

1 We have a very good presentation
2 coming up for all of you. I think, as all of
3 you know, the Help America Vote Act requires the
4 EAC to do a study on vote count and recount, an
5 American vote count, meaning what constitutes a
6 vote, and certainly taking a look at recount.
7 Obviously, that resulted from the 2000 election
8 in Florida, and so the EAC, we conducted a
9 hearing in Seattle, in April, and we had some
10 testimony from some experts, including one that
11 you'll here from today, regarding these issues.
12 And what was interesting, at least to me, and I
13 have been in the business for twenty years, to
14 hear again the differences between the states
15 and how they deal with various important
16 elements of the election process, including the
17 way that votes are determined. And certainly in
18 recounts too, the state of Washington certainly
19 had the most focused upon recount in the 2004

20 election that went well into 2005 before they
21 had determined a winner in the Governor's race,
22 but in that process, uncovered various elements
147

1 of the election process that could be improved.

2 But I'm going to turn this over to Peggy Sims at
3 our office, who is going to introduce our
4 presenter today. Peggy is someone that many of
5 you may know because she was with the Office of
6 Election Administration for twenty years. And

7 MS. SIMS: Eighteen.

8 MR. DEGREGORIO: And when I became
9 director of elections in St. Louis County,
10 Missouri in 1985, one of the first names and
11 phone numbers that I was given was Peggy Sims,
12 saying if you ever have any questions or are
13 looking for some information, call Peggy Sims at
14 the FEC, because she can certainly be helpful to
15 you. And here we are in 2006, the same
16 incredible woman is serving her nation still in
17 all the election jurisdictions of the country,
18 particularly the states that she deals with on a
19 regular basis with HAVA funding issues. And she
20 does an incredible job for us each and every
21 day.

22 It is my pleasure to turn the program
148

1 over to her to introduce the subject and other
2 speaker, but Peggy, thank for all that you do.

3 MS. SIMS: Thanks for that
4 introduction, Chairman DeGregorio.

5 Actually, I will leave the
6 introduction of the actual research project to
7 Thad Hall, and I'll introduce Thad himself.
8 Thad is the principle investigator on this
9 project. He is an assistant professor,
10 political science, University of Utah, where he
11 teaches courses in public policy and
12 administration.

13 He is on the staff at the University
14 Center For Public Policy & Administration. His
15 primary focus on elections, implementation of
16 voting technologies and public policy. He is
17 co-founder and regular contributor to Election
18 Updates, which is a widely read web page. He is
19 also a collaborator with the Cal Tech/MIT Voting
20 Technology Project.

21 Prior to joining the faculty of the
22 University of Utah in 2004, he served as program
149

1 officer for the Century Foundation in
2 Washington, D.C. where he studied issues
3 associated with election reform and the

4 Internet. In 2001, he served on the
5 professional staff of the National Committee of
6 Federal Election Reform.

7 I give you Thad Hall.

8 MR. HALL: Boy, that was good. I
9 need to bring you with me all the time. That
10 was quite nice.

11 My name is Thad Hall. What I'm going
12 to do briefly is give you an overview of the
13 project we're doing on vote counts and recounts,
14 and the best practices associated with that, or
15 the successful practices associated with that.

16 First, I'd like to talk about our
17 research team for a moment. In addition to
18 myself, Michael Perez, who is the co-director,
19 Kim Brace, who is actually sitting against that
20 wall over there, with Election Data Services,
21 has played a key part in helping us bring
22 together the data that we're producing, and Doug
150

1 Chapin, with Election Line, has been focused on
2 the recount and challenge component of that
3 research project.

4 As the Commissioner pointed out, HAVA
5 requires a study examining vote counts and
6 recounts and implementation of the methodology

7 of studying best practices of election laws in
8 all 50 states and the District of Columbia. If
9 any of you would like to have an exciting
10 weekend, I suggest you go to your local law
11 library, and sit down and read all 50 state
12 election codes. It's a joy, if there ever was
13 one, and yes, it's quite exciting. It is quite
14 interesting, what's in the laws, what's in the
15 laws, when laws were written.

16 One of the interesting things that
17 came out when we did a focus group with election
18 officials in Washington state the day before the
19 EAC meeting, one of the interesting items that
20 came out was the fact that the recount and
21 challenge law in Washington State dates back to
22 when Washington was a territory. So they had
151

1 1870s election law being used in 2004. So it
2 kind of gives you an idea of some of the issues
3 that arise in studying election law and studying
4 vote counting and recount.

5 Let me give you a little bit of an
6 overview of what we've done. The first thing we
7 did was identify certain types of best practice
8 methodologies, and I will get to this in just a
9 moment, but there are a variety of ways of
10 studying best practices. One of the key aspects

11 is to understand there is no one best for best
12 practices. Secondly, is for developing a
13 criteria for evaluating these practices,
14 identifying most common practices for voting
15 counting and recounting. Identify benchmark
16 practices that exceed the most common practice,
17 and then identify specific best practices for
18 vote counts and recounts.

19 First, I'd like to talk about how we
20 developed standards for studying vote counting,
21 recounting criteria. The general accounting
22 office of the government accountability office,
152

1 has developed a broad set of criteria for
2 identifying best practices, and they have
3 developed a methodology that they use and they
4 implement to study best practices in various
5 governmental organizations. The steps are
6 listed right here. The key thing that they
7 focus on is this, is that, first, you have to
8 understand the practice that you actually have,
9 what is the practice in your jurisdiction, how
10 do you map that practice.

11 When you think about absentee voting,
12 it is a practice that starts with printing
13 ballots and goes all the way through the

14 reconciliation in any kind of recount or
15 challenge. The first thing you have to do is
16 document what process you are interested in, and
17 look at existing literature, and talk to people
18 who are practitioners and other experts about
19 potential types of best practices, and then you
20 try to select a comparable entity for review.
21 This is a very important issue for states. All
22 of you work in different types of election

153

1 environments. Some of you work in states with
2 very strong parties or don't necessarily have
3 strong parties, and you have to be very
4 sensitive to those types of issues as you think
5 about doing this. Then you try to collect data
6 from both your entity and the best practice
7 entity, identify barriers to change, and then
8 compare and contrast those processes, and
9 develop an implementation strategy.

10 This best practice effort fits into
11 also a broader understanding that we have of
12 quality. If you think about things that are
13 going out right now in the private sector and
14 both the public sector, things like Six Sigma
15 and performance management objectives, those are
16 all designed to get at trying to identify and
17 promote best practice.

18 One thing I want to point out too is,
19 you guys have the hard part, which is actually
20 implementing the best practices. All we can do
21 is suggest places to look. The key thing that
22 you have to be able to do is map what you're

154

1 doing, and then determine what a good comparison
2 is. The nice thing for us is, there are some
3 international principles that existed, and the
4 chairman actually was involved in developing
5 these. If you don't like these, you should
6 please direct comments to the chairman. It is
7 interesting to go to this and his name is at the
8 bottom.

9 IFES and IEA in the U.N. have
10 developed a product on developing practices for
11 vote counting. This is their statement, to
12 establish and maintain public confidence in the
13 electoral process. Vote counting systems and
14 procedures should incorporate the eight
15 fundamental principles of vote counting. What
16 are these eight principles. First of all, an
17 election should be transparent. The
18 international definition they use is candidates
19 and parties should be able to observe, but also
20 outside observers should be able to observe as

21 well, and they should be able to get readily

22 obtained copies of the election results when

155

1 they are available.

2 In addition, another aspect of the

3 transparency that they focus on which has become

4 of greater interest in recent years is in

5 auditing vote totals tabulated electronically,

6 how do you determine or provide transparency

7 when you do electronic counts.

8 Second is the issue of security, can

9 you provide a chain of custody for ballots

10 throughout the process.

11 The third issue is professionalism;

12 how well trained are poll workers, do they

13 understand the standards that are required.

14 Fourth is the issue of accuracy; how

15 accurate is the count, and are there clear audit

16 trails for the ballots, for the ballot boxes,

17 for checking machines and the like.

18 Then there is the issue of secrecy.

19 There needs to be an assurance that voters are

20 casting secret ballots. And this is becoming an

21 interesting issue with systems that are being

22 used in many jurisdictions where many people

156

1 vote on optical scan, but certain groups are
2 asked to vote on DREs. In some places, if you
3 don't have some people vote on the DRE,
4 regardless, it may be that only one person votes
5 on it, and then you could determine that
6 person's vote. That is becoming an issue in
7 some jurisdictions.

8 There is also the issue of
9 timeliness; how quickly do we get the vote
10 totals out to the public where they can
11 understand what the election outcome is. And
12 also relating to that, what's the trade off
13 between timeliness and having a very effective
14 post election audit process where you can make
15 sure you counted all the ballots and counted
16 them correctly, and trying to maintain that
17 balance.

18 Then the issue of accountability, to
19 have a clear responsibility for every stage of
20 the process, for having very clear accounting
21 rules on what constitutes a vote.

22 And then, finally, there is the issue

157

1 of equality, which generally means that the
2 rules are the same for all players in the game.
3 In the U.S., we also might think of that
4 applying that to voting technology in the

5 process. There are also some common
6 international practices. One of the things that
7 is very interested about voting worldwide is,
8 obviously, when you try to explain voting in the
9 U.S. to people from other countries, they can't
10 believe how many races there are or ballots.
11 Once they understand, they start to understand,
12 oh, this is why you guys have touch, electronic
13 tabulation.

14 But there are certain practices that
15 are relatively standard among western countries.
16 One is that all ballots should be recognized
17 among ballots against cast ballots. We should
18 show how many ballots we have. Secondly,
19 ballots are generally counted in precincts where
20 they are cast across certain countries. Third,
21 most countries have very explicit legal
22 requirements for how to secure ballots through

158

1 the process. Fourth, most countries allow
2 recounts. The most common way to do is by
3 request of candidates or parties. In five
4 countries, they recount a hundred percent of the
5 ballots to make sure that the initial
6 tabulation's correct. And then, finally,
7 convenience voting is a worldwide phenomenon.

8 We have exported McDonald's and we have exported
9 convenience general voting, so it is a worldwide
10 phenomenon.

11 Second, I want to go into a little
12 bit about looking at state practices regarding
13 election administration. What we were able to
14 do was to develop a survey of state laws and
15 regulations that look at an array of activities
16 within the voting process, and what we tried to
17 do was to define the vote counting process in a
18 broader fashion. Much of this came from our
19 discussions with election officials. Several of
20 us had actually been to Travis County, where the
21 best practices from 2005 -- what they called the
22 egg, which was a procedure for thinking about
159

1 vulnerabilities in the voting process to what
2 eventually becomes the vote count. What we
3 tried for do was define the election process
4 broadly, looking at security, pre election
5 procedures, end of election procedures,
6 definitions of what constitute a vote, how
7 ballots are counted and accounted for, and
8 looking at recounts and challenges. What we
9 then did was to identify specific questions from
10 this.

11 We reviewed this survey with the EAC

12 staff, with election officials and outside
13 experts, and then I proceeded to sit in a law
14 library for several months, along with some
15 other people, reading these state election
16 codes. What we've done is pulled legal
17 citations, the legal language from each of
18 these, so that we're able to kind of provide a
19 map of what the voting process looks like in
20 each of the states along these lines. And also
21 we did the same thing again for the regulatory
22 process, pulling information about what did the
160

1 regulations look this like. This is an area of
2 variation because some states have regulatory
3 processes and some states don't. This is a
4 pretty well known phenomenon, that states vary
5 widely in their use of regulations.

6 And there were three key things that
7 we identified, and that I talked about in my
8 testimony to the EAC, where there is great
9 variation in completeness in state laws. One of
10 them is in the area of ballot accounting. And
11 so there are states, for instance, where there
12 are very clear and very specific rules that
13 govern how you reconcile the number of voters
14 who cast ballots with the number ballots you

15 have.

16 I don't make these practices up,
17 really. In some states, there are no mechanisms
18 for engaging in any kind of ballot
19 reconciliation or accounting of the process.
20 The other area where there is wide various is in
21 the area of ballot security; how do we secure
22 ballots, and secure voting technology. And some

161

1 of this, in reading codes, you can see relates
2 to some states just updated their codes more
3 recently in this regard.

4 And then, finally, definitions of
5 what constitutes a vote that are interesting and
6 variances in that. In some states, like, for
7 instance, in Virginia, which just had a recount
8 recently, they have a very detailed law and
9 regulatory framework that includes a beautiful
10 appendix, and you're responsible for this, and
11 there are all these great photos of what optical
12 scan votes that are or are not a vote look like.
13 If you're a person involved in doing a recount
14 and you have to look at a ballot, you can look
15 at this list and say, okay, this little bubble
16 looks like this little bubble, you do or do not
17 count it.

18 In some states the definition is

19 voter intent, as determined by the person who is
20 reviewing the ballot. So that's why what you
21 see, and so it varies among the states. We have
22 collected all this data. We're reviewing the
162

1 data, and we're going to be providing them with
2 the ability to provide us with feedback if we
3 have missed things.

4 The one thing that is beautiful about
5 state election code is they are not all in the
6 same place in the code. Some states have very
7 wisely well-indexed election codes, and some
8 states don't. If you're from a state with well
9 indexed code, please tell your colleagues who
10 are in states who don't. Give them advice.
11 It is a very fun process. If you guys could all
12 name things the same thing too, it would be
13 great. It would be really handy, so like all of
14 you who allow people to vote absentee in person
15 and then people allow early voting, like in
16 Virginia, there is no early voting but you can
17 go to a place and cast your vote.

18 UNIDENTIFIED SPEAKER: Only if you
19 are legally authorized.

20 MR. HALL: There is just various
21 definitions and interpretations which will drive

1 The next thing we did was look at the
2 issue of benchmarking. Benchmarking is very
3 common in the public and private sectors. For
4 instance, at this hotel, the housekeeping
5 services used in most hotels comes from a
6 benchmark developed in the 1980s from the Ritz
7 Carlton, who determined the most efficient way
8 to clean rooms, and it is not to clean rooms one
9 by one, but to go to room as they are being
10 vacated, and do them that way. It turns out it
11 is a much more efficient way to do it.

12 So we have benchmarks for how to do a
13 whole array of activities. One of the reasons
14 that benchmarks are very nice is that they give
15 us something to shoot for. When we're thinking
16 about trying to improve performance, there are
17 two ways to do this. One is, you can determine
18 how your organization performs against similar
19 organizations and how they perform against a pre
20 selected target. So, for instance, when we were
21 in Seattle talking about the team in King
22 County, they hired a person there who does
164

1 quality assurance for their election office, and

2 that person came actually from industry and is
3 implementing what is called Six Sigma
4 methodology. In Six Sigma, you try to have no
5 more than four errors per million transactions.
6 And so that's the goal that they shoot for in
7 the work they do, they try to have fewer than
8 four errors per million transactions, and that's
9 a pretty common standard being used now in a
10 variety of organizations.

11 Now, the point is not to hit it. The
12 point is to strive to hit it. The other way
13 thing to do is to consider how your performance
14 stacks up against similar organizations, and the
15 goal is to make people think about the
16 practices, and how they implement them. Using
17 the survey data, we tried to identify the most
18 common practices in each state for the various
19 items in the survey that we've done. And then
20 in some areas, only in some areas, we tried to
21 identify certain types of benchmark practices,
22 clearer, more detailed, or more comprehensive.

165

1 To give you an example, on the ballot
2 accounting, we tried to give an example of what
3 something that is a little more complete might
4 look like for ballot accounting so you can see
5 how an accounting board might provide accounting

6 for what they have tabulated. Is there a report
7 that requires them to say, I received "X" number
8 of ballots, we're sending this many back, this
9 many were spoiled. It is a very simple kind of
10 examination.

11 There are limitations to
12 benchmarking. Not all activities can be
13 benchmarked. This is especially true in the
14 case of elections because there are certain
15 activities that reflect cultural decisions, for
16 instance, the way people handle absentee
17 ballots, or the way people handle recounts and
18 challenges. Those are very political decisions
19 being made. Certain states want to have very
20 clear ideas of finality, and some states want to
21 go out of their way to make sure that the issues
22 of voter intent for every ballot are reconciled.

166

1 When we had this meeting in Seattle,
2 we had people there from Virginia and
3 Washington, and both talked about the recount
4 experiences. You would have thought you were on
5 Mars and Venus, because in Virginia, they have
6 relatively strict rules that govern recounts,
7 and in Washington State, they are much more
8 willing to go back through all the ballots.

9 So it was just a very different process. There
10 is not a best way to do it. It reflects
11 differences in their cultures.

12 One of the things that we've done is
13 to identify specific questions that arise in
14 recounts, and things we need to think through.
15 This came in part from some of the issues that
16 arose in Washington that they encountered in
17 doing their recount.

18 Finally, I want to talk about some of
19 the best practices. There is a basic definition
20 of best practice from the GAO. It refers to
21 organizations performing exceptionally, well
22 recognized. As I was saying before, effective
167

1 best practices addresses a complete process and
2 have been carefully charted. Each step in the
3 process has been charted all the way through,
4 and they often come from organizations with
5 similar characteristics. You are most likely
6 able to find best practices in organizations
7 similar to you but performing at some higher
8 level, and I tried to identify best practices.

9 Obviously, the EAC Commissioner and
10 staff will have to inform us about the inclusion
11 of certain items or not, but what we tried to
12 look at best practices as what constitutes a

16 may or may not be indeed a best practice. So I
17 would hope that at some point we can get away
18 from the term, "best practices," and talk about
19 professional practices.

20 MR. DEGREGORIO: Thank you for that
21 recommendation, Doug. You know, in the summer
22 of 2004 when the EAC came up with our first best
169

1 practices document, we struggled with this. We
2 struggled with this issue, Tom Wilkey, Jennifer
3 Collins, and with the first contractors we
4 hired, and we struggled with the terminology.
5 And I think you're right, because some people
6 have misused that in litigation.

7 I think one term that I had seen used
8 recently is successful practices. Obviously, we
9 aren't saying, if you don't use this, you will
10 be unsuccessful, but it is a term that some
11 people have embraced as saying this is a
12 practice and worked successfully in this
13 jurisdiction under our laws, under our state
14 laws. And so I think you may see us moving
15 towards that terminology. In fact, they didn't
16 have it today, but when you have the
17 presentation on poll worker recruitment and
18 training by those folks, when you see that
19 document, it is going to say successful

20 practices. They are going to move away from the
21 term, "best practices," so Doug, go we're
22 moving in that direction but we appreciate any
170

1 help that you or others might give with this
2 terminology.

3 MR. THOMAS: Good afternoon. Chris
4 Thomas. Just kind of a blue sky from you, and
5 you have read all these laws. You can see that
6 most of them were written in the case of paper
7 ballots as sort of the foundation of recount
8 statutes. Some are a bit outdated or added on
9 to.

10 Do you have any gut feel about where
11 recounts ought to be because of increased
12 technology, electronic tabulation, that element
13 affecting the recount process, as opposed to
14 being something that just comes up upon request
15 because you have a close race?

16 I guess this would get closer to your
17 comment on auditing.

18 MR. HALL: Let me address that. One
19 of the points that I made at the outset, also
20 let me partially address Doug's point too, best
21 practices is the word that was in my contract.

22 UNIDENTIFIED SPEAKER: That's a good
171

1 practice.

2 MR. HALL: One of the things I have
3 been very sensitive to, I have observed
4 elections in a wide variety of localities. If I
5 haven't been to your locality, I will be there
6 soon, unless you live in a state that doesn't
7 allow observers, which is why I want
8 transparency, which I did in Utah in 2004. I
9 will tell you, that was an experience.

10 To answer your question, one of the
11 points that I made, there is an international
12 practice that IFES and the U.N. promote of
13 having auditing, and it's clear that certain
14 states that have adopted electronic voting in
15 recent years, like Colorado, have identified and
16 have developed post election random audit
17 procedures. And in some of these states, they
18 haven't actually been used much yet because they
19 are new statutes.

20 But in Los Angeles and in California,
21 they have been doing this for quite some time.
22 One of the issues is whether or not one percent,

172

1 for instance, is the right number to do. So how
2 many ballots do you need to get to be confident

3 that you have a successful outcome? And I think
4 that's one of the things that we really need to
5 study. But I think, as we have more use of
6 electronic voting, people are going to want
7 there to be some sort of post election check to
8 make sure everything works, and I think we will
9 see more demand for this over time. That was my
10 gut feeling. It was not in the report.

11 I want to mention something that is
12 kind of indirectly dealing -- since we're not
13 dealing with the paper trail issue, but it
14 affects all of us. I wanted to report Illinois
15 has the paper trail requirement, and I just
16 wanted to say that two big jurisdictions, our
17 own and Cook County and DuPage County which is
18 right next to us, both DuPage County and myself
19 did hand counts of five percent of the votes.
20 Now, we didn't have as many electronic votes,
21 but in our case, 119 precincts, which meant
22 probably about 150 tapes because remember

173

1 there's people doing early voting and all that,
2 did a hand count, and so did Bob Sarr in DuPage
3 County. In both cases, we compared the actual
4 number. And it was a long ballot, as you know.
5 This ballot, every one of these, right down the
6 line, the one person held the ballot, read off

7 who got the vote, of course, with a pencil, put
8 down the old-fashioned hash mark. I won't tell
9 you how long it took but the bottom line, we did
10 that. DuPage County did it, and when it was
11 done, it was an exact match. Those of you don't
12 like paper trails, that gives you evidence too,
13 but it was an exact match, although I found
14 nobody in the ballot integrity movement that
15 seems very impressed with it at the moment.

16 MR. ELEKES: Could I ask you a fair,
17 because of my visual impairment, how long is
18 that ballot?

19 MR. ORR: I can tell you what we told
20 the people is 21 inches.

21 MR. ELEKES: Okay. Thank you.

22 MR. DEGREGORIO: Two-sided?
174

1 MR. ORR: It will be a lot bigger in
2 the fall, because we will have 75 retention
3 judges. This is why we historically didn't have
4 optical scan but we have both at the moment.

5 MR. HALL: Oh, that count for us,
6 many hours. I couldn't give you the exact but
7 probably quite a few people working for several
8 days. Because when I said it was an exact
9 match, that was, of course, after we did all the

10 work because, of course, we made lots of mistake
11 with the hand. And so let's say, hey, I got 50
12 here, I got 44. We will go back, do it again.
13 I see somebody else did this hash mark and they
14 did theirs a little differently.

15 As I think most of the people in this
16 room would understand, traditional paper
17 counting is not very accurate, but I thought it
18 was fascinating. Two fairly large counties did
19 that.

20 MS. TURNER BUIE: Mr. Hall, when you
21 talk about naming your practice, are there
22 working practices, current practices, and
175

1 jurisdictional practices, and probably
2 jurisdictional is the most descriptive because
3 everything we do you is jurisdictional, based on
4 statutory requirements.

5 MR. DEGREGORIO: Appreciate those
6 suggestions. You know, while I have the floor,
7 I want to introduce my colleague but who has
8 joined us in the last few minutes, Commissioner
9 Donetta Davidson, who is no stranger to just
10 about all of you. She used to sit at this table
11 as a member of the Board of Advisors and then
12 joined us last August. So it was an honor for
13 us to have to you.

14 Since this group met in Portland,
15 she's been a tremendous addition. She's going
16 to speak to all of you tomorrow at lunch time.

17 MS. DAVIDSON: I just want to say
18 thank you for your time and all of your efforts
19 you put into making elections better, because
20 without you, we couldn't do it. Thank you, very
21 much for doing it. I know it takes your time,
22 energy, a lot of time out of what you should be
176

1 doing at home preparing for elections, so thank
2 you for being here. I know you're all taking
3 big deep breaths, answering phone calls that are
4 coming in. So thank you.

5 MR. DEGREGORIO: Any more questions?
6 I'm going to ask a question. Something that
7 came to my attention when we had this hearing in
8 Seattle, and I think, Thad, you've got in in the
9 focus groups that you brought together there in
10 the state of Washington. In the state of
11 Washington, they enhanced tens of thousands of
12 ballots in the process of doing that recount
13 where they found that an optical scan ballot, a
14 mark that wasn't quite read by the machine, they
15 actually then enhanced that ballot, whereby in
16 other states, I know the state of Virginia, they

17 didn't enhance any. I know they duplicated a
18 ballot. There's actually states that do
19 enhancements of ballots.

20 And when we get to looking at vote
21 counts and recounts and this issue of counting
22 ballots, are you seeing that there's widespread

177

1 throughout the country?

2 MR. HALL: That is one of the
3 questions that we have on the survey, is looking
4 at how they are handled in the recount and
5 challenge. What we find is most states do have
6 a process for duplicating ballots. To take a
7 ballot that perhaps isn't marked fully, you
8 might duplicate it or somebody might write
9 something on a ballot that would cause a
10 problem. So you would make a duplication of
11 that ballot. Normally, what is done is you put
12 a serial number on the ballots, and you are able
13 to track the original ballot and the duplicated
14 ballot.

15 UNIDENTIFIED SPEAKER: The reason I
16 asked, you didn't duplicate ballots in Virginia.

17 MR. HALL: Right. This came up in a
18 discussion. To fully illuminate that, we were
19 asking for a suggestion about the 2004 election
20 in Washington. One of the things that came out

21 is the fact that 80 percent or so of the people
22 or more vote absentee in Washington State. When
178

1 they receive a ballot, they take the optical
2 scan ballot out, they look at it. If there is a
3 problem with the ballot, for instance, let's say
4 people circle all the candidates' names as
5 opposed to filling in the bundles, they will
6 duplicate that ballot. And they duplicate
7 between eight and 15 percent of the ballots,
8 depending on jurisdictions. And so this issue
9 came up as being an interesting point of
10 discussion, about how to handle these types of
11 ballots.

12 And in 2004, under their law, they
13 could do enhancements, take a piece of tape and
14 tape over, if somebody made a mistake on a
15 ballot. And then instead of having to duplicate
16 the whole ballots and after the 2004 election,
17 to make any change, they must duplicate the
18 ballot. I watched the election in Portland.
19 They do certain small types of enhancements
20 there, but I don't make the rules. I just go
21 observe. That's my job.

22 MR. CUNNINGHAM: Keith Cunningham.
179

1 Maybe you need a new practice called risky
2 practices.

3 MR. HALL: I just study the state
4 election codes. I don't make judgements.

5 MR. DEGREGORIO: Thank you. David.

6 MR. ORR: David Orr, just quickly,
7 because this really has more to do with what you
8 mentioned about voter intent. We have never had
9 that in Illinois, but people get nervous when
10 you say -- you gave an example, there are people
11 who think of optical scan ballots, they don't
12 mark where they should or they circle or say he
13 is great. It is pretty obvious the intent, vote
14 enhance or voter intent. There is others like
15 in Illinois, we have had situations where 350
16 voted for this one mayor and none of the votes
17 count, not a single vote count because the
18 person did a check rather than an X.

19 So there is no perfect system. These
20 states that do voter intent are trying to define
21 voter intent. In our case, sometimes we ignore
22 the voter intent. I don't if it's a legal

180

1 judgement. Well, if a voter can't do it right,
2 tough, or do we help the voter, but that seems
3 to be what this is all about, kind of a

4 judgement about whether or not imperfections on
5 our ballots should be quote, "corrected."

6 MS. DAVIDSON: Can I add one thing?

7 I think what you're talking about, when you're
8 talking about these issues though, I was trying
9 to look at what's a Court going to do, if you
10 ended up in court. And I look at it that way.
11 If you duplicated a ballot and you can show the
12 judge, here's the original ballot and here's the
13 one you've got, the judge can say, yes, that
14 counts or, no, I disagree. It doesn't count.
15 He can make the determination. If it is
16 enhanced, it is a little harder to make that
17 determination. And then if you show up in court
18 and you've got ballots that you didn't do
19 anything with and, no, they didn't make the "X"
20 like they were supposed to and they just checked
21 it, I don't know many judges that wouldn't give
22 that voter that vote. But that's the way I look

181

1 at it. Maybe my perception is not right, but on
2 the other hand, that is how I look at it when
3 you're making decisions.

4 MR. THOMAS: Whether your voter
5 intent -- Chris Thomas from Michigan. Whether
6 your voter intent -- on an optical scan system,
7 what you're going to deal with on your central

8 counts, which absentee ballots, are voters who
9 are correcting errors. They made a mistake when
10 they voted, and they try to erase it.

11 What they have done now is created an
12 over vote. Often times, those tabulators are
13 going to read erasures in the vote, those type
14 things. We're not a voter intent state. We're
15 very specific on what counts and what doesn't
16 count, much like Illinois. So if you circle the
17 box and you don't have anything in the target
18 area, then you didn't follow directions. But
19 it's still the issue of looking at these things.
20 And our clerks, when we originally told them you
21 have got to out stack where people have crossed
22 over in our primaries and voted on both sides,
182

1 or there is an over vote noted, you have got to
2 take a look at it to make sure it's not just a
3 pure correction that is going on. You can
4 correct a ballot by writing on it. You can
5 correct it by erasure, but that doesn't mean the
6 machine's going to recognize it.

7 MR. QUINN: Cameron Quinn, from the
8 Department of Justice, formerly from Virginia.
9 Going back to David's point, Virginia is a voter
10 intent state, but what needed to happen was to

11 have clear rules statewide as to what were
12 proper indications of voter intent, based on the
13 code of Virginia, based on indications. And so,
14 for example, we asked all the registrars to
15 create ballots they have seen and look at the
16 code and say, well, based on the language of the
17 code, this would be counted and this one
18 wouldn't. We circulated to everybody and their
19 party's candidates and said, give us feedback.
20 Are we misreading the code, are we not seeing
21 something that we need to address. And those
22 standards went through a statewide recount of

183

1 two million voters to the difference of 360
2 votes, and everybody was comfortable that it was
3 done properly. And I would highly recommend
4 that states that haven't done not that, even if
5 you aren't a voter intent state, you put
6 something out when you collect the ballots,
7 instead of examining, this is not going to
8 count. If the parties candidate civic action
9 groups become aware this is something they need
10 to be conscious of, and maybe they will redo
11 their simple ballots to try and address those
12 problems.

13 CHAIR KAUFMAN: Doug.

14 MR. PALMER: I submit that unless you

15 do what Virginia did, what Virginia did in terms
16 of explaining voter intent and the determination
17 of an intent, that voter intent is not a
18 standard. If it is purely subjective, if it is
19 purely from jurisdiction to jurisdiction
20 deciding how they are going to count that
21 particular ballot, in my mind, it does not meet
22 the Gore v. Bush. It certainly is not an equal
184

1 treatment of voters. And so the states that
2 have left this with no outlines of what to be
3 done, seems to me are not in compliance with the
4 Help America Vote Act.

5 MR. HALL: I can tell you one of the
6 biggest problems with doing this project was not
7 finding things that you kept looking for and you
8 kept thinking, no, it really has to be here,
9 there must be something somewhere. So you go
10 find the other code block or you look in the
11 state constitution and realize that's it.

12 So I can tell you we dug far and wide
13 for all the states that had an interest in this.

14 UNIDENTIFIED SPEAKER:
15 Philosophically, I think voter intent is a
16 slippery slope and is bad practice. How do you
17 know that the intend was. It becomes totally

18 subjective, and I just think that as election
19 officials, we ought to at least -- I don't think
20 we'll eradicate it, but we ought to at least
21 state the opinion that it's just bad practice.

22 CHAIR KAUFMAN: Wendy.
185

1 MS. NOREN: Didn't HAVA require, in
2 order for states to get their money, to define
3 what constitutes a vote? How did they get their
4 money if they haven't defined it.

5 MR. CRANGLE: Why can't they say when
6 you can design a ballot, when it comes to voter
7 intent, the most important thing is trying to
8 get a voter's vote counted. And if you know in
9 human nature, if I "X" or underline something,
10 you know that I was trying to vote for that
11 person, that's my judgement, rather than
12 excluding that vote.

13 MS. NOREN: Wendy Noren. I forgot to
14 say my name. THis might be directed to Chairman
15 DeGregorio. Did you all accept as what
16 constitutes a vote the voter's intent?

17 MR. DEGREGORIO: Ms. Noren, as you
18 may know and Peggy Sims knows quite well because
19 we dealt with this issue with the vice-chairman
20 when we looked at all this, the states self
21 certify HAVA compliance. So it wasn't we

22 determined these things. States self certified
186

1 that they were in compliance with HAVA with
2 their state plans.

3 MS. SIMS: The other thing, there
4 were certain deadlines, different deadlines for
5 implementing Title III provisions, and much
6 funding was handed out before those deadlines
7 became due. They had to certify that they had a
8 state plan that told us how they were going to
9 be implementing Title III, and certified such
10 things such as having their five percent match
11 and so on.

12 MS. NOREN: I was assuming, like you
13 took money back from California, maybe some of
14 the states that haven't complied were
15 jeopardized if they stated in their plan they
16 were going to and never have.

17 MS. SIMS: Well, actually, the
18 compliance with Title III is a Department of
19 Justice issue. They are going to be the ones
20 that actually enforce that.

21 For us, we would take money back if
22 they take 102 funds and don't fully replace the
187

1 punch card and lever machines in all of the

2 precincts. So the money would come back to us
3 that way, or if we find that the money has been
4 misused.

5 CHAIR KAUFMAN: All right. It's been
6 an excellent day, a wonderful group of
7 presentations. I know we all feel inspired and
8 enlightened.

9 The mundane housekeeping
10 announcements. I asked Amie -- I did not notice
11 a travel reimbursement form in our books, how do
12 we want to handle that. She said that the
13 Commission is going to handle the preparation of
14 our forms as beautifully as they have prepared
15 all of our travel arrangements for us, and I
16 know you appreciate how well we have all been
17 taken care of in that regard. And so you're
18 going to need to convey to whoever, she's going
19 to tell you to convey your receipts. And you
20 get a per diem for meals, if that meal in that
21 time frame is not already provided by the
22 Commission at the meeting. Tips are not

188

1 reimbursable, but you need receipts for things
2 like airport parking and taxi. Thank you. I
3 thought we should cover that before we turn you
4 loose to go out and have dinner.

5 MR. DEGREGORIO: All right.
6 Tomorrow, there is a continental breakfast and
7 we re-convene in this room at 8:30. Have a good
8 evening, and be careful out there.

9 (Whereupon, the above meeting was
10 adjourned at approximately 5:00
11 o'clock, p.m.)

12 * * * * *

13

14

15

16

17

18

19

20

21

22

1

2 CERTIFICATE OF COURT REPORTER

3

4 I, Jackie Smith, court reporter in and for
5 the District of Columbia, before whom the foregoing
6 meeting was taken, do hereby certify that the
7 meeting was taken by me at the time and place

8 mentioned in the caption hereof and thereafter
9 transcribed by me; that said transcript is a true
10 record of the meeting.

11

12

13

14

15

Jackie Smith

16

17

18

19

20

21

22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

U.S. ELECTION ASSISTANCE COMMISSION
LUNCHEON MEETING

Taken at the Hamilton Crown Plaza Hotel
1001 14th Street, Northwest
Washington, D.C.

Taken on the date of:
Wednesday, May 24, 2006

21 Start time: 12:30 o'clock, p.m.
22 Taken before: Jackie Smith, court reporter

1 P-R-O-C-E-E-D-I-N-G-S

2 MR. DEGREGORIO: Ladies and
3 gentlemen, could I have your attention. I know
4 that most of you are completing your meal and
5 your dessert. Some of you, I know, are still
6 eating and I apologize for that, but we want to
7 get you out of here before 2:00. I know that
8 both the Board of Advisors and the Standards
9 Board are having their plenary sessions this
10 afternoon, and we want to make sure we get out
11 of here on a timely basis.

12 I want to take this opportunity now
13 that you're altogether, both boards, to welcome
14 you again. I know you have been welcomed
15 individually by myself and by Vice-chairman
16 Martinez to Washington, but I want to take these
17 opportunities as the Chairman of the EAC to
18 welcome all of you. I haven't had that much
19 time to spend with the Standards Board members
20 this time because I am the public officer for
21 the advisory board, and have spent my time with
22 that group. I know it's been very lively

3

1 discussions that we have had in our group, and I
2 know that the discussions that we have heard
3 from our staff members and others have been very
4 enlightening certainly to all of you in
5 discussion among yourself and with other

6 presenters, has been very helpful to gather
7 information and to react to the information
8 that's been presented to you.

9 We also want to thank the people that
10 helped make all of this possible, including our
11 facilitators, signers, our transcribers who help
12 us make these meetings possible, and make them
13 accessible, and keep minutes of the meeting, and
14 also I want to take this opportunity on behalf
15 of the Commission to thank our staff that have
16 been very effective. You have met many of them
17 in the presentations that have been given, but
18 to pull an event like this together, to bring
19 150 plus folks to Washington, to make it work,
20 get you the packets, involved a lot of work.
21 And you have met my special assistant, Amie
22 Sherrill. You have met the Vice-chairman's

4

1 assistant, Adam Ambrogi. And those two
2 individual who sit outside myself and the
3 Vice-chairman's office, we know have worked very
4 hard in the last month or so to pull this off
5 and make it work. And so I want to give them a
6 public acknowledgement of their activities and a
7 round of applause, please.

8 I'd like to spend just a few minutes,

9 we're all going to spend a few minutes to talk
10 to you about some of our activities, individual
11 activities, and I want to talk to you globally
12 about our activities too. Our speaker will be
13 talking in more detail about some of the items I
14 will be mentioning to you.

15 First and foremost, since we last
16 met, the EAC distributed all of the 3.1 billion
17 dollars that Congress appropriated under the
18 Help America Vote Act for us to distribute to
19 the states. So that's all gone out to the
20 states, and we know that it's being spent. So
21 that's a major accomplishment to get that
22 finished.

5

1 When we started in June of 2004, had
2 the first transmittal of funds, that was a major
3 milestone, and finishing that task has been a
4 major milestone for the EAC. And, of course,
5 with the distribution of funds, it also means
6 the accountability of funds. And we have, as
7 you know because we send you out information
8 from time to time, that we have hired an
9 inspector general and staff for the inspector
10 general that supports Roger LaReush, who serves
11 as our acting inspector general. That program
12 is up and running, and he and his staff are

13 working very hard.

14 We have completed the California
15 audit, made public a few weeks ago, but they are
16 also working with other states to look at the
17 way the monies are being spent, and to help the
18 states and advise the states on how they can
19 improve the process of accounting for the funds
20 within their states.

21 The Voluntary Voting System
22 Guidelines become history in December of 2005,

6

1 as you are all aware of, a draft of those
2 guidelines that were developed over the last
3 year and last summer particularly, but those
4 have now been official. And we're very proud of
5 that work that went into making that happen.

6 the certifications program for voting
7 equipment is one that we have made a high
8 priority for 2006, and that our staff
9 understands that the Commissioners expect it to
10 be their highest priority for 2006. A lot of
11 work is going into that program that we're
12 taking over from the National Association of
13 State Election Directors. It is a very complex
14 process, I should just tell you that. And we
15 have engaged some of the best minds in the

16 business throughout the nation to help us
17 develop the best programs possible. We're
18 looking forward to sharing that with you and
19 taking that over this year.

20 We have issued a lot of guidance on
21 statewide databases, how to use HAVA funds,
22 since we last met. We answer questions each and

7

1 every day from election officials, and voter
2 advocates, and members of the public, who are
3 interested in this process.

4 We have many research projects
5 underway. I don't really need to go into much
6 detail because you have had over the past 24
7 hours a lot of information presented to you as a
8 result of those research projects that have been
9 ongoing.

10 We have issued several reports. The
11 2004 Election Day Survey report was issued. We
12 issued a report on the 2004 survey regarding the
13 UOCAVA uniform and overseas citizens. And our
14 survey results came out for that recently and
15 our 2005 annual report. We have issued a lot of
16 reports. We're engaged in a lot of research.
17 We have a lot of working groups going on.

18 As one who has had the honor to be
19 with the agency from the very beginning, it's

20 just amazing to me to see how far we've come and
21 how interactive we are with the nation's
22 election officials and advocates, and how I

8

1 believe we're making a difference in the nation.
2 And the difference that I believe that those who
3 wrote HAVA and believed in HAVA when it was
4 enacted in 2002 expected the EAC to become, and
5 I hope that we're continuing to live up to those
6 expectations.

7 From myself, I felt that 2006 being
8 an election year and having the honor of being
9 Chairman of this Commission, it was important
10 for me to focus on the election year and focus
11 on the election primaries and elections of the
12 year. And as we did some in 2004, going to
13 visit election jurisdictions throughout the
14 country that were conducting primary elections,
15 we have also done that in 2006. And I have done
16 that and focused on those jurisdictions that are
17 going through transition to new election
18 equipment. We realize that an about a third of
19 the voters in the country are experiencing or
20 will be experiencing new voting devices this
21 year, transitioning from punch cards, including
22 from my own county, St. Louis County, going to

9

1 optical scan and DRE-type systems in my own
2 county.

3 So I know that many counties are
4 going through that transition, and some of it
5 has been difficult, but I have had the
6 opportunity to go to many states and I'll just
7 talk a little bit, mention them, single out a
8 few for some discussion.

9 I will point at Illinois. I know
10 David Orr is here from Chicago, and David is a
11 superb person and superb election official in
12 the country, and he and my friend Lance Gulf
13 from Chicago did a tremendous transitioned from
14 punch card machines to new devices, optical scan
15 systems, for the March 21st primary. Coupled
16 with that, coupled with HAVA, coupled with state
17 laws that complicated the matter, I would say it
18 was a very difficult process. I went around the
19 polling places in Cook County, Chicago, in
20 DuPage County and King County, which had all
21 different systems. We had Secura in King. In
22 Chicago, we had the Hart system. We had Debolt

10

1 in DuPage County. So it was good observation.

2 But I'll say that David Orr, Lance Gulf from

3 Chicago, had the greatest challenge with so many
4 voters, and so many polling places, and 30,000
5 poll workers. And they did a great job, but
6 it's amazing to me when we have all these
7 changes, particularly state changes at the same
8 time we're imposing federal changes, it is a
9 very difficult thing to ask the poll workers to
10 get it right, but they learned a good lesson
11 there. And I know they made some changes that
12 when November comes, I think things are going to
13 be very smoothly.

14 But in other places around the
15 country during changeovers of equipment, I think
16 we have found minor detail problems everywhere
17 that we went. But I'll say that, generally
18 speaking, whether it was in California where the
19 Debolt system was being used with the VPAT at a
20 special election in San Diego congressional
21 election, and North Carolina, Nebraska, and
22 Pennsylvania, that overall, what I saw is people

11

1 working very hard to do the best job they can
2 and doing a good job in the end.

3 And while some of these counties had
4 some problems, for the most part, things came
5 out very well, but there were some issues.
6 There were some issues in some places, and I'll

7 mention one particularly that just bothered me
8 that it happened. I was in Carver County, North
9 Carolina, the scene where they lost 4,300 votes
10 on a machine because it could only be programmed
11 to count 300,000, and they were used for early
12 voting, so at 300,001, it stopped counting the
13 votes, capturing the votes. Those people could
14 still vote on these machines so they had that
15 major problem, but the poor folks in North
16 Carolina had to deal with it. These people went
17 all out to get it right in 2006, and they really
18 did a great job.

19 I was at this polling place at 6:29
20 on election morning, and polls open at 6:30.
21 And the inspector comes to the door, and she
22 announced we had problems with the machines, you

12

1 might want to come back. For some reason,
2 there's 48 votes on the machine. Now, they were
3 using optical scan. You put the ballots in and
4 you put the optical scan in, and it counts.
5 She's announcing this. One voter is crazy and
6 irate, saying how could you let people vote on
7 this, what's the problem, this is illegal, and
8 all this stuff. She says if you want to come
9 in, we have emergency procedures. So they let

10 them in, and the voters voted using emergency
11 ballots, but the one voter went out to the
12 parking lot to tell everybody that you really
13 shouldn't go in there until you get this thing
14 fixed. I think what they are doing is illegal.
15 She didn't even know who the EAC is. She said,
16 thank God you're here, come and look at this.
17 She showed me the tape. It is supposed to be
18 zero. It says it is 48. How could that be? I
19 am looking at this. It is the logic and
20 accuracy test, because it was 4444. They forgot
21 to zero out the emergency test. I said, well,
22 ma'am, just have them vote emergency through the

13

1 slot. She called the office. Anyway, end
2 result, it took an hour for the director of
3 elections herself to come in to zero out the
4 tape and to print a zero print out.

5 Then the poll workers to get on about
6 voting, but it so happened that four of the 34
7 polling places in Carroll County, this is what
8 happened. You just would have thought that they
9 would have got this right, and the person with
10 the state board of elections was horrified. She
11 was horrified, and I had to witness this. But
12 when you look at the whole state and all the
13 other counties, this is really an isolated

17 Lastly, I will mention the
18 Vice-Chairman and I had the opportunity to go to
19 see some early voting for the New Orleans
20 mayoral election, and to be hosted by Secretary
21 of State. I know he is not here, but what a
22 wonderful election official. This man went all
15

1 out to make sure that the voters of New Orleans
2 had every opportunity to participate in the
3 primary and the general election that was held
4 this past Saturday. And it came off, and it
5 came off with excellent participation from
6 people who had been displaced through Hurricane
7 Katrina.

8 You see how many people around the
9 nation had to face difficult challenges, whether
10 it is transition of election equipment or
11 whether it is hurricanes, are really going out
12 all out to make it working for the voters of
13 their jurisdiction in their state, and they need
14 to be commended for do that.

15 One thing that I know you have heard
16 about is our management guidelines that are
17 going to be coming up. You have heard Connie
18 Schmidt and Brit Williams talk about. That's
19 going to be one of the best documents that I
20 think we will ever put together to help election

21 officials. And the document that's going to be
22 coming out in a few weeks was something that we

16

1 felt was necessary. All the experiences of many
2 states over the past few months in the primaries
3 this year really have been helpful to put
4 together that particular document to help the
5 states that are going to be having primaries
6 coming up in June, July, September, to remember
7 things that they might forget.

8 I want to end on a couple notes
9 before I turn this over to the Vice-Chairman.
10 You all know I have always had an interest in
11 international work, international visitors, that
12 come to the United States with the work I used
13 to do overseas. I want to remind you that you
14 are likely to see international visitors this
15 year to come to some of your states. I met with
16 a group from an organization for security
17 operations in Europe last week in Washington at
18 the request of the state department. The United
19 States is a member of that organization, and as
20 a member, we're really supposed to allow
21 delegations from the organization to observe our
22 elections in the U.S..

17

1 The United States sponsors of people
2 to observe their elections, so you may be asked
3 to do that. I realize the technicalities of
4 your local state house in allowing who can come
5 in and out of polling places, but I want to
6 remind you that you may be called upon by the
7 State Department to do that. And these are
8 sanctioned people, people sanctioned by our
9 State Department to be official observers. So I
10 want to remind you of that.

11 And also to encourage any of you who
12 are interested in serving as a U.S. observers
13 overseas, I know several of you have, but if any
14 of you might have an interest in doing that, you
15 can send me a note with your resume. I will
16 pass it on to the State Department. They are
17 looking for election officials to do that, to go
18 to Ghana, to go to Ukraine, to go to many places
19 overseas just for about a week to help out, to
20 observe their elections. And I think it's a
21 great thing for anybody to do, and I encourage
22 you to do that.

18

1 Last thing I want to remind you is
2 that tomorrow we're having our public meeting at
3 the Hamilton Crown Center in the Hamilton Room

4 where the Standards Board has been meeting.
5 We'll be meeting at 10:00 until about 12 or so.
6 We're going to talk about our efforts to train
7 poll workers, and we will expand upon, it have a
8 few more speakers which you have heard at this
9 conference to focus on that very important
10 issue.

11 Now, I'd like to turn the mic over to
12 a man who's been a friend since I first met him
13 in the fall of 2003. Ray Martinez is a person
14 of high integrity, as you have heard me say
15 before, but he is a person who has devoted his
16 full effort since being considered for the EAC,
17 nominated to be with the EAC. And since he
18 became a member of the EAC on December 13th of
19 2003, he has been focused. He has been full of
20 energy, good ideas, and excellent questions, and
21 it's been a pleasure for me to serve with him.

22 We have worked very closely together on

19

1 committees together in our first two years, and
2 now serve as Chair and vice-chairman of the EAC.
3 And I think that you all know that he is
4 announced that he is going to be leaving the EAC
5 this year. To me, it's a big loss for all of us
6 because he has really worked very hard to
7 improve the process of conducting elections in

8 the country. We will miss him and miss his
9 leadership, but knowing Ray, he'll stay involved
10 in the process, and continue to contribute to
11 the process in whatever role that he takes after
12 he leaves the EAC.

13 So it's been an honor to work with
14 Ray Martinez. I know he is worked closely with
15 the Standards Board, and I know you will miss
16 him too, but it is my pleasure to present to
17 your Vice-Chairman of the EAC, Ray Martinez.

18 MR. MARTINEZ: Thank you all, very
19 much. I will be very brief. I thank
20 Mr. Chairman, thank you for the very kind
21 introduction and the very nice comments. I
22 consider ours to be a genuine friendship, and I
20

1 agree, it has been a tremendous opportunity for
2 me to work with you and the expertise that you
3 have brought, tremendous expertise, that you
4 brought to the EAC, and quite frankly, all of my
5 colleagues.

6 I have been honored to serve with
7 Gracia Hillman, another friend and somebody who
8 has helped to move this agency forward. And, of
9 course, my newest friend, and that is Donnetta
10 davidson, who I know I will continue to know for

11 years to come, as I will all my colleagues. But
12 Secretary Davidson, as I still sometimes refer
13 to her, but of course, Commissioner Davidson is
14 a tremendous asset to this agency, and it's a
15 pleasure for me to work with her.

16 I will be very brief. I think the
17 Chairman gave a very good synopsis. And as I
18 look back over the past 27 months for the EAC, I
19 see progress. I think that we have to look
20 candidly at what we've done well and what we
21 haven't, and I think that's why I value these
22 particular gatherings, because it allows me to

21

1 get in one fell swoop an enormous amount of
2 opinions, both sometimes positive and sometimes,
3 quite frankly, negative, about the role of the
4 EAC and how we can help support the tremendously
5 challenging job that you all have as state and
6 local election administrators. I think it's an
7 important conversation that ought to be had, not
8 just in this environment, and that is once or
9 twice a year, but it is a continue dialogue that
10 has to be done or has to be conducted between
11 the EAC and these respective bodies.

12 With that, let me also say how much I
13 have appreciated in particular the members of
14 the Standards Board, and particularly the

15 executive board members. Your Chair Peggy
16 Neiswanger, and I could single out each one of
17 your executive board members, not just for the
18 contributions that they have made on your behalf
19 as the leadership for the Standards Board, but
20 more importantly to me, for the contributions
21 they make when they are not wearing the
22 executive board hat, because there are issues

22

1 that come up for the EAC that require us to
2 reach out and talk, and to seek expertise. So
3 rather than simply dealing with our bodies in a
4 vacuum and say, well, twice a year, we'll have
5 to listen, I think it is incumbent on us to say,
6 every day we will try to make an attempt to
7 listen, and engage these individuals and these
8 respective bodies into our deliberations and
9 into the work of the EAC. And I have tried very
10 practically to do that with your executive board
11 members, and to do that with many of you, quite
12 frankly. And it has turned out to be a
13 tremendously valuable asset for me as a
14 Commissioner.

15 To me, it speaks to what is truly
16 important about the EAC, whether we're viewed as
17 a truly credible and legitimate partner at the

18 election administration table. What I mean by
19 that is I have always felt that we, the EAC, are
20 only as good as the meaningful relationships
21 that we can develop with our stakeholders, and
22 that's just the bottom line for me. It doesn't

23

1 do me any good as a Commissioner if I can't
2 reach out to my colleagues in the election
3 community, regardless of party affiliation. It
4 doesn't do me any good as a Commissioner if I
5 can't reach out to my colleagues in the advocacy
6 community, regardless of political orientation,
7 and have meaningful dialogue, and I think that's
8 at the heart of what I see as the success of the
9 EAC, and I know that it's something that all of
10 you, whether at the state or at the local
11 levels, strive for in trying to achieve that
12 respective balance. And it's my opinion that at
13 the national level, we don't have right now
14 really good political balance in the arena of
15 dialogue, and we have to have it. It's a must
16 in the election administration arena, and I
17 think what we're striving for at the EAC.

18 As I look back over the 27 months, I
19 agree with Paul, the delivery of the Title II
20 funds, the development of the Voluntary Voting
21 System Guidelines, the voluntary guidance that

22 we have been able to issue, and stepping up to
24

1 the plate and playing our role as the
2 interpretative agency, the certification program
3 that we're about to roll out and take over those
4 are very important deliverables. Perhaps the
5 most important thing that we can develop is to
6 establish that meaningful relationship so that
7 we have credibility when we sit at the table of
8 election administration. I think that's what we
9 have all strived for. I think all four
10 Commissioners have been dedicated to insuring
11 that is an appropriate place, that is the
12 appropriate role for the EAC.

13 As I look forward, and I will not be
14 a part of this obviously very soon, but as I
15 look forward in time to the role of the EAC, I
16 do think important and candid conversations have
17 to be had with our appropriators on the Hill,
18 but with our stakeholders as well, the advocacy
19 community, election official community, academic
20 community, a very important stakeholder in what
21 we're doing. I think we have to have a
22 conversation about what is the next phase, if

25

1 you will.

2 There is a lot left to be done in
3 implementing the four corners of the Help
4 America Vote Act, and that ought to remain the
5 focus of the EAC for some time to come. At some
6 point, we have to think about what is the
7 appropriate role on the long term basis, if
8 Congress decides there is a long term basis, and
9 I will submit to you for consideration that I
10 think the work that we're doing with the
11 National Institute of Standards & Technology on
12 the development of objective and sound standards
13 and guidelines, as we have called them, for
14 voting systems is an important role for the EAC.

15 In addition to that, I would submit
16 to you that the certification program that is
17 going on transferred from NASED to the EAC is a
18 vital role that must be played by the EAC,
19 particularly with the debate about security and
20 integrity of electronic voting machines still
21 sweeping through the country. Rightly so, there
22 are legitimate questions that have to be

26

1 addressed. We're doing it, you're doing it, but
2 the conversation is continuing and will not
3 abate any time if the future.

4 The agencies ought to take seriously

5 the work we're doing with NIST on voting system
6 standards and over the national voting system
7 certification programs. Those two areas, in my
8 opinion, ought to ground the EAC for years to
9 come, and it's something that I think it's a
10 notion that we all ought to discuss, debate, and
11 see if there is a consensus from every aspect of
12 the political community, political persuasions,
13 as to whether that is perhaps the appropriate
14 focus for the EAC in the long term.

15 So I simply leave you with those
16 thoughts. It has been an honor, and to the
17 Standards Board members, what a privilege and
18 honor it has been for me to once again in this
19 capacity fulfill what is my life long dream of
20 public service, and I hope to continue in some
21 capacity to do that for years to come.

22 For now, I will quietly exist and go
27

1 back to Austin, Texas, and try to make a living
2 somehow and go spend time and focus on family,
3 as I said in my resignation letter, but it is in
4 my blood. That's what people have said to me.
5 And I want to stay involved in what you do and
6 be a part of this community for years to come.
7 So I thank you for your friendship, most
8 importantly, and I thank you for your

9 professional service to our great country. And
10 it's been a privilege and honor for me to be on
11 this very important Commission, and I look
12 forward to continuing to work with you.

13 So with that, I would introduce my
14 colleague, Gracia Hillman, who is, along with
15 Paul and myself, one of the original members of
16 this Commission. So we have got a few stories
17 to tell, if you want to hear them some day.
18 Gracia is a strong advocate and a strong leader
19 for our agency, and it's been a real pleasure
20 for me to get to know her better and to serve
21 alongside her. So Commissioner Hillman, please.

22 MS. HILLMAN: Thank you, very much,
28

1 Commissioner Martinez, and thanks to all of you
2 for being here with us. And I join my
3 colleagues in restating how important it is to
4 have the connection that we do with you.

5 We all knew from the time that the
6 Help America Vote Act was passed that we would
7 be in 2006. We didn't know how it would feel or
8 what state of readiness or unreadiness we would
9 be in but we're here. It's been a very, very
10 interesting ride, and I do believe that history
11 will be kind to all of us when it reflects on

12 what happened in the initial two to four years
13 after the passage of the Help America Vote Act.
14 We've got dual responsibilities, and the "we" is
15 the EAC and all of the election administrators,
16 and I would include the advocacy and academic
17 community in this as well, in that we were asked
18 through the Help America Vote Act to, on the one
19 hand, fix an immediate problem or problems, set
20 of problems, and on the other hand, lay the
21 foundation, pave the way for future of election
22 administration in the United States.

29

1 I have had the privilege in my life
2 of having lots of interesting jobs and very
3 rewarding jobs, and I have had my fair share of
4 crisis management through any number of those
5 jobs, whether it was Department of Corrections,
6 or Port Authority issues, or running the
7 nonprofit organization. And what we all know is
8 that the solution or the solutions to fix
9 immediate problems for right away quickly fades
10 with not necessarily the best things that lay
11 the foundation for the future. So we have been
12 spending the past few years, we, the collective
13 we, doing both of those things. We can't just
14 do the one and not do the other, and I think an
15 incredible amount of work has been done.

19 Is your job part time, without any appreciation
20 of what Congress and the legislature and even
21 county commissions or city councils impose upon
22 the process.

31

1 It is fair to say, accurate to say,
2 that the Help America Vote Act imposed the most
3 significant changes in election administration
4 since passage of the Voting Rights Act 41 years
5 ago. So it's been a long time since the country
6 has come through this. As I said, I certainly
7 think history will be kind to us. And we also
8 hope that you will be a voice to take
9 information back to your colleagues,
10 particularly for the jurisdictions that don't
11 have the financial luxury and opportunity of
12 participating in some of the national
13 conferences, whether it is through the election
14 center or IACREOT.

15 It's true there are over 7,000 people
16 in this country who have principle
17 responsibility for participating -- I mean, for
18 running elections, then you know that many, many
19 of them don't have the opportunity that you have
20 had to network and connect and receive
21 information firsthand, but we know that all of
22 America benefits when everybody has access to

1 that information. I think you know from the
2 presentations you have heard from the Election
3 Assistance Commission the kind of respect and
4 friendship that the four Commissioners have, and
5 that we had, the initial four Commissioners,
6 when Buster Soaries was with us.

7 And with all of that in place, I do
8 have to say that one of the great pleasures of
9 this service that I have is getting to know all
10 of you and having spent time with you, and
11 having the opportunity to see the United States
12 of America through you and through your work and
13 through your communities. All of you have been
14 such gracious hosts as we have traveled around,
15 and I just want to make sure that you understand
16 how much I appreciate all of it. Because on a
17 professional side, yes, I have a responsibility
18 to Congress, to the Help America Vote Act, to
19 the Commission, to all of you, but on a personal
20 side, it has really been absolutely phenomenal
21 to get to see life in America through the work
22 that all of you do. And it's very, very

1 important.

2 I have to leave at 2:30 along with

3 Commissioner Davidson and Tom Wilkey. We have
4 an appointment on the Hill, and I suspect that
5 we won't be back before the sessions break up.

6 So I just want to let you know that I'm not
7 being rude in not being around. I am going off
8 and continuing to do the work that we do. And
9 so I will take this opportunity to again tell
10 you how great it's been to see all of you.

11 I have to say as one Commissioner, it
12 was really hard to balance the two meetings at
13 the same time, running up and down, sometime in
14 the Board of Advisors and sometimes in the
15 Standards Board. The Chairman and Vice-Chairman
16 had to more or less stay put, but it's been a
17 good and rewarding experience.

18 And before I close, I do want to
19 share with you words of hello from Buster
20 Soaries. From time to time, we hear from each
21 other. And I did have the occasion to talk with
22 him last week, and told him that we were

34

1 preparing for these meetings. And he did ask
2 that I send you his regards and his best wishes
3 for everything that has to happen in this year,
4 2006.

5 And with that, I'd like to introduce

6 and call to the podium Commissioner Davidson,
7 who for me it's been great to have a little
8 balance. We have bipartisan balance and now we
9 have a little other kind of balance on the
10 Commission. It has changed the conversation, I
11 assure you. Thank you.

12 MS. DAVIDSON: Good afternoon. You
13 know, I really would like to say I want to get
14 John back as much time, I want to make sure he
15 has as much time as he can, because you need to
16 learn about what's going on with that program.
17 So John, as you're coming up, I'd like to
18 introduce the members on the TGDC that's
19 actually here, and we have several.

20 They spent a lot of time working on
21 this committee. They do almost weekly or every
22 other week telephone calls, and so they spend

35

1 lots of time. So if you see some of them, say
2 thank you. Alice Miller, Sharon Turner-Buie.
3 Sharon, are you here? Helen Purcell, and then
4 we have J.R. Harding. J.R. was here, and we
5 have Jim Elekes. And then Burt Williams, and he
6 was one of our presiders at one of the meetings.
7 I'm not sure if he is still here. Those people
8 that are your ears and eyes., so definitely they
9 like to have input from you also, and I know

10 thinks feels the same way. They have always
11 felt like the input they learn from the election
12 officials, just like we do, because we can't do
13 it without you, the input that they learn from
14 you really helps them in striving to get the
15 standards the best as they possibly can.

16 So I'm going to turn it over to you,
17 John. He is the one that is representing NIST
18 here today. This time, we haven't had him on
19 stage as much as usual, but in the future, it
20 will be. What we have VPAT is just a draft, as
21 we have put it, and then as we see the unfolding
22 of how this works through the election, we know

36

1 we're going to have to add to it. So I'm going
2 to bring you up and you can bring us up to date
3 with everything that NIST is doing.

4 MR. BECK: Don't clap too much.
5 Thank you very much for the very nice
6 introduction from Commissioner Davidson. Thank
7 you for the EAC, and thank you to all of you.

8 I will just start off by saying I
9 very much enjoy and really look forward to
10 speaking to people such as yourselves, and I
11 think, like Commissioner Martinez was saying,
12 you work in this field for a little bit and it

13 does get in your blood, and I find myself
14 hunting for voting news in the newspapers and
15 the radio. I have wondered why this is. It's a
16 mixture for me, it's a picture of technology,
17 sociology, politics. I used to live in France
18 for a while, and I always thought it was
19 controlled chaos, and it seems to work in
20 running elections the same way.

21 One of the things about it is
22 everybody involved in it really seems to be

37

1 dedicated to this. It's more than a job. It's
2 a calling. It is a great thing. I'd like to
3 congratulate you all for that. Okay. What I'm
4 going to do, and I won't take up a lot of time,
5 what I'm going to do is give you a little bit of
6 background information, talk a little bit about
7 where we are right now with our standards
8 development, a little bit about where we're
9 going with the new version of the standards,
10 talk about the VPAT work we have been doing.
11 And then I've got a request, I'm going to ask
12 for your help.

13 So with that, I think all of you are
14 aware of who we are and what we do, but for the
15 maybe one person out there who doesn't,
16 according to the Help America Vote Act, we are

17 basically to assist the EAC in developing new
18 standards for the voting equipment. That's what
19 we have been doing. And so last year, in
20 Denver, a couple of us from NIST put on kind of
21 a road show, a briefing, at that point, the
22 draft voting system guidelines. We got some

38

1 very good feedback on those issues and
2 subsequently worked with the EAC on a public
3 review process and developing responses to
4 comments. And in December, had the new version
5 come out. So we were happy with that.

6 I would say a lot of people were
7 pretty exhausted because we had a relatively
8 short amount of time, and we were pretty
9 conflicted because there are a lot of issues,
10 and we didn't have time to address them all.
11 Right now, it seems as if there are still a
12 number of gaps and problems in voting, and it
13 would be great if we had near term solutions to
14 those. So sometimes while it's an enjoyable job
15 developing requirements, I wish we could get
16 them out faster than we can. Right now, we're
17 structured kind of in three small groups; human
18 factors and privacy, core requirements,
19 integrity testing, and then security. And we

20 work with the Technical Guidelines Development
21 Committee, about 14, 15 members. We have
22 enjoyed doing that, and it largely works but
39

1 there aren't any voting system standards on the
2 TGDC. We have been working with election
3 officials and with people in the community, but
4 not as much as we need to. I will get to that
5 right at the end. So we're keeping pretty busy.

6 Right now, we're primarily working on
7 a version of standards that's supposed to be
8 delivered to the EAC in July of 2007. That
9 version really is kind of a comprehensive
10 rewrite of the current system standards. One of
11 the great things about it or at least I think
12 you may not think so, are that each requirement
13 will be linked to a test. So a vendor, a test
14 staff, can actually look at the requirements,
15 see how they ought to be tested. There should
16 be more uniformity among the test labs. I think
17 that's a very good thing. It takes some time to
18 do. And the standard will be written along the
19 lines of the national standards organization but
20 it has to be written in a very usable fashion,
21 easy to read, easy to understand, to a broad
22 range of audiences. That in itself is a huge

1 undertaking.

2 We need to work more with the EAC to
3 develop something that is very usable, at the
4 same time, accurate and right. One of the other
5 issues is especially in security and
6 accessibility, there's a lot we could do but the
7 voting systems still have to be affordable and
8 they have to be easily testable. So it's a real
9 balancing act.

10 Before I forget, I should mention one
11 other thing that we're doing. I am personally
12 not involved in this but there is the national
13 lab assessment program. Essentially, this
14 organization accredits laboratories for certain
15 types of tests. So what they are doing right
16 now is taking a look at the number of different
17 labs and, essentially, doing pre assessments,
18 helping them get to the point where they can be
19 officially assessed to see whether they
20 basically pass or fail. If they pass, if they
21 prove that they can test well to the standards
22 that are out there, NIST issues kind of an

41

1 accreditation on it's own, saying we accredit
2 you to do this sort of testing, but in fact,
3 that is really a recommendation to the EAC, and

4 the EAC at that point can decide whether they
5 want to accredit that lab as a systems test lab.
6 So that's another very important function.

7 I think we have looked at -- I think
8 we may be looking at the third lab next week.
9 And I believe there are six labs altogether that
10 have applied thus far. So that's sort of the
11 background.

12 I'll talk a little bit about the VPAT
13 work. The VPAT work has been interesting and
14 frustrating. Basically, a lot of the VPAT
15 systems, there aren't that many, but those were
16 developed pre standards. Vendors basically did
17 their best to figure out how to do it in an
18 affordable way. We came in after the fact and
19 had to write requirements, but those
20 requirements, it would have been my preference
21 that they do no harm, but in fact, we felt that
22 there were some issues that needed to be

42

1 addressed. From my standpoint, it was mainly
2 usability for election officials. It is
3 important that voters using the VPAT system be
4 able to see a usable paper record. I know there
5 are issues in handling it versus viewing a small
6 paper spool. There is no sense in using it if

7 it's not for election workers to use the record
8 in performing audits. It doesn't make sense if
9 it's not usable, that is basically the whole
10 purpose, is to be able to audit with the paper
11 record against the electronics records. So
12 that's an important area.

13 We've done some work in there. And I
14 think what has been distributed to you has been
15 kind of an update that we have been proposing.
16 And, in essence, we looked at the requirements
17 and they were written from the perspective of a
18 DRE being used to provide VPAT capability. So
19 there is a drive -- I think there are 26 states
20 now that have paper ballot legislation enacted.
21 There is a subset of that using have VPAT
22 systems, but certainly the drive is out there.

43

1 People are really pushing for this technology
2 and it occurred to us and some others that we
3 could broaden the requirements somewhat and,
4 essentially, focus on the fact that VPAT, there
5 has to be a paper audit trail that is voter
6 verifiable. It doesn't necessarily have to be a
7 DRE with a printer.

8 For example, an electronic ballot
9 marking device which basically acts like a DRE,
10 but it just doesn't record the electronic vote,

11 but it does produce a very nice paper record,
12 and that record can be scanned in very nicely
13 with an optical scanner. The voter has ample
14 opportunity to verify it.

15 The electronic ballot marking device
16 provides under vote, over vote capability
17 protection. In many ways, I don't see why they
18 couldn't be considered a VPAT. So that's one
19 example of what could be done by broadening the
20 requirements. We propose that, and we throw
21 that out to you.

22 What would the ramifications be to
44

1 the existing requirements? Relatively small.
2 Some requirements need to be preceded by four
3 DRE systems. The electronic records shall
4 contain this particular value or something like
5 that. Optical scan systems generally do not
6 keep electronic records of each scanned ballot
7 but produce totals. That's okay. We can still
8 use the totals.

9 What is next? From there, we're
10 doing a lot of research right now in usability,
11 security, in core requirement areas, working
12 closely with the EAC, holding three telephone
13 conferences roughly every other week. And I

14 have talked a little bit about the program.
15 What we have recognized is we need to do a
16 tremendous amount of outreach, reaching out to
17 election officials and the scientific and
18 research community. We have been working
19 through ITNA with a number of the voting system
20 vendors, holding monthly teleconferences, and
21 it's been very valuable. Vendors in a lot of
22 ways are cast as the villains, and there are a

45

1 lot of good people that have provided a lot of
2 help with the requirements. We have been
3 sending up questions through a number of the
4 election community on a variety of issues,
5 accuracy, things of that sort, doing
6 presentations such as this.

7 Some of you have heard about this
8 group called ACRA that received a fair chunk of
9 change from NSF. We have worked to establish a
10 relationship with them. If they are doing
11 voting systems research, it would be good if we
12 tried to coordinate that help out there, and
13 here's where I want to ask you for help. I
14 have, in talking with the EAC, kind of wondered
15 how could we get better feedback in developing
16 requirements. There are numerous issues where
17 if we had better feedback from election

18 officials, we could make rapid progress.

19 So I am wondering if the Standards
20 Board wished to set up some sort of advisory
21 committee to work directly with NIST to help
22 advise us on a number of different things, gaps
46

1 with the current standard problems that you may
2 be seeing with the primaries right now, your
3 priorities in general, what you really think
4 needs to be done. And something that would be
5 very helpful to us is taking a look at our
6 material as we develop it, and making sure it's
7 real, making sure it's accurate.

8 Just to give you a couple of example
9 issues, I am allegedly managing the project but
10 I also work in the security area. And I have
11 asked already for feedback about VPAT
12 requirements, a small group that have good
13 technical knowledge getting feedback there.

14 There are a number of issues on VPAT
15 that trouble me. I don't know if R codes are a
16 good idea or not. They require a two-stage
17 audit. An R code and a paper spool is really a
18 third record. If you're going to do a
19 one-percent recount, you have to check one
20 percent of the bar codes to make sure that they

21 contain accurate information. Voters can't read
22 them. At the same time, they increase the

47

1 accuracy of scanning information, so it's kind
2 of a dilemma. The paper spools themselves, are
3 they presenting problems. It sounds as if they
4 are, in some cases.

5 Some people don't like them because
6 they are viewed as a threat to voter privacy in
7 that they have a sequential order to how people
8 voted. We would like more feedback on that
9 issue. One thing that the vendors have raised,
10 I wouldn't speak for all the vendors, in other
11 words, venting systems, putting out their
12 records in a common format, and then software
13 could be developed for printing records.

14 A lot of that in the area of ballot
15 layout and report generation and perhaps issues
16 such as making ballot layouts more uniform or
17 making sure you are not doing things that really
18 don't need to be done when it comes to layout.
19 Just a bunch of areas that we would appreciate
20 more feedback on. If you do move in that
21 direction to form a committee, I would expect
22 that we would work with the EAC on those issues.

48

1 With that, I think that's about all I
2 have got to say. I will just say our web site
3 is pretty easy to remember vote.nist.gov. My
4 name's John Beck, so you can go to
5 john.beck@nist.com.

6 With that, I will stick around but
7 maybe one of the reasons is I appear sober is I
8 have to close on a house. It is like an eight
9 by eight townhouse with cathedral ceilings,
10 seven million dollars. I am like wiped out with
11 the amount of money. Anyway, thank you very
12 much. MS. DAVIDSON: I think we might
13 have time for a couple questions.

14 MS. NOREN: You have set up the
15 National Software Reference Library, but I know
16 most election officials don't have an easy guide
17 on how to use that. Are you planning on putting
18 something out on that, how to check your
19 software?

20 MR. BECK: That is a tough question.
21 The I think the answer eventually, I will be.
22 The National Software Reference Library is

49

1 perceived as a collection of hatches of programs
2 to be used primarily by law enforcement, and it
3 started to be used for voting systems.
4 One of the problems, I think, has been -- one of

5 the problems we're dealing with right now has
6 really been to truly figure out whether the code
7 we have running really is the correct code, and
8 somehow of using software reference library, and
9 at the same time, accessing the code right then
10 and there on the voting systems, I think, is
11 ultimately what we want to do.

12 This issue has come up repeatedly and
13 some people think the software reference library
14 may be a little over sold in this area, but I do
15 think it would be important for NIST, and
16 probably for NIST to work with the EAC a little
17 bit more on this issue and make sure that clear
18 instructions are out there, and all the
19 capabilities are being used to the extent
20 possible right now. So where we go help out
21 with that, I think we should. I guess what I'm
22 saying, we're trying to do our best. We need to

50

1 do more there, and we will take up the issue
2 with the EAC, and it would be good to hear more
3 feedback from you.

4 MS. NOREN: Can I follow that a
5 little bit, because I have some real concerns.
6 A lot of this is out there that the code is
7 filed up there. There is a lot of information

8 out that you could match the stuff to it. I am
9 from a jurisdiction where we have probably have
10 close races this November, and I think there
11 needs to be a tremendous amount of information
12 put out that this isn't ready. I don't want to
13 get caught in a situation where people are
14 saying our code doesn't match when no system has
15 been set up to determine that yet. And there's
16 been a lot of stuff out saying the system is
17 there and ready.

18 MS. DAVIDSON: We're taping this, so
19 everybody that speaks, would you give your name.

20 MS. NOREN: Wendy Noren.

21 MR. DICKSON: Jim Dickson. You
22 mentioned standards for ballot marking devices.

51

1 What are you doing to address the question that
2 allows privacy and independence for people with
3 hand limitations?

4 MR. BECK: I wish you hadn't asked
5 that question because that is the one big issue.
6 I don't have a good response back on that. I
7 think you know probably Sharon Leskowski and
8 Whitney Quizenberry. Yes, that is a problem
9 because, with that approach, you are manually
10 handling the paper record.

11 MS. DAVIDSON: If I remember

12 correctly, in our standard, we put in that by
13 2007 the vendors have to have that mechanism,
14 that it would automatically go in. They don't
15 have to actually take that ballot and put it in
16 the counter or a ballot box. It will take care
17 of that. So they are designing that right now,
18 a lot of the vendors are. So that's in our
19 guidelines presently, that it has to be in
20 effect by 2007.

21 MR. DICKSON: Thank you,
22 Commissioner. I was going to make that point.

52

1 MR. ORR: I'm sorry. David Orr from
2 Cook County. You mentioned related to it but
3 the issue of when you're trying to have an audit
4 of the touch screen ballot -- and some people
5 have been doing it by hand. I just wanted to
6 let people know we're experiencing with a
7 company that's been testing it electronically,
8 and we're looking for advice both from NIST as
9 well as other people.

10 You just mentioned that we could have
11 some problems with that but I just want people
12 to know we're doing it. And I would like to
13 hear from others because, as I mentioned it to
14 your group, when you start counting hundreds of

15 precinct by hand, that is a pretty tedious job.

16 MR. BECK: This would be a product
17 that, essentially, spools the paper record and
18 reads it out high speed.

19 MR. ORR: When hands start touching
20 that paper, the accuracy diminishes very, very
21 quickly.

22 MR. BECK: The issue that I want to
53

1 address in the VPAT paper. I would suspect they
2 are probably scanning in the bar code just to
3 make people realize that is a third record. It
4 is not a voter-verified record. If you're doing
5 a one percent recount of the paper records, you
6 need to do a one percent inspection of the bar
7 codes. That takes time, unfortunately.

8 Thank you.

9 MS. DAVIDSON: Other questions or
10 statements?

11 Well, I want to thank John. It is a
12 tremendous amount of work. As I said, the TGDC,
13 the work is remarkable. They have the telephone
14 conferences every other week, the three
15 committees, and now they are starting to lap
16 over on some of the others that the committees
17 are not on so they are doing a tremendous amount
18 of work in trying to move forward. I think as

19 we see the product that's coming before
20 everybody in the next meeting, that you have
21 probably will have a lot to bring before you at
22 that time.

54

1 So you'll see the TGDC and NIST, and
2 it's good for them to learn with you, like
3 Quizenberry and the different people. They
4 learned a lot the last time they came to our
5 Standards Board meeting, and I'm sure they will
6 be interested in coming again.

7 And so the next time you get
8 together, as we said, next year, there will be a
9 lot that will be ready for you to start
10 reviewing that will come from NIST and the TGDC.
11 Definitely again, I want to thank everybody
12 because, as John has said, the information that
13 you share with us is so valuable and everything
14 that you do.

15 I can't believe we let her get off
16 the stage without thanking her, she was the only
17 one that I forgot to say but she's done a great
18 job for the committee that the Chairman chairs
19 overseas. You all are so important to us. It's
20 like coming back home when we have the meetings
21 because I get to be with you. So thank you very

22 much. I appreciate it.

55

1 MR. DEGREGORIO: The lunch is now
2 adjourned. Both groups will start the plenary
3 sessions in about ten minutes.

4 Thank you.

5 (Whereupon the luncheon meeting
6 adjourned at approximately 1:45
7 o'clock, p.m.)

8 * * * * *

9

10

11

12

13

14

15

16

17

18

19

20

21

22

56

1

2 CERTIFICATE OF COURT REPORTER

3

4 I, Jackie Smith, court reporter in and for
5 the District of Columbia, before whom the foregoing
6 meeting was taken, do hereby certify that the
7 meeting was taken by me at the time and place
8 mentioned in the caption hereof and thereafter
9 transcribed by me; that said transcript is a true
10 record of the meeting.

11

12

13

14

15

Jackie Smith

16

17

18

19

20

21

22