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ELECTION NIGHT COVERAGE BY THE NETWORKS

HEARING

BEFORE THE

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HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

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ELECTION NIGHT COVERAGE BY THE NETWORKS

WEDNESDAY, FEBRUARY 14, 2001

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The committee met, pursuant to notice, at 11:07 a.m., in room 2123, Rayburn House Office Building, Hon. W.J. "Billy" Tauzin (chairman) presiding.

Members present: Representatives Tauzin, Bilirakis, Barton, Upton, Stearns, Gillmor, Greenwood, Cox, Deal, Largent, Burr, Whitfield, Ganske, Norwood, Shimkus, Wilson, Shadegg, Pickering, Fossella, Davis, Blunt, Bryant, Ehrlich, Buyer, Radanovich, Pitts, Walden, Terry, Bass, Dingell, Waxman, Markey, Towns, Brown, Deutsch, Rush, Eshoo, Stupak, Engel, Sawyer, Wynn, Green, McCarthy, Strickland, DeGette, Barrett, Luther, Capps, Doyle, John, and Harman.

Staff present: Mark Paoletta, majority counsel; Tom DiLenge, majority counsel; Jan Faiks, majority counsel; Charles Symington, majority counsel; Ann Washington, majority counsel; Julie Corcoran, majority counsel; Anthony Habib, legislative clerk; Yong Choe, legislative clerk; Edith Holleman, minority counsel; Laura Sheenan, minority counsel; and Chris Knauer, minority investigator.

Chairman TAUZIN. The committee will please come to order. The Chair recognizes a presence of a quorum and welcomes all of you to this important oversight investigatory hearing on the issue of election night coverage of the Presidential election November 2000. I would ask our guests to settle in and get comfortable. I apologize for the conditions of the room. Mr. Dingell and I have commented just before about how we are outgrowing the size of this room with the size of our committee, and we apologize to our guests for the limited space, and to the press for the limited conditions under which you have to work today, we apologize.

The Chair recognizes himself for an opening statement. Ladies and gentlemen, today we will be hearing from some very important witnesses who will give us a real sense of what went wrong in terms of the election night coverage of the Presidential election of November 2000, but I would be remiss if I did not remind all of us that this is not a new problem. As Mr. Dingell pointed out to me, it was a problem of the seventies. It was a problem going all the way back to the Kennedy-Nixon election when Illinois was called in the one column back and forth several times. It was certainly a problem in the eighties and we have several charts that

I think will give you an idea of what we experienced in the eighties, when elections began to be called on the basis of exit polling data and early projections of winners in the Presidential race were thought to have a profound effect on local races, particularly congressional races in the West, when this committee and other committees of the Congress held hearings, over a dozen hearings, in the 1980's examining the problem of early exit poll calls and its effect upon voter turnout in other elections.

I have a chart that I will ask the staff to put up which contains some of the headlines that were predominant in the 1980's. You can see these headlines: Networks in Dispute on Fast Projections; Angered California Voters May Attempt to Beat the Clock in 1984; Time Zone Fallout; TV Changed the Election of the Eighties. These are headlines from important newspapers, New York Times and Washington Post, Christian Science Monitor and others in the 1980's. What follows is a chart that includes some of the quotations of that era from the members of the committees who actually held hearings.

I call your attention, for example, to the chairman of the 1984 House hearings, Representative Timothy Worth of Colorado. His quote, which will go up in a minute, is that "The evidence is overwhelming from our perspective, at least my own, that there is a responsibility that when you report early people do not vote," he goes on to talk about the early calls made then.

Ed Markey, my good friend in 1980, who sponsored and pushed forward legislation for a uniform poll closing time, was quoted as saying "Then your interest in Election Day is not building an audience."

I am saying another philosophy takes over. It has something to do with projecting the winner. It becomes a race for the networks, for the news departments on Election Day. And there are quotes on this chart you can examine from Bob Matsui and John Glenn, who is a Senator, who was also testifying at those hearings. Our good friend Nancy Pelosi from California is quoted saying "As an organization person I can tell you that the early projections had a very deleterious effect on the morale and actual voting that occurred."

So we have statements in these hearings going back in the 1980's about the problem that occurred with early calls in the 1980's.

If you'll also, however, look at the next chart, you will see that we were not alone in criticizing the use of exit polling. The networks themselves were criticizing the use of exit polling and were questioning whether exit polling was in fact a valuable tool or a dangerous tool. You'll see quotes from none other than Walter Cronkite suggesting that exit polling was a dangerous tool, from the head of CBS announcing that this was not something that networks ought to be doing because this was just guessing and projecting rather than reporting the actual news of an election.

Of course, since the 1980's all of the networks have come to rely upon those exit polling data more and more. In fact, as we know, in 1990 some of the networks decided on a single source for that exit polling, the Voter News Service, in order to, I suppose, prevent some of the competition among the networks to be the first with the news. In 1994, that collaborative effort was broken again when

one of networks chose to go ahead of VNS and make decisions on their own and their ratings soared because they were first out with projections, and we arrive today at a time and an age when we have seen another example of how exiting polling data produced from VNS may have had a serious effect on the outcome of elections in some local and other races out West because of the early and sometimes flawed reporting of those results in the East.

I want to quote to you from a young legislator back in the 1980's in his statement before this committee. The quote is as follows: "further, in today's technologically advanced age we are experiencing a problem with dissemination of information, sometimes incorrect, and the media's projections of winners often before the polls even close." This young Member called for a uniform nationwide poll closing time and a universal time when voters therefore would cast their vote without the influence of early calls. That young legislator was none other than the chairman of this committee today.

The problem existed then and it certainly existed on election night November 2000. The way this committee came into recognition that we were still experiencing the problem despite an agreement in the 1980's that the networks would not try to make projections based on exit polling until most of the polls had closed in the State was when we examined the problem of the networks delaying calls for one of the candidates while making speedy calls for other candidates. Something appeared to be wrong, and so we held a news conference and called for this investigation.

I am pleased to say that not only did we conduct a very thorough investigation at this committee level but the networks did so themselves. I want to thank all of the networks for the work they did in self-examination of the problem. I particularly want to highlight CNN for hiring outside consultants to examine and critically evaluate the role of CNN and other networks in their use of the VNS information on election night and CBS for using outside counsel in their report. Let me thank all the networks for the self-examination.

What we have learned from the self-examination by the networks is that there are serious flaws within the VNS modeling and those serious flaws produces statistical biases in favor of Democrats in this case today and against Republicans, that the statistical flaws tend to overstate the Democratic vote in the exit poll and understate the Republican vote, and we have charts again to demonstrate that and we will today.

The good news is that we discovered no evidence of intentional bias, no evidence of intentional slanting of this information. What we discovered, to our dismay, is that while we've been told that exit polling is getting better in the country, what we have learned is exit polling is getting worse, that it is less scientific today than it was before, and that the VNS models in fact produce some very bad information. As one of the networks told me, "garbage in, garbage out." And the problem basically that we have to answer today is how can we at this level, recognizing the very sensitive First Amendment rights of the reporters and the networks to report the news as they see fit, recognizing that we would defend your right to do it wrong if you really wanted to, how can we assist in getting

some new agreements to do it right and how can we assist through this investigatory hearing to not only settle some of the outstanding issues that were not settled in the eighties but perhaps make changes in the law that will help produce a situation where Americans have a chance to vote without being influenced by the reporting of the election itself before the polls are closed.

And so, ladies and gentlemen, we arrive at this point, our own investigation producing evidence of flawed and biased modeling, the networks producing similar findings, the networks being very responsible, I think, and critical of their own VNS systems, and we arrive at this point where we give the networks and the VNS representatives and others a chance to explain what happened and what they suggest we might do in the future to avoid these problems.

And before I finish, with the agreement of the minority, we have prepared a brief 10-minute clip in chronological order of the events of election night 2000. We would like to show you that clip because it presents the problem, I think, in dramatic form. This is the way networks were using VNS in November 2000.

[Videotape shown.]

Chairman TAUZIN. Thank you. I've been asked by Mr. Dingell to correct the record, that while we did share the video with the minority there was no agreement to show it today.

Let me conclude by summarizing quickly again what our staff discovered for us. What our staff discovered for us is that the VNS modeling, according to our investigation, is seriously flawed, that it underestimated in exit polling numbers 32 States for Bush and underestimated only 15 for Gore. But it overestimated for Bush 15 States and overestimated for Gore 34 States, indicating some clear error in the system, and that is the ultimate finding of our investigators.

We look forward today for a similar discussion of what the networks themselves found and what VNS has found and eventual testimony of the network representatives themselves. The Chair now yields for an opening statement to my friend from Michigan, Mr. Dingell.

Mr. DINGELL. Mr. Chairman, I thank you. I enjoyed the video. I hope my friends at the networks found it equally enjoyable. I will observe that it chronicles a monumental screw-up which I think has embarrassed an awful lot of people.

I would observe that today we are going over the results of an election. My first memory of an election was Roosevelt in 1932. More recently, I remember the Literary Digest in 1936 which predicted that Alf Landon would win. As you remember, he carried two States. And then I had the great enjoyment while I was going to Georgetown University, just out of the Army, in seeing a wonderful picture of Harry Truman holding up a copy of the Chicago Tribune saying "Dewey Wins."

The business of predicting in the highly competitive and complex business of elections is an enormously difficult task, and I commend you for having these hearings because I believe they will give us a chance to review what has been done, what needs to be done, and how it is that we should approach this as a Nation.

I would simply observe that for good motives and bad, because of skill or incompetence and sometimes from outright malevolence and sometimes for quite decent motives, elections have been called wrong by the media for a long time. The good news and the bad news are before us. First, the good news. Because of the massive attention to miscalls by the networks on election night and perhaps because of this hearing and inquiry, Mr. Chairman, the networks and others have to varying degrees taken a hard look at themselves and drawn tough and I think appropriate conclusions. CNN, CBS and ABC in particular should be commended for their efforts.

Another good piece of news is that contrary to inflammatory allegations made in November the inquiry found no evidence of intentional bias. Clearly had there been such, the credibility of the networks would have been shattered, and I think properly so. The very publicly and seemingly prematurely—there have been expressed fears of some of my colleagues that have not happily been realized on this matter.

And the final piece of good news is that this hearing may serve as a wakeup call for all of us here, especially the Republican leadership, to muster similar effort and energy to have the House address the real electoral issues of voter disenfranchisement. That is, I think, perhaps the sorriest story of this election, and I hope that perhaps you and I, Mr. Chairman, will be able to lend our skills to that task. I would note that it tends to point out massive needs for reform of financing and almost everything else.

Now for the bad news. From the outset it appeared that many found that the inquiry was an attempt by the Republicans to shift attention from the well-established election problems in Florida that cost Vice President Gore the presidency. At the outset it also appeared that this inquiry would cause collateral, if not direct damage to the First Amendment protections to the free press, and from the outset it appeared that there were many allegations being made with too little factual basis. I do not believe that these concerns are as great as they were at the time, and I hope that they will be eased by the hearing that we are holding today.

What did we learn, Mr. Chairman? That numerous problems before and after and during election night led to network errors that affect both parties, Democrats and Republicans? That critical and later rescinded late night calls of Florida for George Bush that were a basis of perception for some of the media and the public that George Bush was a winner and Al Gore was a spoiler was the networks' fault with Voter News Service and Associated Press not in support? The answer to that is yes. That networks can and must make major improvements to gain lost credibility? Absolutely. The Congress after thorough review of the pros and cons will need to at least consider requiring uniform poll closing times? I think that is a certainty. And that Congress itself is more credible when its investigations are carefully calibrated and targeted, and public conclusions are drawn after the investigation is done? I think that is clear and I think with that you would agree, too, Mr. Chairman.

I want to thank all the witnesses for appearing here today, particularly Mr. Boccardi of the Associated Press. I would note that we Democrats will be particularly welcoming Mr. Boccardi. He refused to allow his staff to talk to our people on this side although they

were happy to be interviewed by various media outlets. I think we will want to ask him about that little matter. I know he will have a fine answer for us. I certainly look forward to hearing from him as AP will probably have an interesting story to tell.

I thank you for recognizing me, Mr. Chairman. I yield back the balance of my time.

Chairman TAUZIN. I thank my friend. The Chair yields to the gentleman from Florida, Mr. Bilirakis, for an opening statement.

Mr. BILIRAKIS. Thank you, Mr. Chairman. I will be very brief. I want to also add my welcome to the witnesses and thank them for taking time away from their very busy schedules to be here. I think we learned an awful lot from what transpired this last November, and I might add partially into December. As Mr. Dingell stated, there was a lot of good news and a lot of bad news. I think the good news is an awful lot of American people may be, for the first time, aware of how very significant their vote might be. This business about my vote might not count or won't count will probably not be as much in their mind as it has been in the past.

The bad news is the controversies that have taken place. The eyes of America really are on this committee, Mr. Chairman, and I think they clearly expect us to do something. I think with your leadership and maybe the bipartisan spirit that hopefully will continue, we will do something right in this regard. Thank you.

Chairman TAUZIN. I thank my friend. The Chair now is pleased to recognize the gentleman from California, Mr. Waxman, for an opening statement.

Mr. WAXMAN. Thank you very much, Mr. Chairman. The networks have a fundamental obligation to give us unbiased and accurate information at all times and particularly when they are reporting election results. But I want to read from an article that appeared just today in the Los Angeles Times. It is called "How TV Killed Democracy on November 7." It is an editorial by Todd Gipling. He starts off saying "Suppose that a first cousin of Al Gore had been running one of the network news teams issuing election night projections. Suppose that having previously recused himself from a columnist job saying his objectivity would suffer from family loyalty, this cousin had chatted with Gore six times on Election Day. Suppose the same cousin had been the first to declare Gore as the winner in Florida on election night, helping coax the rival networks to follow suit, leading George W. Bush to call up Gore in order to concede, thereby helping to create that Gore was the duly elected President of the United States long before all the votes had been counted. Can anybody reasonably doubt that the pundits would be working themselves into a nonstop lather charging the liberal media as accessories to grand larceny? Can we imagine, say, Rupert Murdock's Fox news channel right leaning heads dropping the subject?" according to Mr. Gipling.

Well, of course, what we know is that this did not happen with Al Gore, but it did happen with Fox and John Ellis, and of everything that happened on election night this was the most important in impact. It created a presumption that George Bush won the election. It set in motion a chain of events that were devastating to Al Gore's chances and it immeasurably helped George Bush maintain

the idea in people's minds than he was the man who won the election.

But I know we are going to look at different ideas. I think the idea of a uniform poll closing is a good one. There are a lot of ways to avoid the kinds of problems that we saw on election night, and that is one of the best ones being proposed. I think what we are seeing is a result of cost cutting by the networks in their news divisions. It resulted now, as we see it in hindsight, in the chaotic result of election night reporting, which not only was embarrassing to them but it had an impact on how the American people decided the election and therefore had an impact on how the election was ultimately decided.

Thank you for calling this hearing. I look forward to hearing from the witnesses and getting a chance to question them.

Chairman TAUZIN. I thank my friend. The Chair will take a moment to advise the committee that the investigators did make fact findings regarding the 2:16 call in the morning that are available, and we will discuss them during the course of this hearing as well.

The Chair now recognizes the gentleman from Texas, Mr. Barton, for an opening statement.

Mr. BARTON. I want to thank the chairman for conducting this hearing. I think it is timely. I would hope at the end of the hearing that perhaps on a bipartisan basis we seriously look at some legislation that would result in a common closing of the polls around the Nation so that all candidates are treated equally in terms of the spin that is put on which States are going which way so that we won't have a situation that apparently perennially occurs every 4 years where depending on whose candidate is doing the best at one point in time one party's candidate feels like they are being disenfranchised or unduly chastised by the calling of the election. So the hearings are timely and I hope that we might have a legislative result occur jointly as a result of hearing, and I would yield back.

Chairman TAUZIN. I thank the gentleman. The Chair recognizes the gentleman from Massachusetts, Mr. Markey.

Mr. MARKEY. Thank you, Mr. Chairman. I thank you for having this hearing. The closest Presidential election in American history certainly posed great challenges for pollsters, journalists and commentators, not to mention the candidates themselves. Early election evening calls in certain States for certain candidates were driven by reliance on projected voter tallies lists. In one key State, Florida, the call was clearly too early as not all polls had closed in that State's Panhandle region, but even so the call for Gore was based upon faulty data, and the subsequent call of the entire election for Bush in the wee hours of the morning was similarly flawed and premature.

But was there bias? In the immediate aftermath of Election Day questions were raised as to whether early calls were part of a vast left wing conspiracy. Were dozens of network journalists, the staff of the Voter News Service, all of the network news directors, a score of election night anchors, and the President's first cousin all co-conspirators in an intricately designed plot to call key States early for Vice President Gore? Or on the other hand, was it an ingeniously designed deception whereby all of the co-conspirators

would provide an electoral feint early in the evening by calling Florida for Gore simply to throw the conspiracy theorists off their trail when their true design was to call the election for George Bush just hours later without adequate supporting data?

A complicated conspiracy theory without question. It is of course preposterous to believe there was such a plot. Rather, I believe that the only bias in common for all the networks was the desire to be first, this competitive urge which blurred their own judgments. Rather than calling States in a way that led to voter suppression, I believe that early in the evening the reporting was consistently of a nature that the election was indeed going to be very close, which could have led to an increase in turnout rather than a lowering of turnout.

If one wants to question whether early calls for Gore suppressed Bush voters out West, couldn't one equally argue that if it was so apparent to everyone if Gore was going to win then the Nader vote could increase, leaving Gore out in States like Oregon and Washington. Why isn't that as equally plausible? We will never know.

We could indeed have a wide ranging debate over who was hurt most by election night coverage. Was it Bush because of the early evening calls of a few States for Gore or was Gore hurt more because of the subsequent network announcement of the entire Nation for Bush, which created the presumption during the entire recount that Gore had already lost? I believe that any aberration in calling certain States at the time they were called was based not on deficiencies in journalistic ethics but rather on the fact that the networks were relying upon the professionalism and the integrity of the work performed by the Voter News Service. It was clear that the models utilized by the VNS were highly flawed and the close election in Florida amply highlighted for all the networks subsequently the problems and the methodology utilized by VNS. The problem, in my view, is not with the network news divisions or their anchors therefore, but rather with VNS. It is clear this flawed methodology and resulting shoddy VNS data misled the network news divisions and caused many of the problems for the networks and their election night coverage.

In addition, the fact that the networks readily agreed that they erred in calling Florida before all the polls closed in Florida is also well known. The networks' reaffirmation not to call States in the future until all the polls in that State are closed is welcome and laudable.

My hope is that this hearing will wind up serving a useful purpose. If we can agree that there was no overt bias, no networkwide conspiracy, then we should also stop searching for unconscious messages packed into the choice of adjectives or the on camera body English of network anchors. Instead let's see what Congress can do so that in the future nobody can allege that early calls affected voters elsewhere in the country. I believe a key part of the solution is legislation which would establish a uniform poll closing time. Uniform poll closing bill, H.R. 50, which I was pleased to introduce with the active leadership of both Chairman Tauzin and ranking Democrat John Dingell, seeks to give Congress a constructive way to prevent news reporting of the outcome of one State from influencing the behavior of voters in States where the polls

are still open. It is both unrealistic and probably a violation of the first amendment to mandate that the results on the East Coast not be reported for 3 or more hours while the West Coast is still voting, but news organizations have repeatedly expressed a willingness not to report the results in a State before the polls have closed in that State and not to report the results of a time zone in a State if part of the State is still voting in another time zone.

The fact that this pledge was not honored to the letter in Florida will be noted today. But I believe that the networks intend to correct this problem, and I also believe if we can get broad support for uniform poll closing this hearing may lead to a permanent beneficial change in the way we conduct national elections.

Thank you, Mr. Chairman, and I also want to thank all of our witnesses for their voluntary cooperation with the committee. Thank you.

Chairman TAUZIN. I thank my friend. I want to assure him that neither the committee nor the chairman ascribes to any vast conspiracy theories, left or right. I yield to my friend from Florida, Mr. Stearns.

Mr. BARTON. Parliamentary inquiry, Mr. Chairman. Is it not true that under the rules, except for the chairman and the ranking member, all of members' opening statements are supposed to be 3 minutes or less.

Chairman TAUZIN. That is exactly correct and the Chair will ask everyone to abide by the 3-minute rule, including the gentleman from Florida.

Mr. STEARNS. Thank you, Mr. Chairman. Let me commend you for holding these hearings. I thank the witnesses for attending. I know how busy they are.

I am also proud to be a cosponsor of the Tauzin-Markey legislation which creates a uniform poll closing. I would like to put in the record a news release from Florida Secretary of State Katherine Harris in which she requested the media to delay predictions of the outcome of elections until 8 p.m. Eastern Standard Time. "Florida has six counties in the Central Time Zone and the Secretary wants all Floridians' votes to be cast prior to predictions on the winner of races. With several races too close to call, full voter involvement is imperative for Floridians to participate in the electoral process. The last thing we need is to have our citizens in the Central Time Zone think their votes do not count because it certainly does. Waiting until 8 p.m. Eastern Standard Time allows all of Florida the opportunity to decide the outcome of races within Florida."

This is dated October 30, 2000 and Mr. Chairman, with your permission I would like to make that part of record.

Chairman TAUZIN. Without objection, it will be made a part of record.

[The news release follows:]

FLORIDA DEPARTMENT OF STATE

Katherine Harris, Secretary of State

NEWS RELEASE

SECRETARY OF STATE REQUESTS PATIENCE IN PREDICTING WINNERS OF RACES

Tallahasee, FL—Secretary of State, Katherine Harris today requested the media to delay predictions of the outcome of elections until after 8 p.m. Eastern Standard

Time. Florida has six counties in the Central Time zone and the Secretary wants all Floridians' votes to be cast prior to predictions on the winners of races.

With several races too close to call, full voter involvement is imperative for Floridians to participate in the electoral process. "The last thing we need is to have out citizens in the Central Time zone think their vote doesn't count—because it certainly does!"

Waiting until 8 p.m. Eastern Standard Time allows all Floridians the opportunity to decide the outcome of races within Florida.

Mr. STEARNS. Mr. Chairman, the networks and news organizations are entrusted with delivering citizens with unbiased truthful reporting. They are supposed to cover and report the news, not create it. Unfortunately, this did not happen on November 7, 2000. What we found is, "a staged collective drag race on the crowded highways of democracy," all stumbling past the finish line to be the first to report. One would suppose network news organizations would have learned their lessons from 1984 when they called the Presidential election before the polls on the West Coast closed. As a result, they promised us to voluntarily agree not to use exit polls to call the race until the majority of the polls in that State had closed. This did not happen.

Mr. Chairman, what we have here is a very important hearing. Regrettably, by calling Florida for Vice President Gore before all of the polls had closed in the State, the networks' projections may have also depressed voter turnout in portions of the Florida Panhandle, a region of the State which is a Republican stronghold.

We, as well as the networks, have learned a lot since election night, so I look forward to today's testimony to know how and why the vote projections were made and, more importantly, to learn what steps and procedures the network and news organizations will take to ensure another election night debacle does not happen again.

Chairman TAUZIN. I thank the gentleman. The Chair recognize the gentleman, Mr. Brown.

Mr. BROWN. I thank the chairman. While the networks deserve criticism from the Congress and the public, I am amazed that this committee is holding a hearing about election night coverage while this Congress and the Bush administration are not moving legislation to correct the flaws in the system, to standardize ballots, to establish uniform poll closing, to modernize election procedures, and equipment.

This Congress must act to end Republican efforts to suppress minority voters. The revelations of voter intimidation tactics in Florida are one example of the practices that national and State GOP officials have been using for more than 20 years to keep voters, especially minority voters, from the polls. For 8 years as the Ohio Secretary of State I saw the kind of voter intimidation, suppression and harassment created and carried out by the Republican Party at the highest levels.

The evidence of voter intimidation in Florida reminded me of the 1981 gubernatorial race in New Jersey. Sponsored by the national and State Republican Party, the National Ballot Security Task Force, comprised of off duty deputy sheriffs and local policemen, monitored polling places in predominantly African American precincts. They wore arm bands that identified them as members of the Ballot Security Task Force. They posted warning signs that

they were patrolling the area and it was a crime to violate election laws. The Republican Party acknowledged doing that in a settlement later.

We saw in Florida 2000 a kinder, gentler version of the Ballot Security Task Force. We know of the purging of thousands of voters, mostly black voters, illegally from voter rolls. We know of police checkpoints established near polling places. We know of requests for additional forms of ID in predominantly African American precincts. All of these tactics were created and executed by Republican officials, usually high ranking GOP officials.

The media had the responsibility to tell the public more about these voter suppression tactics. These forms of intimidation diminish the electoral process.

Similar to the suppression tactics, the media repeated some of the same mistakes when reporting on the Florida recount. I was in Florida during the recount and witnessed firsthand the media's reluctance to fully examine statements the Republicans made about the recount process. In Palm Beach County I stood 20 feet from Governor Pataki of New York as he repeatedly said four recounts had been conducted. Four recounts had been conducted. Like birds off a telephone wire, every Republican elected official repeated this mantra. All fair-minded people know that the four-recount charge was simply not true.

In another instance I stood by as Senator Lugar from Indiana stated that his State doesn't do hand recounts. A simple call to his elections office confirmed that the Hoozier State does conduct hand recounts. But the media allowed Lugar and Pataki and countless other Republicans to repeat this mantra generally unchallenged.

These statements reflected a series of distortions backed up by a conservative, corporate-owned media too lazy to scrutinize such allegations and too eager to manufacture drama. The media have the responsibility to check the facts for their audience. I asked the news executives here today, scrutinize our observations, refrain from adopting a "he said, she said" approach to news coverage because the "he said, she said" coverage causes politicians to exaggerate, to distort and even to lie.

Florida surely taught us that. Do not accept what we say. Make us tell the truth. This task is a challenge of today's 24 hours news cycle. I ask you to resist merely filling the time with talking heads. I hope that the media does its job better. I hope that we in Congress do our jobs better as well.

Chairman TAUZIN. The Chair thanks the gentleman. The Chair recognizes the gentleman from North Carolina, Mr. Burr, for an opening statement.

Mr. BURR. Mr. Chairman, I ask unanimous consent that all members be allowed to enter opening statements into the record.

Chairman TAUZIN. Without objection, so ordered.

Mr. BURR. Mr. Chairman, let me thank you. Let me thank all the members on this committee. Let me thank all the witnesses that will be here today. I am not here today searching for answers. I have had an opportunity to read the testimony, to look over the interviews, to try to analyze the data, and I have come to a conclusion, the networks screwed up. A combination of flawed methodology, competitive forces, close elections, and the pressure to be

first overshadowed their promise to be accurate. Ladies and gentlemen, if we were handicapping the show "Survivor" and who the winner might be, this might have gone unnoticed. But it wasn't. This was about the election of the next President of the United States. We do a lot and have done a lot to protect the Office of the President. We teach our children that having one President, we must protect the integrity of the office regardless of the office holder. Our Founding Fathers entrusted the President with incredible powers because they understood the importance of the office in this very young country.

Those same Founding Fathers also entrusted the media with incredible powers, powers that are so clearly stated that few suggest that a change is necessary or constitutional. They believed that for a Nation to grow its people must be informed. They feared that without specific restrictions the government might be tempted to filter the information and allow an important trust to be broken.

Ronald Reagan said it best when he said he never understood what was so important about the United States Constitution. Every country had one. He said it wasn't until he read theirs that he understood what was so powerful about ours. Theirs starts "We, the government." Ours starts "We, the people." The American people are the single greatest asset of this country. Their trust in their leadership and their trust in the media must exist without objection. Without trust that fine balance created by our Founding Fathers will quickly grow old and be replaced. The integrity of the Office of the President will only exist in the history books, and the freedom currently entrusted to the media will be assaulted as often as people disagree with the news.

Americans deserve to know that the information that they hear from the media is legitimate, accurate, and truthful. Let's give confidence to the American people that our Nation's free system protects the public interest and does its best to communicate the truth. I am confident that during the course of this hearing the American people will listen anxiously to hear the Members of Congress' commitment to conduct free and fair elections and for the media's commitment to report factual and accurate results.

Mr. Chairman, I yield back, but I also would like to welcome Mr. Biemer, a constituent in North Carolina, and thank you for the invitation to him.

Chairman TAUZIN. The Chair thanks the vice chairman of the committee for his welcome to Mr. Biemer. We will give you an official welcome as soon as we can.

The Chair yields to Mr. Deutsch or Mr. Rush. Mr. Deutsch is next.

Mr. DEUTSCH. Thank you, Mr. Chairman. Mr. Chairman, in your opening comments you said the purpose of this hearing is to investigate what went wrong with the election coverage, and I think that is an important issue for this Congress to investigate. But a far more important issue which at this point this Congress is not investigating is what went wrong with the election. And in a public setting like this I urge my colleagues who have the ability in a formal way, which we as the minority cannot call meetings in any committee of this Congress or establish any formal committee of this Congress, to look at the real issue of what happened this past

November, what went wrong with the election. Let me present, I think, what is probably a much more accurate thing that no one at this point has mentioned, that the exit polling was probably more accurate than the counting the actual counting of ballots, specifically as in Florida.

I spoke to the statistician for VNS, which will be at the next panel, sitting at least; and I intend to question Dr. Murray Edelman about this.

One of the realities of what happened in Florida, and again I'm going to say it, is both the polling and exit polling very well might have been more accurate than the actual counting. If Florida was a foreign country and we had American election observers in Florida and over 100,000 ballots were thrown out, a majority of which were African Americans, there would be no American who would accept the results of the Florida election as a valid result.

And in fact that is what happened in Florida. There is a direct correlation between ballots that were thrown out and the racial complexion of individual precincts.

When the Supreme Court made its ruling to stop the counting of ballots I said publicly and privately at that time that my hope for the good of the country was that when they counted the votes George Bush would win. But we now know through the good work of many news organizations and not this Congress—and, again, it has not been presented that much in the national press, but if you read the articles and you understand the numbers there is no question, there is no question, it is no longer debatable that if the vote in Florida were counted, Al Gore would be president of the United States.

So really in a sense we want to talk about projections, and the results I would actually present to this committee is that, in fact, the Supreme Court's political decision of stopping the counting of the votes was in fact influenced by the missed calls of calling Bush the President. If there was no winner after November 7 I think the political decision very well might have been different.

Let me just close on two points. One is, my good friend and colleague, Mr. Stearns from Florida, mentioned the issue of the Panhandle in Florida. It's not the first time that that allegation has been mentioned. There is absolutely no specific—any kind of empirical data to support those allegations. They have been continuously discussed, as have been other issues discussed during the whole post-election effort, including other colleagues of mine who talked about the Gore campaign's vast conspiracy regarding overseas absentee ballots without any factual basis at all.

Chairman TAUZIN. The gentleman's time has expired.

Mr. DEUTSCH. Thank you, Mr. Chairman.

Chairman TAUZIN. Thank the gentleman.

The Chair now recognizes the gentleman from Florida, Mr. Cox, for an opening statement.

I'm sorry, Mr. Greenwood is here.

Mr. GREENWOOD. Thank you, Mr. Chairman.

It is an everyday occurrence for Members of Congress to be called and summoned to respond to the media. Each one of us here receives probably a dozen calls a day from reporters, radio, television,

newspaper, magazines interrogating us, interviewing us, calling us to task, reminding us editorially of our responsibilities.

It is, on the other hand, an extraordinary rare occurrence for Members of Congress to summon representatives of the media before us and to interrogate them and to remind them of their responsibility. So I think the fact that we're doing that today tells us the importance with which we consider this issue and reminds us of the incredible power of the media and particularly the medium of television.

We are extraordinarily sensitive to the first amendment issues here, and there isn't a member of this panel or Member of Congress that wants to in any way infringe upon that. We recognize the dangers that lie therein, but we do want to remind the media of its responsibility. We do want to challenge it to do a better job 4 years hence; and, in fact, I am certain that the media may not even need that reminder. It is probably busy about figuring out how to do that.

It seems to me not a difficult task. The fact that the television networks have been able to collaborate as they have with VNS and have a common mechanism by which to call these exit polls makes it a practical—relatively easy matter, practically speaking, for the media to collaborate on how to do it right; and I'm hopeful that this hearing and what falls from this hearing will produce that result.

Yield back.

Chairman TAUZIN. The Chair now yields to the gentleman from Chicago, Mr. Rush, for an opening statement.

Mr. RUSH. Thank you, Mr. Chairman.

Mr. Chairman, I also want to commend you for holding this hearing. However, Mr. Chairman, my colleague from the State of Florida, Mr. Deutsch, asked a question; and that question was, what went wrong? Mr. Chairman, I for one, an individual who has fought all of his adult life to ensure that everyone have access to the polling place on Election Day and that their vote be counted, I for one have some pretty serious concerns about and regarding about what when wrong on Election Day.

Mr. Chairman, in the State of Florida and also in my State of Illinois, what went wrong on Election Day was the fact that we had literally hundreds of thousands of people throughout this Nation who got up early on the morning of November 7 and proceeded to the polling place with the thought in mind and with the objective of voting for their choice for President of the United States. And, Mr. Chairman, we found out that between leaving their homes and arriving at a polling place that literally hundreds of thousands of people had been harassed by police departments, not only in the State of Florida but other places, asked to present identification, were told that they were under investigation for criminal charges, all types of shenanigans by police departments all across this country.

We found out that people who decided that they wanted to come to the polling place to exercise their constitutional rights were in more than one type, more than one way denied access to the polling place, access to vote because of some kind of spurious charges against them.

Then, Mr. Chairman, we also find out that those who were lucky enough to cast a vote, for a lot of different reasons those vote weren't counted. And my question to you and my question to the Republican members of this committee and the Republican leadership in this Congress, when will we have a Congressional investigation, a congressional hearing on the issues that those folks who were denied the right to vote, when will we have a hearing so that we can get to the bottom of the issue so that we can get some answers about why they were not—why they were denied the right to vote?

Mr. Chairman, this might be a good hearing. We might be able to get some answers. But let's not just focus on the media today. Let's also look at what happened beyond the media. Let's look at what happened with the police departments all across this country. Let's look at what happened in the polling place. Why were African Americans and other minorities denied the right to vote? Why were they denied the right to have their votes counted? I know that that's an appropriate concern not only for this committee but other committees in this Congress.

Again, the question is, when will the Congress ask the right questions in order that we get the right answers? When will we have a hearing, a congressional hearing, an official Congressional hearing to allow for those individuals who were denied the right to vote on November 7 to come before this committee, come before other committees, to come before this Congress, to get their answers in terms of why they were denied the right to vote?

Thank you. I yield back the balance of my time.

Chairman TAUZIN. The Chair thanks the gentleman.

The Chair has a responsibility now, which I do not, frankly, like to admit, but the gentleman's request involves the jurisdiction of another committee, believe it or not. It's one of those small areas we don't have jurisdiction over. But I thank the gentleman for his request.

The Chair now recognizes the gentleman from California, Mr. Cox, for an opening statement.

Mr. COX. Thank you, Mr. Chairman.

In this exceptionally close election the TV networks in this Nation came face to face with a dilemma that's been familiar for some time to people in subatomic physics, that in some cases the act of observation influences and changes physical reality. To observe something is to influence it; and that can have very real consequences, as many of my colleagues have pointed out. The experience of last November illustrates this dramatically. An overzealous competition to, as Mr. Markey said, get there first, to predict the Presidential winner first, inflicts costs on the entire Nation, on the viability of the democratic system and on journalism itself.

What took place on election night we will hear from this first panel and from subsequent panels but, to quote from the outside review conducted for CNN, reflected commercial rather than journalistic values. "In calling winners of individual States based on exit polling and votes from sample precincts, accuracy and completeness of information were sacrificed to the pressures of competition."

Our mission in Congress can't be to police journalistic ethics. That's why these internal reviews go on. I dare say that CNN did not, in fact, do much worse than the other networks, even though the outside review that was conducted of CNN seemed to be the harshest at all. It's much more likely rather the case that CNN is the only one that had an outside rather than internal review. And where there were some outside reviews conducted, the criticism probably would have been on par for all of the other networks.

That's good. That's good that these reviews go on, and some of them are indeed outside reviews. And it's good that Congress is relieved of that responsibility, because I believe it is not within the bounds of our legislative jurisdiction. But we do have responsibility in the area of election reform, and some of what we can do with election reform is directly influenced by what the networks do themselves.

I just want to add to what's been said already my view from California where Democrats and Republicans have for years been complaining about the calls on the East in close elections. Congress held hearings on this very subject after the 1980 election. Those hearings went on for years. There was a report of the House Administration Committee, which I have with me here, that makes very specific findings on these very topics. And in 1980 the shoe was on the other foot. It was not Republicans who were complaining about the early call in Florida but rather Democrats who were complaining about the early call of the entire election, which prompted an early concession from President Carter.

The House Administration Committee concluded early projections—and this was in the 1980's and this was, of course, a Democratic majority in Congress—early projections undermined people's belief in the importance of their vote, a belief which is essential in a democratic society.

Some of the evidence before Congress at that time from the State of California included our Secretary of State's testimony, March Fong Eu, that early projections caused havoc and had a significant impact on voter turnout which she said dropped to practically nothing in the last few hours of voting. The same came from Diane Feinstein, then the mayor of San Francisco; from Nancy Pelosi; and you said earlier a field poll showed that 15 percent of nonvoters said they failed to vote because of early projections.

It is for that reason that I have sponsored with the chairman and with Mr. Markey the early—or, excuse me, the uniform poll closing legislation, which I think is going to be very much in people's minds as we hear the testimony here. We hope that such procedural reforms, in conjunction with the reforms being put in place by the networks themselves, can help us accomplish this objective.

I thank the chairman.

Chairman TAUZIN. The gentleman's time has expired. The Chair thanks the gentleman and recognizes the gentlelady from California, Ms. Eshoo, for an opening statement.

Ms. ESHOO. Thank you, Mr. Chairman. I join all the members of the committee in thanking you for holding this important hearing. I would also like to thank the distinguished witnesses that have come to us today from both panels and most especially to the re-

tired director of the very distinguished Knight Fellowship Program at Stanford University, Mr. Risser.

Let me just try to summarize some of my thoughts on this hearing and a few things beyond it, which I believe belong to—in the responsibility column of the entire Congress. I can't help but think that just as our markets, which are the broadest and the deepest in the world, that the coin of the realm really is confidence. That's why investors invest; that's why we're the envy of the world; and that's why we are very sad to have lost that jurisdiction in this committee, Mr. Chairman, over the Securities and Exchange Commission.

But we have to have confidence or the confidence that I just expressed—the American people have to have confidence in their system of election, and I think that's really at the heart of today's hearing.

Most frankly, I didn't know anything about VNS before November 7. So I think people that are here today are going to talk about who they contract with, how they conduct their business, how they are looking into building the confidence of the American people and how they report to them, not reporting any biases or individual views but rather reporting very accurately or as accurately as is humanly possible in our technologies that provide for so much more of that today in bringing that information forward to the American people.

We would always judge emerging democracies by their elections. And a lot of things went wrong in this election. And while it may not be the purview or the jurisdiction—and most people listening in today don't even know what the word jurisdiction means in the country, but they know something went wrong. This is not whether the Republicans won and got their candidate into the White House or that Democrats are whining because their nominee didn't make it. This is an American issue. This is something that strikes at the heart of democracy.

I hope that there will be a delegation led by the leadership from both sides of the aisle with open minds and open hearts to go to congressional districts to listen to people. We have a cancer that needs to be put out of our election system, and that is any American that has been deprived of casting a vote and that their vote doesn't count.

So, yes, we need to reform. We need to hear from the networks and what they plan to do. We need to move to, in my view, a uniform poll closing time. We need to have, in my view, national ballots. We need to have equity when it comes to equipment that goes to our polling stations all over the country. But we also have to look very deep. We have to look very deeply and be willing to——

One of the greatest marks of America in my view is that we are willing to acknowledge when we have done things wrong. It may take 10 years. It may take 20. It may take 50. But we acknowledge it, and that's part of our greatness. So I think that the Congress needs to embark on that journey.

Today is an important first step, Mr. Chairman. Thank you for holding the hearing. And I look forward to working not only on this but those issues that may be out of the jurisdiction of this com-

mittee because I think the American people are counting on us to do so. Thank you.

Chairman TAUZIN. The Chair thanks the gentlelady for all her curtesies; and the Chair recognizes the gentleman from Georgia, Mr. Deal, for an opening statement.

Mr. DEAL. Thank you, Mr. Chairman.

Mr. Chairman, today I'm reminded of the biblical admonition that to whom much is given, much is required. As we delve into this area of first amendment constitutional rights, likewise the recognition that even that must be exercised responsibly.

I don't think there's any doubt that our Nation has given much to the national media, our valuable time and listening to what you have to say or reading what you have to write and also our expectations that the news is not self-generated but reflects true facts that are external. But today this hearing will focus on news that by its very definition is self-generated, that of predicting elections; and, therefore, we must question whether the facts upon which this news is predicated has any preventible statistical bias. In other words, why did VNS use sample models that had not been adjusted for decades and in my part of country, the South, did not reflect the very apparent change in regional political alliances that had been manifest in many elections that preceded the Presidential election of 2000?

So, Mr. Chairman, I look forward today to hearing what the media intends to do to fulfill the high expectations of the public and what, if anything, we as elected representatives should do to assist them in that direction. Thank you, Mr. Chairman.

Chairman TAUZIN. The Chair thanks the gentleman.

The Chair recognizes Mr. Stupak for an opening statement.

Mr. STUPAK. Thank you, Mr. Chairman.

After what happened in the November election, it is critical that Congress take a bipartisan look at how to assure that every American who wants to can exercise their right to vote and that his or her vote is accurately counted. The American people want us to fix the problems with voting and tabulating machines, with badly designed ballots and careless election officials who deliberately or otherwise keep people from voting. And they deserve to have these problems fixed. They deserve, Mr. Chairman, to have them fixed in a deliberate and fair manner, one which does not include—does not include partisan rhetoric.

Mr. Chairman, I want to work with you constructively over the next 2 years to ensure this committee works in a fair and bipartisan manner. I would gently, gently point out to the chairman that the initial statements offered by his office suggested that there was initially biased coverage of the networks in favor of Al Gore. I am glad to see in the last week's press conference you admitted there was no evidence of intentional bias although I could point out that you seem to have made a premature call in this case just like the networks made two premature calls on election night.

Chairman TAUZIN. Would the gentleman yield? I'll extend the time. I want to correct the record.

The Chair did not make a premature call. All the Chair stated in the initial press conferences was that there was an obvious bias in the results. We didn't know what caused it. I was asked whether

I thought it was intentional. I said I don't know. Until we investigate, I can't say. We investigated, and the investigation indicated no evidence of intentional bias, and we called it that way. I think we called it as we saw it correctly then, and we called it correctly today.

I thank the gentleman.

Mr. STUPAK. I thank the chairman. I was going to say, but like the networks who relied upon the best available information filtered through your own beliefs. And now with hindsight we find there was nothing in the network's coverage on election night that indicated that either candidate was on a roll. There was no credible evidence of the allegation when it was made, and there is even less now. Members of Congress, like members of the media, must do their research before they make serious allegations.

The second allegation was that the networks had effectively called the entire election for Al Gore by 8 p.m. when they gave Florida to Gore and suppressed voters in California. Even a cursory review of the transcripts of the network's coverage of that night makes it clear that allegation cannot survive. Selected excerpts from the transcripts do not justify such a conclusion and come dangerously close to censorship of the press.

I welcome this hearing and attention our committee has focused on the Voter News Service and the networks' process for making election night calls. This scrutiny has forced VNS and the networks to examine their decisionmaking process and improve it in the future. No one has an alleged that the current system is flawless or does not need to be improved. However, I believe Congress should be investigating the true and most fundamental flaw exposed by this Presidential election, the fact that our country needs to improve and standardize the voting systems in this country to ensure that everyone's vote is counted in the way the voter intended it to be.

Nothing the networks did or did not do changed the outcome of this election. Not the first call of Florida for Vice President Gore nor the subsequent Florida and overall election call for President Bush, both of which were retracted. What did change the outcome of the election was a flawed ballot design in Palm Beach County, an inadequate ballot and counting method in Florida and other jurisdictions all across this country.

Mr. Chairman, I look forward to hearing from the witnesses today. I look forward to working with you and this Congress on a range of important issues, not the least of which is the election reform. I only suggest that we put this hearing in its proper context.

Thank you, Mr. Chairman.

Chairman TAUZIN. I thank the gentleman.

The Chair wishes to do two things real quickly. One is to also clarify the record. We received a note that NBC has indicated it also included an outside expert in its initial analysis. Let me invite the representatives of the networks when they present their testimony to clarify the record to make sure we know if they were outside experts who were part of that internal review so that the record might adequately reflect it.

The Chair would also announce that we have two votes on the floor, and that those are the only two votes of the day, and that

what I would like to do is to take another opening statement or two while we have the time. Then we will recess for a half hour and come back at 1 and hopefully complete opening statements and begin to hear from our witnesses as rapidly as we can.

My apologies for these interruptions.

The Chair recognizes the gentleman from Oklahoma, Mr. Largent, for an opening statement.

Mr. LARGENT. Thank you, Mr. Chairman.

I'll be very brief and simply say that we hold one national election. We do that every 4 years. And I think protecting the integrity of that process is the responsibility of every Member of Congress and specifically as it relates to how the media may or may not influence the outcome of that one national election we hold is definitely under the purview of this committee.

So I want to thank you, Mr. Chairman, for holding this hearing. Because, frankly, when you think about it, to bring up this painful experience, and it was painful for all of us, to bring this experience back up before this committee is a hard thing to do. And I would like to believe that we would be holding this hearing regardless of what the outcome was, because protecting the integrity of this election is so important.

So, Mr. Chairman, I would just like to say I'm looking forward to hearing from our panels and thank you for having the courage to hold this hearing because I do believe that protecting the integrity of this process is important to our democracy. Thank you.

Chairman TAUZIN. Thank my friend.

The Chair recognizes Mr. Sawyer for an opening statement.

Mr. SAWYER. Thank you, Mr. Chairman. I'm going to be brief and turn in the rest of my opening statement for inclusion in the record.

I really agree with all of my colleagues. This oversight hearing provides a great opportunity not only to understand what happened but to educate Members of Congress on the efforts that the networks are making to improve the quality of reporting. Early or erroneous reporting is important because of the concern that self-fulfilling prophecies can affect the outcome of an election.

Yet it's very clear that a legislative fix is not the proper course of action here. The first amendment would preclude us from prohibiting the media from interviewing voters as they exit the polls. It would preclude Congress from prohibiting the media from reporting the results of those polls. And the first amendment clearly gives the media the right to choose how and when to report the news. It's a fundamental protection not just for the first amendment rights of journalists, but in their role as surrogates for 280 million American citizens it protects the first amendment rights of all of us.

I believe that early or erroneous projections need to be addressed by the networks and not by Congress. In this competitive news environment, perhaps the most competitive in human history, the networks have every incentive to make sure that what happened on election night last year does not happen again.

I look forward to hearing the recommendations that have been made with regard to the models and the new policies that will come before us today, but let me make one final observation. Sta-

tistical analysis of very large data sets is a subject I've studied in depth over the past dozen years. It is a highly developed and deeply sophisticated science, one applied in only the most superficial ways in exit polling and in on-the-fly election projections. I hope that the statistical models and methodologies used in electoral applications will attract the careful scrutiny of both this committee and the networks and in so doing not only to improve reporting in the future but, even yet, to understand what actually happened in this election and to answer Peter Deutsch's question what went wrong.

Thank you, Mr. Chairman.

Chairman TAUZIN. I thank my friend for his insightful comments and recognize the gentleman from Michigan, the chairman of the Telecommunications Subcommittee, Mr. Upton, for an opening statement.

Mr. UPTON. Thank you, Mr. Chairman. I appreciate your calling this hearing and the hard work of both you and the staff in putting this together, and I also appreciated looking at the videotape at the beginning of the hearing as well. It brought a lot of good and bad memories back from that haunting evening. But it also underscores the need for real election reform. America was embarrassed by that seesaw night.

I am anxious to hear the testimony by those that rely on the VNS, Voter News Service. What was particularly tragic to me was that the UNS, the Upton News Service, did a better job; and it did a better job without a single field staff or exit poll anywhere in the country. I would note that the UNS accurately predicted Florida, Pennsylvania, Tennessee, West Virginia, Illinois, Missouri, Ohio, Michigan and even easy ones like Texas, California and New York. No, it didn't end up being perfect, but it did call the night right. As a news organization, as news organizations, America wants fairness and it wants accuracy. And, sadly, we didn't see a lot of it on November 7.

I yield back my time.

Chairman TAUZIN. Thank my friend.

The Chair recognizes the gentlemen from New York, Mr. Engel, for an opening statement.

Mr. ENGEL. Thank you, Mr. Chairman.

I think many of my colleagues on the committee would agree that if we were engaged in a lawsuit we could easily be entitled to compensation for mental and emotional distress.

Before discussing the news media's action on election night, let me first say that I believe wholeheartedly that there is a need for an overhaul of the voting process. Though new equipment is key, we need also to be looking at whether registration is handled in a timely manner and what day and time we vote, how well voting procedures are explained to each person and how the votes are tallied and verified.

I'm gravely concerned about reports that people were prevented from voting, many of whom were minorities. The Civil Rights Commission is holding public hearings at which many people have testified that they were not allowed to vote because they weren't on the rolls. Nor were they afforded the opportunity to vote and sign an

affidavit for later verification. Such allegations must be thoroughly investigated.

Al Gore was not the only one who lost that night. The American people lost that night, and the news media also lost that night. For many years public confidence in the news media has been on the decline. I suspect that it took a nose dive on election night.

In order to begin winning back that trust, the news media must take action, and in the spirit of my friend Tim Russert here are my suggestions.

No. 1, slow down. The American people don't need to know that President George W. Bush sneezed 30 seconds after he did it.

Two, check facts. Check your facts. Too often, I see news stories that are just plain wrong. In the case of the election, pay greater attention to State law. The election was so close that a mandatory recount was required, thus making the outcome murky, not in the bag.

And, three, balance. Strive much harder for balance. When you interview someone on a controversial issue, get an opposing point of view. That may make the news story longer, but it will also make it better.

This is the formula for winning back the people's trust; and I thank you, Mr. Chairman for these hearings.

Chairman TAUZIN. Good job, Eliot.

The Chair recognizes the gentleman, Mr. Whitfield, for an opening statement.

Mr. WHITFIELD. Mr. Chairman, thank you very much. And I'm sure the representatives of the network feel they've been punished enough by listening to all of us all this time.

I would simply say that there's a lot of cynicism in America today. I hear a lot about it in my district, and frequently people say I don't really believe much of what a politician says today. I don't believe a lot about what I read in the paper, and I don't believe a lot about what I hear on television today.

I think that's one of the real tragedies of what happened in Election 2000 and the reporting of it. Instead of building up confidence in the American people in our established institutions like the press, we seem to be tearing that confidence down. I hope this hearing will focus on that issue, and I know that the networks will make every effort to correct it because they have every interest to do so.

I look forward to the balance of the hearing.

Chairman TAUZIN. I thank the gentleman.

The gentleman, Mr. Ganske, is recognized for an opening statement.

Mr. GANSKE. Mr. Chairman, here's the crux of the problem: Exit polling can affect those who haven't voted if the polls are still open. You, Mr. Chairman, and Mr. Markey have a bill to forbid exit polling results until the Nation's polls are closed and then to make uniform closing times across the country. The goals are laudatory, but the implementation is difficult because of equity problems with voters on the East Coast having better voting hours than those on the West unless have you very long poll hours nationwide. Nevertheless, I commend you and Mr. Markey for posing a solution to

the problem of exit polling affecting whether voters even bother to vote; and I look forward to the testimony.

Chairman TAUZIN. I thank my friend.

Will my friend yield quickly? I want to correct the record. The bill does not prohibit exit polling. I think that would be an infringement on the first amendment.

Mr. GANSKE. Exit polling reporting.

Chairman TAUZIN. All it simply does is set a uniform poll closing time. The networks have rather uniformly after their internal reviews indicated they would probably all agree not to use exit polling results until after that poll closing time. So I think their voluntary agreement to do that along with the bill might go a long way.

I thank the gentleman for his kind comments.

The Chair announces a recess until 1.

[Brief recess.]

Chairman TAUZIN. The committee will please come back to order. We'll ask our guests to take seats and get comfortable.

The Chair will recognize the gentleman from Texas, Mr. Green, for an opening statement.

Mr. GREEN. Thank you, Mr. Chairman. I will not give my total open statement and ask it be submitted for the record.

I will just briefly say that I appreciate the chance that the committee has to look at this. I know, historically, the committee has looked at this before. I think from the testimony I've read the networks agree the early closing, the early announcement needs to be corrected and also the—some type of uniform election date. Now, I know—or election closing time.

Do I believe there were mistakes made in the decision-making process of the networks? Sure. And do I believe the Voter News Service used bad exit polling? Sure. Do I believe this issue is a major factor in deciding the outcome of the Election 2000? Absolutely not.

I think the rest of my statement, Mr. Chairman, will point out that the biggest concern that I have is that the Florida election system—and there but for Florida could go any State—that predominantly the number of discarded ballots were predominantly minority Democrat voters; and I would hope if not this committee then this Congress would look at not only our issues today but also why we have such a large percentage of overvotes, for example, in—46,000 overvotes as compared to 17,000 for President Bush. I think that we need to look at that.

We need to look at, for example, Palm Beach County. The ballot design was not new, but there were 8,000 voters who chose Vice President Gore and actually had theirs discarded. In that country, the Democratic candidate for Senate in that county won by 10 to 1.

So I think there's a lot that we need—this Congress needs to look at the election and particularly see what we can do to make sure that when people go vote they know their vote will be counted.

I particularly appreciate Mr. Deutsch's comments. In Florida, maybe the exit pollings were right and the actual counts were not.

So, Mr. Chairman, I yield back my time.

Chairman TAUZIN. Thank my friend.

The Chair recognizes Mr. Bryant for an opening statement.

Mr. BRYANT. Thank you, Mr. Chairman.

I, too, want to add my thanks for you holding these hearings. Certainly they've expanded, at least in terms of the opening statements. We've heard from the other side maybe beyond the scope—the intended scope of the hearing. But, nevertheless, we will move forward.

I want to thank the extremely qualified and talented witnesses we have, of the various panels. As I look back across the audience and see a couple of panels waiting who are from television I can't help but think that you can relate now to what we who are consumers of your product feel during long commercials. In essence, that's what we're hear—we paid a lot of money to get up here.

Chairman TAUZIN. Will the gentleman yield?

My wife would also like ask you to keep the volumes the same when you go to those commercials. We never had a chance to say that. Thank you. Thank the gentleman.

Mr. BRYANT. In some ways, it's very similar. But, hopefully, we will move along now and hear your testimony.

I do have limited comments. A lot of what I would like to say has already been said. But I would reiterate I think a couple of points made particularly by Mr. Greenwood and others that we are talking about the Constitution and the First Amendment here, freedom of speech and certainly we intend to tread very, very lightly here.

There are restrictions, as all of us that went to law school understand, to the first amendment, but they are very limited; and certainly we're not talking about those here. On the other side, there is a counter position, that anyone who speaks should, particularly when it comes to something as important as elections, should speak responsibly. And our concern that I share with Mr. Largent and others in terms of the influence, I think you understand completely the influence that you do have over the public in so many ways; and to deal with the institution of electing a Presidency we have to be extremely careful. I'm sure there were lessons learned by all here, and they will be taken to heart as we move toward the next election.

One of the things I think a lot of us will endorse is the idea of a uniform closing time on Election Day, particularly when you've got many States like my home State of Tennessee who have 2 weeks of unfettered early voting. I think as more States move to that it would be easier to have a uniform closing period of time, even though it is somewhat complicated. But also we must insist upon obedience by the media of your agreement to not call States until the polls are closed.

Finally, I would comment on a couple of quick issues that have been raised about exit polling being accurate. As we will learn later in the hearing, some of the counties in some of these States, the 16 percent in terms of being off in that exit voting—and I don't think anyone here is saying that any of the counties, particularly in Florida, the undervote was 16 percent of the total vote. I hope not. But, in any event, so much of what happened in Florida, like other States, is a State issue in terms of how they conduct their polls and how they run their polls and run their elections and

count their votes and all. I hope we shy away from trying to Federalize every election in every State. I don't think that's our job.

As I watched the coverage, as many of you did, the post-election counting in Florida, the three or four counties that I saw in contests so much seem to be counties that were actually controlled—election commissions and people who operated and administer the elections in those counties were controlled by what appeared to be the Democrat party. And I know we talk about butterfly ballots—this is again rehash and rehash—but again that was approved beforehand by a Democrat administrator in the county.

So these are really State issues, and I hope the States do look at how they conduct their elections. I do hope they look at how they write their ballots and the due process they give before the election occurs for people to object and how the voting population is educated. So many of these undervotes were out there, were multiple votes. People voted more than one candidate. I don't know how you can count those.

But, again, a lot of this comes back to the States. A lot of this will come back to the individual voters to make sure they're informed and know how to vote. And if they have a problem voting at the box they go seek an official out and say, I voted wrong; or I don't know; I'm confused here.

But so much so much of our democracy depends on individual responsibility. So I hope we use caution not only in treading on the first amendment but also in the Federal Government trying to impose its big body in the State-run elections.

I would—I think I have run out of time—would yield back any time I might have remaining.

Chairman TAUZIN. Thank the gentleman.

The Chair recognizes Mr. Strickland for an opening statement.

Mr. STRICKLAND. Thank you, Mr. Chairman.

Mr. Chairman, with all due respect to my colleagues, it seems a little ironic to me that we should be criticizing the media for saying things to the American public which is not accurate. Could it be that we are applying a standard to the media which we ourselves as Members of this body do not observe?

A case in point: On C-SPAN this morning, the networks were criticized for their delay in calling Ohio for Mr. Bush. The accusation was made that Mr. Bush had won Ohio by six points. But the fact is that Ohio was a much closer election than that. Mr. Bush won Ohio by less than four points. In fact, the official results from the Ohio Secretary of State indicate that Mr. Bush got 50 percent and that Mr. Gore got 46.4 percent.

I believe in this committee we should do nothing that would interfere in any way, to any degree with first amendment protections. But we can and we should clarify what has happened and make sure the public is fully informed about those facts, and then trust the public to make appropriate use of those facts.

From my perspective, as it turns out, the early initial projections in Florida were in fact accurate; and I believe that the counting which is going on in Florida will eventually substantiate the fact that the networks were initially correct in their judgment.

I would hope that the major issue of electoral reform would capture the attention of this committee. The people in my district are

not complaining to me about election night projections, but they are wanting to make sure that every American can vote and that every vote is counted.

What we have today in our country is the unfortunate situation where many Americans believe that the person who was elected by the people does not occupy the Office of President. That is a sad fact, and it is a situation that we should not ever allow to happen again.

I return the balance of my time.

Chairman TAUZIN. The Chair thanks the gentleman and recognizes Mr. Norwood for an opening statement.

Mr. NORWOOD. Thank you, Mr. Chairman. I'll be very brief, but I do want to thank you for having this timely hearing. I think it's very appropriate. And separate from our friend in Ohio, our people are complaining about the exit polling and when it came out. But this—we need to stay on the point here.

Probably all of us believe in the first amendment very strongly. We believe in your right to free speech, and we believe in our right to free speech. However, we also believe in the right of a fair election. And part of that and the part that we are particularly zeroed in on today and may look at other parts later, but today we're talking about how does incorrect exit polling affect the outcome of national elections.

It isn't just about the State of Florida. I think our investigators and others have proved without a shadow of a doubt that the exit polling that caused the networks to predict winners and losers incorrectly and wrongly was a very flawed model, and that is important. In the 1980's, it was important to the Democrats. In year 2000, that was very important to the Republicans.

I hope all of us on both sides of the aisle, both sides of this committee, will understand that next time it may be you. We're not going to any time legislate, I believe, against networks' freedom of speech or any of their rights. But it is important to point out to the networks that they do have a very large responsibility not to incorrectly affect an election, regardless of who won, regardless of which party you're in.

So I thank you, Mr. Chairman, for this. I believe as we hear from the witnesses today that everyone will leave here knowing that the exit polling, the model we visit with today is simply flawed; and that must be corrected.

Thank you, Mr. Chairman. I yield back.

Chairman TAUZIN. I thank the gentleman.

The Chair recognizes Ms. DeGette for an opening statement.

Ms. DEGETTE. Thank you, Mr. Chairman.

I've been sitting here patiently listening to my colleagues make their opening statements. And as a Member from the West, we've been hearing about these problems for years. Because every time we have a Presidential election we worry in the West about what will happen to our voting when exit polling from the East comes in. It has been an issue for many years. It will only I think serve to increase—as you see, the recent census data that shows population increasing in the Sunbelt and particularly in the West.

Now, I think—I've heard all my colleagues. I think we could sit up here and argue for the next 4 years what exit polling did. Did

it depress votes in the Panhandle? Did it hurt votes in Colorado or Arizona or California or Oregon or Washington? Many of these issues will be made moot by different kinds of balloting that we're having.

I just was looking at my newspaper clips. The Colorado legislature is about to pass a bill for mail-in balloting like we have in Washington and Oregon, and I think that will make a lot of the projecting that the networks are doing an obsolete task and will have to find different ways to do it.

What I do think, though—and also I think that it would be terribly wrong of the U.S. Congress to trample on the first amendment rights of the media in order to try to solve a short-term problem. And there is no doubt about that in my view.

I do think that there are some things we can do, Mr. Chairman. I think that that's what this committee should focus on. We should focus on election reform. We should focus on looking at closing of polling places and what time we do that. We should focus on ballots, and all of those things that can serve to give Americans confidence in the polling process. That's what we should be doing.

Finally, I will say I don't think this is a problem solely of the media. I think it's just as much a problem as ourselves, the public. I would suggest that we as citizens of this country victimize ourselves by our own need for urgency. In this era of rapid communication and the insatiable need for instant information, there are times when I think we need to pause and evaluate the risks inherent in our demands to get access to information. That's not something the media can do by itself. That's something the citizens of this country need to decide for themselves.

So, you know, without venturing into the topic of oversaturation, the media is responding to public demand; and I think we need to ask ourselves, is this need to know the results of an election as soon as possible denying millions of voters their right to be a part of the process? If it is, what can the American public do about it, not the U.S. Congress putting unconstitutional restrictions on the media.

I'll yield back the balance of my time.

Chairman TAUZIN. Thank the gentlelady.

Mr. Pitts is recognized for an opening statement—new member of the committee.

Mr. PITTS. Mr. Chairman, the right to vote is the most fundamental civil right in a democracy in representative government; and when that right is taken away from anyone, the proper response is shock and outrage. Whether we're talking about Jim Crow laws or irresponsible or flawed news coverage, the effect is the same. Somebody's right to cast a meaningful vote is taken away.

Mr. Chairman, in my State of Pennsylvania the polls close at 8 p.m. But in Presidential years the lines are so long in some places that people are still voting as late as 9 and 9:30. But you only have to be in line by 8. The line closes. But if you're in line at 8, you're allowed to vote.

On election night in November, two networks called Vice President—for Vice President Gore at 8:47. That means that thousands of Pennsylvanians voted 45 minutes after some in the media had

already decided the winner. Interestingly, I think calling the votes so soon violated even the industry's own standard for prudent prediction of election outcomes.

Well, you might say that that would not have—it would have been the same either way for Pennsylvania. After all, in our system it's winner take all and—but you can't say that in Florida. In the case of Florida, the Panhandle was open for a whole hour after the rest of the States stopped voting. How long were the lines at closing time in the Panhandle? It seems to me quite likely that the media called Florida for the Vice President, what, an hour, perhaps 2 hours before everyone was done voting? And the networks were wrong. How many voters gave up and went home? How many voters thought the race over and their vote didn't count? One hundred? Two hundred? One thousand? Just a couple hundred voters out of thousands would have made a huge difference in the month that followed.

Clearly, Mr. Chairman, we have no business calling elections until people are done voting. It's not just a problem of accuracy. It's a problem of ethics. The right to vote is sacred in this country, and it deserves the very highest level of protection that we can give it. By any measure, what happened that night in November was a reporting disaster. It's our responsibility, it's our duty, it's the duty of all of us, especially the media, to make sure that it never happens again.

I thank you, Mr. Chairman, for calling this hearing. I thank the witnesses for appearing today.

Chairman TAUZIN. Thank the gentleman.

Now recognize another new member of our committee, Mr. Doyle, for an opening statement.

Mr. DOYLE. Thank you, Mr. Chairman. I want to thank you for convening this hearing to further examine the events that took place at the network level on election night.

As was made clearly evident in the election night and post-election night coverage, the networks and, by extension, their election night coverage policies have played and will continue to play a significant if not integral role in the entire process of electing a President. That fact in and of itself warns that we must strive to place the utmost importance on accuracy as our first and foremost concern.

Mr. Chairman, much of what I was going to say in my opening statement has been said many times over; and in the interest of finally hearing our panelists some time today I will ask unanimous consent that the remainder of my remarks be inserted in the record and yield back my time.

Chairman TAUZIN. Without objection so ordered.

Mr. Terry is recognized for an opening statement.

Mr. TERRY. I'll yield back.

Chairman TAUZIN. Mr. Walden.

Mr. WALDEN. Thank you, Mr. Chairman.

I, too, want to thank you for both this hearing and the way this hearing has been laid out and organized. Because I think really the thrust here is to look at the Voter News Service model and the formula and what worked and what didn't work. It's not to attack the first amendment.

I've spent 15 years in the radio business myself as an owner and operator. I have been on both sides of this table, actively reporting election report results on the election night, gathering them at the courthouse, broadcasting them over the air, coordinating that coverage, as well as having been a candidate. I'm aware of how tricky it can be on election night, how information you get initially may not be the right information and how careful you have to be at reporting that information. Numbers get transposed; election results get confused; clerks sometimes make errors; partial returns may not reflect the overall outcome of a precinct. So it is very important for those of us who are in the media to make sure the information we give out to our viewers and listeners and readers is accurate.

I also believe that we have a great obligation to make sure that as election results are put forth, as projections are given that we don't somehow influence the outcome, make the news, if you will.

I happen to represent the Second District of Oregon. One of my predecessors was Representative Al Ullman, who was defeated in the 1980 election. I was a press secretary of the campaign of the candidate who defeated him. I remember very well our feeling when the networks claimed that Jimmy Carter had lost and the effect that had on the West Coast. Even the Washington Post I note reported Rep Al Ullman of Oregon, Chairman of the House Ways and Means Committee, won't be back to Congress next year. He lost by 1 percentage point. He blames it on the time zone effect.

The time zone effect is real. And I was disturbed, I guess, by some of the information—I think it was in CBS Review—where one of the authors concluded there is no research proving western voters are dissuaded from voting by results in the other States. And yet I have before me, Mr. Chairman, information from the Secretary of State of California, Bill Jones, a letter from 1998 also signed by our former Democrat Secretary of State Phil Keisling and others from around the country, pointing out that, based on Election Day surveys in California alone, turnout dropped by 2 percent after the announcement in 1980. According to a study by the Field Institute, 10 percent of those questioned blamed the news media projections for their failure to vote.

Chairman TAUZIN. For the sake of the record, would the gentleman offer that into the record?

Mr. WALDEN. I would be happy to, Mr. Chairman.

Chairman TAUZIN. Without objection, it is so ordered.

[The letter follows:]

SECRETARY OF STATE
STATE OF CALIFORNIA
April 10, 1998

Dear Network Executive:

Last October, California Secretary of State Bill Jones and six fellow colleagues who represent the contiguous western states, wrote to you urging the networks and other news media from reporting exit polling and early projections during last November's presidential election. As was explained to you then, every four years some 50 million Americans, who live in the Western United States, are essentially delivered the message that their vote may not mean as much as their fellow citizens who begin their day three hours earlier on the East Coast.

Each presidential election year Americans in Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, Alaska and Washington have their vote devalued by early news media projections, specifically those based on exit polling information and not concrete results as reported by our fellow secretaries of state.

Travelling throughout our respective states last fall, prior to Election Day, we Secretaries of State heard from the voters directly their concern about this important issue. The message from our voters is clear. They want an Election Day that is not predetermined by polling and predictions.

As you recall, in 1980, when ABC, CBS and NBC projected Ronald Reagan as the winner shortly after 5:00 p.m. Pacific Standard Time (PST), nearly three hours before the polls closed on the West Coast, followed shortly after by President Carters concessions speech, it had a chilling effect on voter turnout. Based on Election Day surveys in California alone, turnout dropped by about 2 percent after the announcement in 1980. According to a study by the Field Institute, 10 percent of those questioned blamed the news media projections for their failure to vote.

This year, once again election officials and campaign workers reported that many voters left the polls without casting their ballots, phones in elections offices stopped ringing and get-out-the-vote drives fell apart as a result of early exit polling and projections.

In fact, in 1996, the problems associated with projecting contest winners based on early exit polling results was not confined solely to the West. As our colleague from New Hampshire, Secretary of State Bill Gardner, can attest, the news media organizations erred in their prediction of the winner of the state's U.S. Senate election. That is a mistake that we can assure you no one wants to see repeated.

Although we concede that on Election Day there was little doubt as to the anticipated outcome of the 1996 presidential election, there were a great many state and local races that experienced difficulty in turning out their voters following premature news projections that the presidential race was over. The Western State's candidates and voters deserve to play on the same level playing field as their East Coast counterparts.

We must not allow our Election Day to become the equivalent of a drive-through democracy, where expediency is gained at the expense of fairness. Every American—regardless of where in the country he or she calls home—is entitled to make informed and independent decisions, uncomplicated by prejudicial reports that "the election is over," based on incomplete information from one or two geographic regions.

We, the undersigned Secretaries of State, recognize the negative impact of media exit polls on voter turnout in the Western States during presidential elections. Therefore, we request that all media networks join together to refrain from releasing any presidential exit polling results for the 2000 election cycle until the polls close in our Western States (PST). On behalf of the millions of voters who call the great American West home, we urge you not to abridge their right to participate in the process of electing the president and congress of the United States by broadcasting or reporting early projections on Election Day.

Thank you for your consideration.

Sincerely,

Bill Jones, *California Secretary of State;* OLENE WALKER, *Utah Lieutenant Governor;* RALPH MUNRO, *Washington Secretary of State;* MIKE COONEY, *Montana Secretary of State;* PETE T. CENARRUSA, *Idaho Secretary of State;* PHIL KEISLING, *Oregon Secretary of State;* BETSY DAVIS BEAMER, *Virginia, Secretary of the Commonwealth;* KATHLEEN E. ARNOLD, *Secretary of the District of Columbia;* ERIC CLARK, *Mississippi Secretary of State;* SCOTT MOORE, *Nebraska Secretary of State;* JIM BENNETT, *Alabama Secretary of State;* ANTIONIO O. GARZA, JR., *Texas Secretary of State;* SHARON PRIEST, *Arkansas Secretary of State;* JANE DEE HULL, *Arizona Secretary of State;* ELAIN F. MARSHALL, *North Carolina Secretary of State;* JOYCE HAZELTINE, *South Dakota Secretary of State;* JOAN ANDERSON GROVE, *Minnesota Secretary of State;* CANDICE S. MILLER, *Michigan Secretary of State;* PAUL D. PATE, *Iowa Secretary of State;* VICTORIA BUCKLEY, *Colorado Secretary of State;* FRAN ULMER, *Lieutenant Governor, State of Alaska;* STEPHANIE GONZALES, *New Mexico Secretary of State;* WILLIAM F. GALVIN, *Massachusetts Secretary of State;* DEAN HELLER, *Nevada Secretary of State;* EDWIN J. FREEL, *Delaware Secretary of State;* WILLIAM GARDNER, *New Hampshire Secretary of State;* LEWIS A. MASSEY, *Georgia Secretary of State;* YVETTE KANE, *Pennsylvania Secretary of State;* JOHN T. WILLIS, *Maryland Secretary of State;* BOB TAFT, *Ohio Secretary of State;* ALEXANDER F. TREADWELL, *New York Secretary of State;* MILES RAPOPORT, *Connecticut Secretary of State;* JAMES MILNE, *Vermont Secretary of State;* KEN HECHLER, *West Virginia Secretary of State;* RILEY DARNELL, *Tennessee Secretary of State;* DAN GWADOSKY, *Maine Secretary of State;* JAMES R. LANGEVIN, *Rhode Island Secretary of State;* REBECCA MCDOWELL-COOK, *Missouri Secretary of State;* LONNA R. HOOKS, NEW JERSEY SECRETARY OF STATE; DIANA J. OHMAN, *Wyoming Secretary of State;* SANDRA B. MORTHAM, *Florida Secretary of State;* DOUGLAS LA FOLLETTE, *Wisconsin Sec-*

retary of State; JIM MILES, *South Carolina Secretary of State;* W. FOX MCKEITHEN, *Louisiana Secretary of State;* JOHN Y. BROWN III, *Kentucky Secretary of State;* RON THORNBAUGH, *Kansas Secretary of State;* TOM COLE, *Oklahoma Secretary of State;* AL JAEGER, *North Dakota Secretary of State;* GEORGE H. RYAN, *Illinois Secretary of State;* SUE ANN GILROY, *Indiana Secretary of State; and* MAZIE K. HIRONO, *Hawaii Secretary of State.*

Mr. WALDEN. As for Florida, I notice one of my colleagues suggested that there was—the early projections were accurate, and there was no reason to question them. And yet their own analysis by the networks and by VNS later determined all kinds of problems with that analysis that led up to that projection, including a VNS keypunch operator who had entered incorrectly voter count data which had the effect of making it appear that Vice President Gore had won 98 percent of the Duval County vote tabulated to that time.

It's clear there were problems. I'm not here to castigate those who are the anchors getting it over the earpiece, trying to make the best call they can. I think what we have to do is look at the data that led up to that so we aren't accidentally affecting the outcome of elections elsewhere and putting out bad information that's neither good for the broadcast and media nor for those who are watching.

So, Mr. Chairman, with that I yield back the balance of my time and thank you for your efforts on this hearing.

Chairman TAUZIN. I thank the gentleman.

I think for our final opening statement the Chair recognizes Mr. Buyer, another new member of our committee.

Mr. BUYER. Thank you, Mr. Chairman. You're correct. Being a new member of the committee, the years that I served here on Armed Services and Judiciary we never had this practice of all members of a committee speaking while we've invited witnesses to come testify before us. If this is the culture of the Energy and Commerce Committee, obviously it's one I don't know about. If it's a common practice of this committee over the years, it's one I find distasteful. I find it distasteful because we've invited a lot of people here to come testify at 11, and here it's 1:30, and they have not yet begun to testify.

Now maybe it's members themselves, when they have the opportunity to speak in front of cameras, they get a little excited and they want to pontificate. But I'm a little bothered by it.

The only comment that I am going to make is this: I'm bothered by the rancor in this matter. Now whether it's Republicans or Democrats I'm bothered by it. Because there is one general concern that all of us have to agree on. This comment about the first amendment right, you know, we collectively have decided to live in a Republic, not a democracy, under the rule of law to ensure that our society has civil order. So even though we have a Bill of Rights, none of those rights are truly absolute. So when someone begins to act irresponsibly, it is an invitation for government intrusion.

So I'm bothered if someone operates in our society in whatever industry, from Hollywood or to whomever, and they think that they have certain rights that will protect them and therefore they can act irresponsibly, I'm bothered. And I'm equally as bothered that government then would somehow then try to step in and be intrusive. So I am anxious to hear from witnesses who have been very

patient. I want to thank you for doing that. Because I think you also want to be responsible and accountable to yourselves.

Thank you very much. I yield back the balance of my time.

Chairman TAUZIN. The Chair thanks the gentleman for yielding.

The Chair would point out to the gentleman, as a new member, that it is the rule of the Energy and Commerce Committee to permit members to give opening statements. It is a right to speak. There is, however, no obligation of any member to speak. Members have the right to waive that right and to insert their written oral statements into the record. The Chair has always encouraged members to do that, but we will always respect members' rights under the committee.

[Additional statements submitted for the record follow:]

PREPARED STATEMENT OF HON. CHARLES F. BASS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW HAMPSHIRE

I thank the Chairman for providing the opportunity for this committee to exercise its oversight responsibility and appreciate the efforts of the witnesses.

On election night, television news networks Incorrectly and prematurely reported the results of the race for President. The networks heavy reliance on flawed data provided by the Voter News Service and competition to declare results was an embarrassment to the networks and a disservice to their viewers.

Although, there is no evidence that the results reported by Voter News Service and the television news networks were intentional or in any way deliberate attempt to affect ongoing voting. Nevertheless, I am concerned about the network's heavy reliance on flawed data, their insatiable urge to be first, and the effect early and inaccurate media reports have on voter turnout in states where polls have not yet closed. In addition, that the errors so heavily skewed in one political direction ought to raise questions about the fairness and accuracy of all the systems currently employed.

This is not the first time the networks have incorrectly predicted the outcome of an election. Many New Hampshire residents and those who follow our state's politics will recall that in 1996, the networks falsely predicted that the Democratic challenger had defeated incumbent Republican U.S. Senator Bob Smith.

I look forward to studying the proposed solutions to the problem and appreciate the self-examination the networks and news services have undertaken. The leadership they have demonstrated in setting new guidelines for reporting election coverage encourages me to believe the events of last November will not be soon repeated.

PREPARED STATEMENT OF HON. ED TOWNS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Thank you Mr. Chairman. I too watched television on election night and rode the all night roller coaster on November 7, 2000. I recall my feelings of joy, disappointment, and feelings of great hope and happiness as the Networks changed the call on Florida once again.

I too wish that the Networks had been 100% accurate in their initial projections on election night, but both human and mechanical mistakes were made which compounded the problem. While technology has improved our lives in countless ways, it has also given us a sense of entitlement to instant news, music and other forms of content and information sometimes sacrificing the facts in order to break a story.

And while I think that is an issue that should be addressed, it is a discussion for another day.

The networks should be held—and in my opinion—are being held accountable. I am not of the opinion that these news organizations knowingly distributed false information to the public, and it is worth noting that news organizations are held to the higher authority of public confidence and public opinion. It should also be said that all networks have an interest in giving viewers the best possible product due to the incredible amount of competition that exists in today's news marketplace.

I am pleased that the networks worked hard on these studies and policed themselves in a responsible manner, because it is not easy to openly and publicly criticize yourself. The American public deserves the best possible news service and each of

our broadcast witnesses has an incredible responsibility to protect the right of the Free Press.

Lastly, it has been said that the news organizations acted in a biased nature that suppressed votes in later time zones, specifically on the West Coast. Personally, I would welcome the opportunity to discuss voter suppression in America today. If we are to discuss these issues, then I would respectfully suggest that the witness list be expanded to the thousands of voters who were disenfranchised throughout Florida and in St. Louis, Missouri in addition to the countless other locales across the country which may have gone unreported. There is a vast difference between announcing winners and losers from exit polling data—which is the ultimate responsibility of the networks, not Congress—and the practices of intimidation and deception which unfortunately still permeate our electoral process. The problem here is not the networks, but zealous political operatives who practice voter suppression as a trade.

Again, I am pleased that the networks stepped forward to claim responsibility for their actions and I plan to keep a close eye on the networks to make sure that they live up to their promise of reforming the way elections are reported on in the future. Coupled with that, however, I will do my part to ensure that each and every citizen of this country has the right and ability to make their vote count in America. Thank you and I yield back the balance of my time.

PREPARED STATEMENT OF HON. FRANK PALLONE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. Chairman, even before all the votes were counted in last year's Presidential election, Republican Members of Congress were calling press conferences, where they recited their old mantra of a liberal media bias. They also went so far as describing a conspiracy on the part of the networks to ensure victory for Al Gore.

But, Mr. Chairman, what my friends on the other side of the aisle did not realize at the time and what the facts of the evening soon revealed, was that perhaps the largest media bias was taking place at the FOX News Channel. There, the first cousin of Governor George W. Bush was calling the shots on which states went to each of the candidates. If you want to talk about a conflict of interest, look no further than the fact that a blood relative of then-Governor Bush was the first to call the election for the Republicans. John Ellis, George W. Bush's first cousin, was manning the decision desk at Fox News, one of the nation's major news organizations. According to Ellis himself, he spoke with candidate George W. Bush five times throughout election day. He also spoke several times to his other first cousin, Florida Governor Jeb Bush.

Later in the evening it was Ellis who called the election first for Bush at 2:15 a.m. Within five minutes all the other networks followed suit. What Mr. Ellis and the other networks did not realize was that it was really Mr. Gore that should have been awarded the election. It wasn't until many of the counties in Florida decided not to accurately count all the votes cast on November 7, that Mr. Bush could be declared the winner.

Since the Networks made this erroneous call at such a late hour, many people around the country went to bed incorrectly assuming that George W. Bush was the president-elect. The next morning, even after all the networks had retracted their calls, the public perception was still that Bush was the President-elect and Gore was seeking to overturn the results, rather than the fact that the contest between the two candidates was too close to call. If the networks never called this election for Bush in the early hours of November 8, it is my belief that the public would have demanded a fair and accurate count in Florida, which I believe would have made Al Gore our 43rd President.

Clearly mistakes were made on election night, and those mistakes had a huge impact on public opinion.

I am sure we can all agree that it is now the job of the networks and the Voter News Service (VNS), through internal reviews that have been completed and now must be implemented, to ensure that what happened last year never happens again. But, if you think about it the networks first numbers were correct. Exit polls, which measure a voter's intent rather than what was later counted, showed a clear victory for Al Gore. So rather than debating whether the media is liberal or conservative, what we in Congress should really be focusing on is the fact that not all American's votes were counted.

Chairman TAUZIN. The Chair is now pleased to welcome our first panel. As Mr. Buyer said, I apologize for the long delay, but those

are the rules of our committee. And the Chair under the rules of the committee must inform the witnesses, of course, that this is an investigatory hearing. As such, it is the custom—in fact, tradition and practice of our committee when we are in this mode to take our testimony under oath. So that I will ask the witnesses in—prior to your testimony to in fact stand with me while I administer the oath.

The first witness on the first panel will be Ms. Joan Konner, a Professor of Journalism and Dean Emerita of the Graduate School of Journalism, Columbia University, New York, New York.

Ms. Konner, I welcome you. You are aware that the committee is holding an investigatory hearing and in doing so the practice is to take testimony under oath. Do you have any objection to taking—giving your testimony other oath?

Ms. KONNER. I do not.

Chairman TAUZIN. The Chair advises you under the rules of the House and the rules of the committee you're entitled to be advised by counsel. Do you desire to be advised by counsel during your testimony today?

Ms. KONNER. I do not.

Chairman TAUZIN. In that case, would you please indeed raise your right hand; and I will swear you in.

[Witness sworn.]

Chairman TAUZIN. You are now under oath. You can now give a 5-minute summary of your written statement, and we welcome it right now.

TESTIMONY OF JOAN KONNER, PROFESSOR OF JOURNALISM AND DEAN EMERITA, GRADUATE SCHOOL OF JOURNALISM, COLUMBIA UNIVERSITY

Ms. KONNER. Thank you, Mr. Chairman. Thank you, members of the committee. I am Joan Konner, former dean of the Columbia Graduate School of Journalism and a professor there now. Before going to Columbia as dean, I was a long-time television producer in commercial and public television. I worked in news and public affairs for NBC News for 12 years and in public television for 12 years. I have been a news and documentary writer, reporter, producer, executive producer, a program director, a vice president of the public television station in New York, and president of an independent television production company.

I was asked by CNN, along with Jim Risser and Ben Wattenberg, to look at what went wrong in its television coverage of the Presidential election 2000. Our report, "Television's Performance on Election Night 2000," a report to CNN, has been submitted in full to the committee; and I've been told that it will appear as part of the record of these hearings.

Chairman TAUZIN. Would the gentlelady suspend just a minute. She reminds that I need to do that. And at this point, the Chair would ask that the reports of all the networks and RTI and VNS be made an official part of the record of this hearing. Is there any objection? Without objection it is so ordered.

I thank the gentlelady. Proceed.

Ms. KONNER. The CNN report and all of the other reports that have been issued about election night reporting recognize that

something went terribly wrong just as everyone, including the public, recognizes that many things went wrong with the election process itself. CNN executives, correspondents, and producers themselves describe election night coverage as a debacle, a disaster, and a fiasco; and in our report we agree.

I would like to address these remarks to two main points, the first is to the context of our report and the second to some of its substance.

First about the context. It is important to note at the outset that this is a report on journalism. We as journalists and academics were asked by CNN to undertake an independent review and to answer the questions: What happened on Election Night 2000? Why did it happen and what might be done to prevent such mistakes from happening again? Our inquiry, judgment, and recommendations were based on the ideals, the principles, and the best practices of journalism.

The report should be taken as an independent peer review of the quality of the journalism, not as a political or legal opinion or a statement of public policy. We believe that CNN should be commended for being the only network to invite a wholly independent outside evaluation of its events of its election-day coverage in order to help improve its performance in the future.

Our panel's criticism of CNN's performance that night was based on journalistic principles stated in the report that the central purpose of a free press and a democratic society is to provide the public with information upon which the people can form intelligent decisions concerning important public matters on which they have the power to act; and that public affairs journalism is the pursuit of truth in the public interest and its major values are accuracy, fairness, balance, responsibility, accountability, independence, integrity, and timeliness.

Those are the standards that informed our judgments, and they are the standards that define professionalism according to the written codes of most mainstream organizations and the journalists that work for them. We believe that all the journalists involved in the election coverage at CNN subscribe to those principles. Nevertheless, we have concluded that because of several key factors, CNN along with the other television networks failed in their core mission to inform the public accurately about the outcome of the election. Specifically, CNN and the other networks failed in reporting election results in Florida which turned out to hold the key to the outcome of the election.

We found and reported that the faulty journalism resulted from excessive speed and hypercompetition, combined with overconfidence in experts and a reliance on increasingly dubious polls. We have stated that the desire to be first or at least not to be consistently behind the others led the networks to make calls unwisely based on sketchy and sometimes mistaken information. We reported an impulse to speed over accuracy. And we attributed that impulse to the business imperatives of television news to win the highest ratings, which is not a journalistic standard but a commercial standard.

Ratings, that is the size of the audience, drive the price of commercials; and the commercials determine the bottom-line profits of

the corporations that own the network. Our report found several flaws in the system setup to cover the election. We questioned the overall consent of the Voter News Service, which was the single source of information on data on which all the networks relied. Voter News Service was set up as a partnership among competing news organizations.

This unusual collaboration among competitors was conceived principally as a cost-cutting measure, although pooling resources enabled the networks to greatly expand their polling reach. We believe relying on a single source of information contradicts well-known, deeply entrenched best journalistic practices. Relying on a single source eliminates the checks and balances built into a competitive vote-gathering and vote system. It eliminates the possibility of a second source for validating key and possible conflicting information.

The concept of VNS also effectively eliminates competition in the market for the establishment of a second system, and it might also stifle journalistic enterprise. We further question the purpose of then introducing the element of competition through independent decision desks at each of the networks, all of whom rely on the same data and information received at exactly the same time. What results is a speed trap in which all of the networks are doing their complicated calculations under maximum competitive pressure in minimum time, usually making their so-called projections minutes apart.

The compulsion to be first led CNN and others to project results without checking other possible sources of information. At the time the call for Bush was made, there were, in fact, two other sources available: the Associated Press, which does its own vote count, and the official returns of the States.

We have questioned what purpose this hypercompetition serves, either journalistic or commercial. It does not serve the public, the core mission of journalism. Our inquiry also indicated serious flaws in the polling methods used by VNS, including exit polling, outdated polling models, and outdated technology. We note, as others have, that polls inadequately take into account the growing number of absentee ballots and early mailed ballots or the variations caused by a wide variety of factors on non-responses to the quality of the questionnaire. We know that polls in general are statistical calculations, not factual realities. And as such they are an imperfect measure of voter intent and voting, especially in close elections.

Our recommendations include the following: that exit polling no longer be used to project or call winners of States; and that exit polling be used for analysis only; that returns from sample or key precincts no longer be used for projecting or calling winners. We believe that model precincts are subject to too many errors and could lead to faulty calls. We recommend that all calls be based on actual vote counts and that no calls be made in States where polls are still open. We recommend that no call be made until all available sources of information are checked.

We recommend that the Voter News Service be reexamined, repaired, or reinvented and that a second service be commissioned to conduct parallel national polling. We note that many of these rec-

ommendations would probably slow down the process of reporting, and we believe that is a good outcome. We believe that slowing down would improve network performance and would visibly demonstrate that accuracy was more important than speed in reporting on elections.

Our report expresses the view that the mistakes in the reporting of the Presidential election, especially in Florida, were damaging to journalism and to the country. The erroneous early call for Gore and a later call for Bush declaring him prematurely the next President based on faulty numbers undermined the credibility of the news organizations and distorted the real result of the election at that point.

Some have charged that the networks—some have charged the networks with bias in their reporting, that is, deliberately or unwittingly calling or withholding the results of the race to benefit one candidate over another. We found no evidence to support that view. We also found no convincing evidence that calls made before polls were closed within a State or in another State have an impact on voter turn out.

All of CNN's election coverage was made with the best journalistic intentions. But mistakes were made, and they have, along with other networks, contributed to the public atmosphere of rancor during the first post-election events.

We thank CNN for being willing to undergo this painful process of external peer review, a familiar and accepted path to course correction in many other professions. CNN has already announced policy changes that will help prevent such a lapse in the future. It demonstrates a serious commitment to more stringent standards in covering elections and self-restraint, an example, we hope, other networks will follow.

[The prepared statement of Joan Konner follows:]

PREPARED STATEMENT OF JOAN KONNER, PROFESSOR OF JOURNALISM AND DEAN EMERITA, GRADUATE SCHOOL OF JOURNALISM, COLUMBIA UNIVERSITY

I am Joan Konner, professor of journalism at the Columbia Graduate School of Journalism and former dean of the school from 1988 to 1997. Before going to Columbia, as dean, I was a longtime television producer in commercial and public television. I worked in news and public affairs for NBC News for 12 years and in public television for 12 years. I have been a news and documentary writer, reporter and producer, an executive producer, program director, vice president of the public television station in New York and President of an independent television production company.

I was asked by CNN along with Jim Risser and Ben Wattenberg to look into what went wrong in its television coverage if the Presidential Election 2000. Our report "Television's Performance on Election Night 2000: A Report to CNN" has been submitted in full to the Committee, and I have been told it will appear as part of the record of these hearings.

The CNN report, and all the other reports that have been issued about election night reporting, recognize that something went terribly wrong, just as everyone, including the public, recognizes that something went wrong with the election itself. CNN executives, correspondents, and producers themselves described election night coverage as "a debacle," a "disaster" a "fiasco." In our report we agree.

I would like to address these remarks to two main points. The first is the context of this report; and second, to some of the substance of the report.

First, about context:

It is important to note at the outset that this is report on journalism. We, as journalists and academics, were asked by CNN to undertake an independent review and to answer the questions: What happened on Election Night 2000? Why did it happen? And what might be done to prevent such mistakes from happening again?

Our inquiry, judgements and recommendations were based on the ideals, the principals and the best practices of journalism. The report should be taken as an independent peer review of the quality of the journalism, not a political or legal opinion or a statement of public policy. We believe that CNN should be commended for being the only network to invite a wholly independent, outside evaluation of the events of its election day coverage in order to help improve its performance in the future.

Our panel's criticism of CNN's performance that night was based on journalistic principals stated in the report:

. . . that the central purpose of a free press in a democratic society is to provide the public with information upon which the people can form intelligent decisions concerning important public matters on which they have the power to act;

. . . that public affairs journalism is the pursuit of truth in the public interest, and its major components are accuracy, fairness, balance, responsibility, accountability, independence. integrity and timeliness.

Those are the standards that informed our judgements and they are the standards that define professionalism, according to the written codes of most mainstream organizations and the journalists who work for them. We believe that all the journalists involved in election coverag at CNN subscribe to those principals. Nevertheless, we concluded that because of several key factors, CNN, along with the other television networks, failed in their core mission, to inform the public accurately about the outcome of the election. Specifically CNN and the other networks failed in reporting election results in Florida, which turned out to hold the key to the outcome of the election.

We found and reported that the faulty journalism resulted from excessive speed and hyper-competition, combined with an overconfidence in experts and a reliance on increasingly dubious polls. We stated that the desire to be first, or at least not to be consistently behind the others, led the networks to make calls, unwisely, based on sketchy and sometimes mistaken information. We reported an impulse to speed over accuracy, and we attributed that impulse to the business imperatives of television news—to win the highest ratings, which is not a journalistic standard but a commercial standard. Ratings, that is the size of the audience, drive the price of the commercials, and commercials determine the bottom line profits of the corporations that own the news networks.

Our report found several flaws in the system set up to cover the election.

We questioned the overall concept of the Voters News Service, which was the single source of information and data, on which all the networks relied. VNS was set up as a partnership among the competing news organizations. This unusual collaboration among competitors was conceived principally as a cost-cutting measure, although pooling resources enabled the networks to greatly expand their polling reach.

In our report we say that relying on a single source of information contradicts well-known, best journalistic practices. Relying on a single source eliminates the checks and balances built into a competitive vote-gathering and polling system. It eliminates the possibility of a second source for validating key and possibly conflicting information. The concept of VNS also effectively eliminates competition in the market for the establishment of a second system, and it might also stifle journalistic enterprise.

We further question the purpose of then introducing the element of competition through independent decision desks, all of who rely on this same data and information received at exactly the same time. What results is a speed trap in which all the networks are doing their complicated calculations under maximum competitive pressure in minimum time, usually making their so-called competitive projections minutes apart. The compulsion to be first led CNN and others to project results without checking other possible sources of information. At the time the call for Bush was made, there were in fact, two other sources available, the Associated Press, which does its own vote count, and the official returns of the state.

We question what purpose this hyper-competition serves, either journalistic or commercial. It clearly did not serve the public, the core mission of journalism.

Our inquiry also indicated serious flaws in the polling methods used by VNS, including exit polling, outdated polling models and outdated technology. We note, as have others, that polls inadequately take into account the growing number of absentee ballots and early mailed ballots, or the variations caused by a wide variety of factors from non-responses to the quality of the questionnaire. We note that polls, in general, are statistical calculations, not factual realities; and as such, that they are an imperfect measure of voter intent and actual voting, especially in close elections.

Our recommendations included the following:

. . . that exit polling no longer be used to project or call winners of states; and that exit polling be used for analysis only;
. . . that returns from sample, or key, precincts no longer be used for projecting or calling winners. We believe that model precincts are subject to many errors and can lead to faulty calls.
. . . We recommend that all calls be based on actual counted returns;
. . . and that no calls be made in states where polls are still open;
. . . We recommend that no call be made until all available sources of information are checked.

We recommend that the Voters News Service be reexamined, repaired or reinvented, and that a second service be commissioned to conduct parallel national polling.

We note that many of these recommendations would probably slow down the process of reporting and we believe that is a good outcome. We believe that slowing down would improve network performance and would visibly demonstrate that accuracy was more important than speed in reporting on elections.

Our report expresses the view that the mistakes in the reporting of the Presidential Election 2000, specifically in Florida, were damaging to journalism and to the country. The erroneous early call for Gore and the later call for Bush, declaring him prematurely the next President based on faulty numbers, undermined the credibility of the news organizations and distorted the real result of the election at that point. Some have charged the networks with bias in their reporting, that is deliberately of unwittingly calling or withholding the results of a race to benefit one candidate over another. We found no evidence to support that view. We also found no convincing evidence that calls made before polls are closed within a state or in another state have an impact on voter turnout.

All of CNN's election coverage was made with the best journalistic intentions, but mistakes were made, and they, along with other networks, created the public atmosphere for the painful post-election events.

We thank CNN for being willing to undergo this somewhat painful process of external peer review, the familiar and accepted path to course correction in many other professions. CNN has already announced policy changes that will help prevent such a lapse in the future. It demonstrates a serious commitment to more stringent reporting standards in covering elections and self-restraint, an example we hope other networks will follow.

Chairman TAUZIN. Thank you very much, Ms. Konner.

And now, Mr. Risser, if you will stand with me. You are aware the committee is holding an investigative hearing and when doing so it is the practice to take the testimony under oath. Do you have an objection to taking testimony under oath?

Mr. RISSER. No, sir.

Chairman TAUZIN. The Chair advises you that under the rules of the House and the rules of this committee you have the right to be advised by counsel. Do you wish to be advised by counsel during your testimony?

Mr. RISSER. No I don't.

Chairman TAUZIN. Raise your right hand as I swear you in.

[Witness sworn.]

Chairman TAUZIN. Sir, you are now under oath. You may now proceed with the summary of your testimony.

TESTIMONY OF JAMES V. RISSER, RETIRED DIRECTOR, KNIGHT FELLOWSHIP PROGRAM, STANFORD UNIVERSITY

Mr. RISSER. Mr. Chairman and members of the committee, my name is James V. Risser. I am the former director of Stanford University's John S. Knight Fellowships for Professional Journalists, which is a midcareer sabbatical program for professional print and broadcast journalists. I retired from that position and Stanford faculty in September. Before going to Stanford in 1985, I worked for 20 years as a journalist, including 15 years here in Washington where I was the bureau chief of the Des Moines Register.

As you know, I am one of the members of this committee. You've just heard from Joan Konner. My statement is not long but I'll try to make it even a little shorter since it might repeat some of what she said. As you know, our report released on February 22 concentrates on the most obvious problem of election night, the two calls and two retractions made by CNN and others with regard to Florida. But we believe our findings and recommendations, both directed specifically to CNN, go farther than just the Florida case in demonstrating more broadly what is wrong with the current system of reporting election returns. We also believe they apply in general to the networks, not to CNN alone by any means.

I take CNN at its word that it prefers being accurate over being first in the reporting of the State-by-State returns. That's the only proper stance for an all-news network that wants to keep its journalism at a high professional level and its integrity in tact. The fact that CNN set up our committee shows they do care about this.

But at the same time, intense competition does exist if the television news business and the system created by CNN and the other networks for election night allowed speed to gain the upper hand. The networks believed that they could be both fast and accurate, but on this election night at least they were wrong. The reasons that they were wrong were—and again to summarize some things that Miss Konner also just hit on—they relied on one source they had jointly funded, Voter News Service. The figures and data they got from VNS were not always accurate. Exit polls certainly were not accurate enough and were perhaps less accurate than in past elections due to nonresponses and due to the rise in absentee voting. At the same time, vote tabulation errors were made.

Third, the network decision teams who analyzed VNS data and decided when a network should call a State were unable to or at least did not adequately scrutinize that data. On the decision team chaired by CNN and CBS, there was a failure to consult other key sources. This combination of factors led the networks to call Florida twice and retract twice.

As a result, the networks suffered a grievous blow to their reputation for delivering timely and accurate news. It turned out that voters could not, as CBS's Dan Rather assured them, take their networks' calls to the bank. Instead, the networks found themselves having to twice eat crow as CNN's Jeff Greenfield said.

All of this for no real good reason, our committee concluded. We believe Americans are more interested in having the election returns reported accurately than they are in whether one network comes in a few minutes ahead of the other. Very few people know at the time which network is coming in first and virtually none of them could remember today. I am one who believes strongly in journalistic competition; and I am also aware if one network consistently came in far behind the others, its audience share might suffer. But what we're talking about, at least in regard to this election, is a matter of a few minutes' difference here and there in reporting the winner of a State and viewers simply don't care about that.

Our committee concluded there are serious doubts about the validity of using exit polls to project winners and that the Presidential election is a sacred enough rite of democracy that nothing

more than accurate reporting is acceptable. As we said in our report, "Exit polls, whether accurate or not, are self-generated news. Their use by television networks to project election results is an attempt to forecast what is not yet known, the actual vote count, but which will be known within a few hours when the votes are counted."

Thus we think the networks ought to slow down and get it right. You have heard already our recommendations to CNN and by implication to other networks the stopping of the use of exit polls to project or call winners, instituting a system of calling winners done only from actual counted returns in which a State could not be said to have gone for a particular candidate until enough votes have not been counted to make the outcome in that State a certainty. No State should be called when the polls remain open there. Exit polling, if continued, ought to be studied to make it more accurate. It is a valuable tool for learning a lot things about the electorate besides just how they voted.

Voter News Service should be fixed if its use is to be continued. Other competing sources should be drawn upon as well. CNN's decision team should be strengthened and should adopt higher standards based on more information before recommending a call to the network. We also ask that CNN and others make an effort to inform viewers what is going on, that is, how it arrives at its decision to call States, where the information comes from, what the uncertainties may be and so forth.

And finally, CNN—and I would hope others—should simply take more time to get it right, to show by action that the networks truly favor accuracy over speed and do not wish to impinge improperly on the election process. CNN's own representatives can explain for you the response they made to our report. While it does not adopt everything, we suggest it goes a very long way toward meeting many of our most important findings and recommendations and would put CNN on the road toward doing the kind of job in the next election that I am sure it wanted to do in this one. Thank you.

[The prepared statement of James V. Risser follows:]

PREPARED STATEMENT OF JAMES V. RISSER, RETIRED DIRECTOR, KNIGHT FELLOWSHIP PROGRAM, STANFORD UNIVERSITY

Mr. Chairman and members of the committee, my name is James V. Risser. I am the former director of Stanford University's John S. Knight Fellowships for Professional Journalists, which is a mid-career sabbatical program for professional print and broadcast journalists. I retired from that position and from the Stanford communication faculty last September.

Before going to Stanford in 1985, I worked for 20 years as a journalist, including 15 years here in Washington where I was the bureau chief for The Des Moines Register.

I am one of three members of the independent committee that CNN asked to investigate and write a report on the problems that CNN experienced on Election Night 2000 in reporting the returns and the outcome of the presidential election.

In our report, which was released on February 2, we concentrated on the most obvious problem of Election Night—the two calls and the two retractions made by CNN with regard to Florida.

But we believe that our findings and our recommendations, both directed specifically to CNN, go farther than just the Florida case in demonstrating more broadly what is wrong with the current system of reporting election returns. We also believe that they apply in general to the networks, not to CNN alone by any means.

The committee has access to the report, so permit me to summarize a few points that strike me as the most important.

I take CNN at its word that it prefers being accurate over being first in the reporting of state-by-state returns. That is the only proper stance for an all-news network that wants to keep its journalism at a high professional level and its integrity intact. The fact that CNN set up a truly independent committee to evaluate its performance shows that it cares about this, as does its response since our report was issued.

But at the same time competition—intense competition—does exist in the television news business. And the system created by CNN and the other networks for Election Night allowed speed to gain the upper hand.

The networks believed that they could be both fast and accurate but, on this Election Night at least, they were wrong.

The reasons that they were wrong were:

First, they all relied on just one source which they had jointly funded, Voter News Service, to give them results from exit polls, sample precinct returns, and county-by-county vote totals.

Second, VNS figures were not always correct. Exit polls were not accurate enough, perhaps less accurate than in past elections due to non-responses and due to the rise in absentee voting. Also, vote tabulation errors were made.

Third, network "decision teams," who analyzed VNS data and decided when their network should call a state, were unable to, or at least did not, adequately scrutinize that data. At least at the decision team shared by CNN and CBS, there was a failure to consult other available sources such as Associated Press vote tabulations and the vote counts available on the web pages of state secretaries of state.

This combination of factors led the television news networks to call Florida for Vice President Gore (before polls had closed in the western part of the state), retract that call, call Florida and the election for Governor Bush, and then retract that call.

As a result, the networks suffered a grievous blow to their reputations for delivering timely and accurate news. It turned out that viewers could not, as CBS's Dan Rather had assured them, take the networks' election calls "to the bank." Instead, the networks found themselves having to twice eat crow, as CNN's Jeff Greenfield said.

All of this for no good reason. Americans are much more interested in having the election returns reported accurately than they are in whether one network comes in a few minutes ahead of the other in reporting the results. Very few people know at the time which network is coming in first, and even fewer of them would remember today.

I am one who believes strongly in journalistic competition, and I am also aware that if one network consistently came in far behind the others in reporting election results, its audience share might suffer. But what we're talking about really is a matter of a few minutes difference here and there in reporting the winner of a state, and viewers don't care about that.

Our committee concluded that there are serious doubts about the validity of using exit polls to project the winners in each state and that the presidential election is a sacred enough rite of American democracy that nothing less than accurate reporting is acceptable.

As we said in our report, "Exit polls, whether accurate or not, are self-generated news. Their use by television networks to project election results is an attempt to forecast what is not yet known—the actual vote count—but which will be known within a few hours when the votes are counted."

We think the networks ought to slow down and get it right.

We recommended to CNN, and by implication to other networks, that:

The use of exit polling to project or call winners should be stopped.

The calling of winners should be done from actual counted returns, and a state should not be said to have gone for a particular candidate until enough votes have been counted to make the outcome in that state a certainty. The use of so-called "sample precinct" returns should be limited to guidance in looking at and evaluating actual counted returns.

No states should be called when any polls remain open in that state.

Exit polling, which can provide very valuable information about the electorate, should, if continued, be carefully studied to make it more accurate.

Voter News Service should be fixed, if the partners decide to continue its use, and other competing sources of information should be drawn upon by the networks.

CNN's decision team should be strengthened and should adopt higher standards, based on more information, before recommending a call to the network.

The network should make a greater effort to inform viewers about what is going on—that is, how it arrives at decisions to call states, where its information comes from, what the uncertainties may be, and so forth.

And finally CNN, and I would hope others, should simply take more time to get it right, to show by its actions that it truly favors accuracy over speed and that it does not wish to impinge improperly on the election process.

CNN's representatives can explain for you their response to our report. While it does not adopt everything we suggested, it goes a long way toward meeting many of our most important findings and recommendations and would put CNN on the road toward doing the kind of job in the next election that I'm sure it wanted to do in this one.

Thank you.

Chairman TAUZIN. Thank you very much, Mr. Risser.

Our next witnesses will be Ben Wattenberg, certifying senior fellow of the American Enterprise Institute here in Washington DC. Ben, if you will help me through this. You are aware that the committee is holding an investigative hearing and when doing so it has the practice of taking testimony under oath.

Mr. WATTENBERG. Yes, sir.

Chairman TAUZIN. Do you have any objection to testifying under oath?

Mr. WATTENBERG. I do not.

Chairman TAUZIN. The Chair then advises you that under the rules of the House and the rules of the committee you are entitled to be advised by counsel. Do you desire to be advised by counsel during your testimony?

Mr. WATTENBERG. I do not.

Chairman TAUZIN. In that case, please raise your right hand and I'll swear you in.

[Witness sworn.]

Chairman TAUZIN. Sir, you are under oath and you may now give a summary of your testimony.

TESTIMONY OF BEN J. WATTENBERG, SENIOR FELLOW, AMERICAN ENTERPRISE INSTITUTE

Mr. WATTENBERG. Thank you, Mr. Chairman and members of the committee. I am Ben Wattenberg, I am a senior fellow at the American Enterprise Institute. Over the years I have been active in radio, newspaper, magazines, radio—excuse me, television, book publishing as a reporter or columnist, an editor, a publisher, and an author of a number of books about politics and demographics. I wanted to begin my testimony by reading the first paragraph of the preamble of our report, which has been alluded to; but I thought it might be useful because it pretty much sums up the feeling of the three of us.

And it goes this way: "On Election Day 2000, television news organizations staged a collective drag race on the crowded highway of democracy, recklessly endangering the electorial process, the political life of the country, and their own credibility, all for reasons that may be conceptually flawed and commercially questionable."

And I would just like to dwell for a moment on that last part, "conceptually flawed and commercially questionable," because as we got into this study I know for myself I kept asking myself what on earth are they doing and why are they doing it? And as we all have heard of the motto "no pain no gain," what the networks were doing it seems to me was no gain and plenty of pain. They weren't getting anything out of it. They were competing with themselves to

try to play beat-the-clock in a way that was ultimately truly senseless in my judgment.

Now I would like to present a thought to the committee today that goes beyond our report and to the question and beyond some of our answers as to what can be done about it, that Joan Konner and Jim Risser have described clearly the items we mention in the report. I have a further thought and there's a short statement about it, which I would like to read excerpts from.

Following the Election 2000 fiasco, the networks appeared to have put in place procedures that will deal with the problems of early release of State results, but the Presidential election is a national election. There has been no satisfactory agreement regarding the reporting of votes in early time zones which may influence States with later polling times. Unless such an agreement is reached on the so-called East-West problem, the Nation may suffer through yet another late election-night debacle in years to come.

A number of solutions have been examined, these include uniform poll-closing times, 24-hour voting, full-weekend voting, national holiday voting. All, to be sure, make some sense but they are awful complex.

In the aftermath—so I want—I have come to try to think this thing through as to how this second potential electorial iceberg can be avoided. I think that CNN and other networks have dealt with the State problem; they have not dealt with the national problem, and they are keenly concerned, as they should be, appropriately with first amendment problems. It seems to me that as I understand it in the aftermath of Florida there will be enough Federal legislation sending money to the States to modernize their electorial systems.

Now, is there a way to use this vehicle to simply resolve the East-West problem? And it would seem to me—to me it seems so. Overall, States already hold votes. We were not offered the results of absentee and early voting ballots until the polls closed weeks or days later after those votes had been cast. The vote of a voter who casts his ballot at 7 a.m. is not released, typically, until 12 hours later at 7 p.m. when the poll close. So my thought is that these new Federal grants, should they come about, be made conditional: That the non-Western States would not get grant money if they did not hold their vote release until the close of West Coast polling times.

The networks seem to me duly chastened regarding the promiscuous use of exit polls for projection purposes and would then have no early raw votes to project from. And because the votes would not be available in the first place, there would seem to be no first amendment problem. It seems to me this offers a simpler form of getting at this problem that many people on this panel—and I'm sure that the network executives and that our panel—have investigated. Thank you very much.

[The prepared statement of Ben J. Wattenberg follows:]

PREPARED STATEMENT OF BEN J. WATTENBERG, SENIOR FELLOW, AMERICAN ENTERPRISE INSTITUTE

By calling Florida wrong twice—first for Al Gore, then for George W. Bush—television networks hit an avoidable iceberg that had been on their radar screen for many years. This blunder contributed mightily to the confusion and rancor that fol-

lowed, which hasn't fully subsided. Attention has been paid; that iceberg won't be hit again. But there is another one looming—bigger, still ignored—that should be addressed by Congress.

After the election, in an act of corporate courage, CNN commissioned an independent panel to investigate what went wrong on that infamous night. Along with two-time Pulitzer Prize-winner James Risser and Joan Konner, former dean of the Columbia School of Journalism, I was asked to serve on that panel. CNN President Tom Johnson gave us the opportunity to question whomever we wished, to obtain any documents we wanted and to write a report that would be made public.

The report begins, "On Election Day 2000, television news organizations staged a collective drag race on the crowded highway of democracy, recklessly endangering the electoral process, the political life of the country, and their own credibility, all for reasons that may be conceptually flawed and commercially questionable."

CNN has examined our report and others; the material is on the CNN Web site. They have responded with a list of reforms. These include not using exit polls for projections in close races, not projecting a winner in a state if the balloting shows that there is less than a 1-percent margin and not projecting the winner in a state until all the polls are closed within that state.

In short, the early projection of statewide results will be slowed down appreciably. Such reforms, by CNN and the other networks, should take care of any Florida-like situations in the future. But that leaves the rest of the country. Let me go beyond our report.

Americans hold about a million separate elections in the course of a four-year cycle. Only one, for president, is national and continental, albeit conducted indirectly through separate winner-take-all contests. In America, for practical purposes, that presidential election includes four time zones.

The case has been made, passionately, that early reporting of states in the East influences voting in the West. Democrats were outraged in 1980 when the networks called the presidential race for Ronald Reagan early in the evening. That announcement, said Democrats, depressed Democratic turnout, negatively influencing some congressional races as well as other "down-ticket" offices and referenda. In 2000, it was the Republicans who were outraged, claiming that early state calls for Gore depressed Republican turnout in the Florida Panhandle (which is in a different time zone than the rest of the state), as well as in western states.

Or consider the 2000 election if the electoral math had worked out somewhat differently. Republicans might have claimed that closely contested races in Oregon and Washington would have gone Republican if the networks had not started talking about Gore's winning ways in the East. (GOP Sen. Slade Gorton lost in Washington by only 2,229 votes.)

Clearly, as the networks now concede, an election jurisdiction with two time zones, such as Florida, shouldn't be called until all polls are closed. Why, then, should a national race be called before that national jurisdiction has all its polls closed?

In the early 1980s, angry congressional hearings were held. Unanimous resolutions were passed asking the networks to exercise restraint for a couple of hours every four years during a delicate moment in the democratic cycle. The networks refused. They had First Amendment rights! No one was going to tell them how to cover an election—certainly not politicians.

The academic judgments on the matter of early counting vary widely. It is not known whether early election calling significantly influences voting behavior while the polls are open. But surely there may be a small effect. Florida taught Americans that small numbers of votes can have enormous leverage and incendiary effect in a nation whose interest groups have an all-purpose slogan: "It's Not Fair."

CNN and other networks have endorsed "uniform poll closing" legislation. This would jiggle ballot hours and daylight savings time in order to get Americans voting together in real time. It is a complex solution.

In the aftermath of Florida, there is an easier way, fully respectful of First Amendment rights. It is quite apparent that there will be a new law sending money to the states to modernize their election systems. Hang the chads! Death to the dimpled ballots!

But such monies should be conditioned, as are most federal grants to states. The states should get the funds only if they don't release ballot counts until polls close on the West Coast, just as if this were one large country with four time zones. That condition, coupled with network restraints on early exit poll use, would avoid the next iceberg.

Chairman TAUZIN. Thank you, Mr. Wattenberg.

Our final member of this panel is Mr. Paul Biemer, the Research Triangle Institute, in Research Triangle Park, North Carolina, formerly introduced originally by the vice president of our committee, Mr. Burr. He asked me, by the way, Mr. Biemer, to ask you if you were named after the BMW or was the BMW named after you.

Mr. BIEMER. I wasn't named after a BMW.

Chairman TAUZIN. Mr. Biemer, as is our custom of the committee when holding an investigative hearing of the committee, the practice has been to take the testimony under oath. Do you have any objection to testifying under oath?

Mr. BIEMER. No, I do not.

Chairman TAUZIN. The Chair advises you under the rules of the House and the rules of the committee you are entitled to be advised by counsel. Do you wish to be advised by counsel during your testimony today?

Mr. BIEMER. No.

Chairman TAUZIN. In that case, please raise your right hand and I will swear you in.

[Witness sworn.]

Chairman TAUZIN. You are under oath sir and if you will please summarize your testimony.

TESTIMONY OF PAUL BIEMER, RESEARCH TRIANGLE INSTITUTE

Mr. BIEMER. Thank you, Mr. Chairman, members of the committee. My name is Paul Biemer. I am a senior——

Chairman TAUZIN. I don't think your mike is on.

Mr. BIEMER. Does this work?

Chairman TAUZIN. We will switch mikes. That is one of the reasons I'm asking the committee administration to help us high-tech this committee room.

Mr. WATTENBERG. Do I get it back later?

Mr. BIEMER. We will share. Thank you, Mr. Chairman, members of the committee. My name is Paul Biemer. I am a senior statistician at the Research Triangle Institute. I hold a Ph.D. In statistics and have 23 years of experience in server methodology in statistics. The Research Triangle Institute is a not-for-profit research organization located near Raleigh, North Carolina.

In December 2000, the Voter News Service board of managers contracted with RTI to review VNS's data collection procedures, estimation methodology, and other operations. The purpose of this review is to provide an independent scientific assessment of the causes for the mistaken calls in the Florida Presidential vote and to make recommendations for improving the election-day forecasting methodology to avoid mistaken calls in future elections.

RTI assembled a team of 16 senior statisticians and server methodologists to conduct this review, including myself. None of us had any significant prior knowledge of or connection with VNS operations, nor any experience with election-day voting process prior to this review. The scope of our review was confined to six areas, precinct sampling methods, preelection research methods, projection models and calculations, data collection procedures, quality control procedures, and an audit of the information in the VNS report dated September 8, 2000.

Our review found the VNS methodology to be generally statistically sound and adheres to good statistical practices in many areas. However, there were several areas where their methodology can be improved. We found no evidence of political biases in their procedures and operations. However, we did find some evidence of potentially important statistical biases.

And our findings are as follows: VNS's methods for estimating the total vote, including absentee and early voters, are subject to potentially serious statistical bias. VNS can make better use of the available data on past elections with regard to absentee and early voters to reduce this bias. The exit poll samples are too small for producing accurate State-level results and for providing unbiased ratio estimates of the candidate vote-shares. The exit poll nonresponse rate was 49 percent. We believe this is a potentially important source of statistical bias in the model projections.

We found the quality control procedures to be adequate for most situations. However, there are still opportunities for important errors to enter the system and dramatically change the election results. The quality control methods for ensuring that accurate data is received from precinct and county reporters appear to be inadequate, particularly for close races. The measures of uncertainty reported on the decision screens sometimes do not reflect potentially important sources of error in the VNS system. Thus the true uncertainty in the estimates may be understated. The information provided of the decision screens is prone to misinterpretation and the rules used for election decisionmaking are inappropriate, given the continual flow of data into the process.

In summary, we believe that the errors that led to the Gore call in Florida and then the late-night shift to Bush were the products of a number of system errors that tended to work in concert at various points in the evening toward favoring one candidate over the other. Stricter quality controls and quality standards could prevent this from occurring in future elections. The measures of uncertainty provided on the decision screens underestimate the true total error in the estimates. Thus the risk that an election analyst will call an election erroneously could be substantially higher than indicated by the information on the decision screens. The complexity and the amount of information provided on the screens increase the risk of the misinterpretation of the election results.

Finally, we developed five key recommendations for VNS. One, improve the methodology for estimating the effect of absentee votes on estimates of the candidate vote differential; two, improve the methodology for estimating the outstanding votes for candidates needed to win an election; three, improve the measures of uncertainty for key election estimators to more fully reflect the total variation and statistical biases in the process; four, improve the quality control systems to quickly and reliably signal the occurrence of an error; and, five, develop better guidelines and decision rules for deciding to either make a call or wait for additional data.

[The prepared statement of Paul Biemer follows:]

PREPARED STATEMENT OF PAUL BIEMER, RESEARCH TRIANGLE INSTITUTE

In December 2000, the Voter News Service (VNS) Board of Managers contracted with Research Triangle Institute, a not-for-profit research organization in North Carolina, to review VNS' data collection procedures, estimation methodology, and

other operations. These VNS operations provide data for the news media to project the outcome of U.S. elections. The purpose of this review was to provide an independent, scientific assessment of the causes for the mistaken calls in the Florida presidential vote and to make recommendations for improving the Election Day forecasting methodology in order to avoid mistaken calls in future elections.

RTI assembled a team of six senior statisticians and survey methodologists to conduct this review: Drs. Paul Biemer, Ralph Folsom, Richard Kulka, Judith Lessler, and Babu Shah, and Mr. Mike Weeks. None of these six individuals had any significant prior knowledge of, or connection with, VNS operations nor any experience with the Election Day voting process. This apparently was a key requirement of the VNS Board for selecting RTI for the review and ensured an objective and impartial assessment of VNS operations.

The scope of the review was confined to the following six areas: (1) evaluation of precinct sampling methods; (2) evaluation of pre-election research methods, particularly with regard to any evidence of political bias; (3) evaluation of projection models and calculations; (4) evaluation of data collection procedures, particularly with regard to any evidence of political bias; (5) evaluation of quality control procedures throughout the system; and (6) audit of information in the report written by VNS for the VNS Members dated December 8, 2000. The Executive Summary [1] highlights the major findings in each of these areas and summarizes RTI's recommendations based upon the review. The details of our evaluation and recommendations are contained in the full RTI report1.

Our review was based upon essentially three sources of information: (a) documentation provided by VNS (the list of materials RTI received appears in Appendix A of the full report), (b) a two-day meeting with VNS staff during which we discussed (1) through (6) above, and (c) ad hoc interactions between RTI and VNS during the review for clarification purposes. A major focus of the review was the Election Day system as it performed for Florida. Although the VNS Board requested that we assess the system in at least five other states, data from state and local officials for the selected states were not available in time for our review. Therefore, an analysis of the data for states other than Florida was not possible.

Due to necessary constraints on resources, time, and the scope for this review, we did not independently verify all of the information in the primary documents and data sources that were available to us. However, there were several key areas where VNS information was independently verified, and these are noted in our report.

Unless otherwise noted, the term "bias" used in our report refers to statistical bias, not political, media or other bias. Statistical bias is the expected difference between the value of an estimator and the population value it is intended to estimate when these differences are averaged over many, hypothetical repetitions of the entire election forecasting process. It is caused by random errors occurring in the data collection, data processing, or estimation processes that are either uncontrolled by, or beyond the control of, the designer. Political bias refers to deliberate errors in estimates, which force the election outcomes in the direction of one political party or another in order to bring about a desired election result. In our review, we found no evidence of a political bias; however, we did find evidence of statistical biases in the estimates, as we discuss below.

1. Precinct Sampling Methods

Our investigation revealed that VNS' precinct sampling and associated estimation methods were well designed for estimating the Election Day vote and generally follow standard statistical practices. The oversampling of precincts that are designated as high-percent-black units, which was done to improve the precision of the estimates, is a widely accepted technique for sampling heterogeneous populations. To account for the higher percentage of blacks in the sample using this method, the estimate for blacks is given a lower weight in the calculation of the overall estimates, so that the resulting estimator of the total vote is technically unbiased. We verified that this was done appropriately in the exit poll estimates.

While VNS' sampling methods for estimating the Election Day vote are well-conceived, the methods for estimating the total vote including absentee and early voters are subject to potentially serious statistical bias. We also found that the exit poll samples typified by the 45 precincts drawn for Florida are too small for producing accurate state-level results. A small sample size not only reduces the precision of the exit poll results, it also increases the statistical bias in the ratio estimates of the candidate vote shares.

[1] RTI's full report and the Executive Summary were provided to the Subcommittee. These documents are included as part of this statement by reference.

In reviewing the VNS estimation formulas, we had questions about two approximations VNS had employed in their standard error calculations. Therefore, we recalculated the standard errors for the Gore percent advantage in Florida based on official vote totals with and without these approximations and found no important differences in the standard errors of the candidate vote differentials. Thus, we believe the standard errors for the exit poll and VPA estimates appropriately account for sampling variation.

2. Pre-election Research Methods

Overall, VNS' pre-election methods for collecting data from sampled precincts are generally sound, but the ways in which they are used both to perform edit and consistency checks on the election night system and in formulating decisions could be substantially improved. The VNS decision processes would benefit from both better information on the absentee/early vote in each county/state and better use of the available data on past elections from the research. Further, in spite of an excellent track record, the VNS Research Department could benefit from a general review of new methods and technologies by which it could implement some of its protocols more quickly and accurately.

3. Projection Models and Calculations

The exit poll and VPA (Voter Profile Analysis) precinct estimates are based on a well-designed sample survey that provides an excellent source of timely information on the voting preferences of voters, their characteristics, and their opinions. The Core estimation process provides timely information on race outcomes and also attempts to incorporate measures of uncertainty in the estimates, despite the fact that the samples are not random.

However, the measures of uncertainty presented on the decision screens eliminate some potentially important sources of error in the VNS system and, thus, the true uncertainty in the estimates may be understated. In close elections, the risk that an election analyst will call an election erroneously could be substantially higher than the information on the decision screens indicates, even if the analyst correctly interprets the information. In addition, the information provided on the decision screens is prone to misinterpretation, and the rules used for election decision-making are inappropriate, given the continual flow of data into the process. A much-simplified screen that uses a sequential-sampling-type decision rule would better control the error in forecasting a winner future elections.

4. Data Collection Procedures

VNS' field staffing operations worked as planned for the exit polls and the NETS county reporting system. The problems were more frequent in the operations for the VPA sample and the NETS precinct reporting system. Nationally, reports were received from 98% of the exit poll precincts, 84% of the VPA precincts, 62% of the precincts in the NETS precinct reporting pool, and 100% of the counties (or county equivalents) in the NETS county reporting system. However, these rates are similar to those in past presidential elections.

We found training materials and the training process for the exit poll interviewers to be thorough and appropriate. Based on a sample of interviewer debriefing questionnaires, it appears that the exit poll data collection protocol was implemented reasonably well in non-problematic voting places—e.g., those with only one exit, a good interviewer location close to the exit, and a cooperative polling place official. The follow-up telephone conversations we had with 12 exit poll interviewers reinforced the data in the questionnaires.

While many of VNS' data collection procedures worked as intended, we have some concerns about their adequacy to produce data of sufficient precision to call very close elections like the 2000 presidential election in Florida. We believe the most serious data collection problem VNS had in the 2000 election was noncoverage of the absentee vote and early voters in critical states such as Florida.

Another problem area is exit poll nonresponse (refusals and misses). According to VNS, the average state-level response rate in 2000 was 51%; this compares with 55% in 1996 and 60% in 1992. A nonresponse rate of this magnitude is a potential source of statistical bias in the model projections if the voters who respond have voting characteristics that are significantly different from those of nonrespondents. In our two-day meeting with VNS staff, we were told that the exit polls more often overrepresented Democrats than they do Republicans. This effect could be the result of a statistical bias due to nonresponse.

Finally, another area of concern is the absence of any direct quality control check on the interviewers' data collection activities.

5. Quality Control Procedures

One of the strengths of the exit poll survey quality control system is the repetitive nature of the reporting process. Another is the use of overlaid precinct estimates of exit poll survey bias. This indicator, if used appropriately, can provide valuable information regarding the accuracy of the exit poll results and can sound a warning if there are major problems with the exit poll data. The NETS (New Election Tabulation System) makes good use of the data from similar past races to check the counts provided by the county reporters. In addition, the multiple reporting procedures of the NETS provide a self-correcting feature in the process that can be effective for correcting previous erroneous reports.

Despite the numerous inspections, verifications, and edit checks that have become part of the VNS Election Day system design, there are still opportunities for important errors to enter the system and dramatically change the election results. For example, the number of overlaid precincts in Florida was too small at the time of the Gore call to be a reliable indicator of the exit poll bias. In addition, the quality control methods for ensuring that accurate data are received from precinct and county reporters is inadequate, particularly for close races, and can be improved.

6. Audit of Information in VNS Report

A strength of the VNS report (dated December 8, 2000) is its broad scope, which provides a good indication of the difficulty in mounting the extremely complex process that culminates in the collection, analysis, and reporting of data from diverse and dynamic sources in a single 24-hour period. The authors took a broad view of what could have gone wrong and attempted to determine if there was an error in the procedures that contributed to the errors in the calls. This report should be useful to VNS Members for gaining an understanding of why errors were made in the Florida calls and to formulate ideas as to how the system needs to be changed.

However, the report needs more documentation. Although considerable work was done to assemble information, there is frequently not a clear description of how this information was compiled. The procedures and data that were used to prepare the individual reports included in the December 8 report are largely not discussed. Many statements are made that reference results that were assembled by VNS staff without showing the supporting data. The report also inadequately describes the contribution that the modeling and the use of partial samples made to the error in the early call for Gore. This lack of explanation of the modeling and lack of documentation on information available for analysis also limit the reader's ability to formulate ideas as to how the system needs to be changed.

7. Summary

In summary, we believe that the errors that led to the Gore call in Florida and then the late night shift to Bush were the product of a number of system errors that tended to work in concert at various points in the evening toward favoring one candidate and then the other. The major sources of error were: (a) estimation of the early/absentee vote, (b) exit poll ratio estimator bias, (c) end of night outstanding vote needed estimation, and (d) county-level reports. Stricter quality controls and quality standards and improved estimation methodology could prevent these errors from occurring in future elections.

In addition, we believe the measures of uncertainty provided on the decision screens underestimate the true total error in the estimates. Thus, the risk that an election analyst will call an election erroneously could be substantially higher than indicated by the information on the decision screens. The complexity and amount of information provided on the decision screens increase the risks of misinterpretation of the election results. In addition, we believe the rules used for election decision-making are inappropriate, given the continual flow of data into the process. A much simplified screen format that uses a sequential sampling type decision rule would better control the error in predicting the outcomes of future elections.

Our key recommendations for VNS are as follows:

1. Improve the methodology for estimating the effect of absentee votes on estimates of the candidate vote differential.
2. Improve the methodology for estimating the outstanding votes needed by candidates to win an election.
3. Improve the measures of uncertainty for the key election estimators to more fully reflect the total variation and statistical bias in the measurement process.
4. Improve the quality control systems to quickly and reliably signal the occurrence of error.
5. Integrate the ideas of sequential analysis in the election decision process and develop better guidelines and decision rules for deciding to either make a call or wait for additional data.

Chairman TAUZIN. Thank you very much, Mr. Biemer.

The Chair recognizes himself for a round of questions. Mr. Biemer, you are making some very strong recommendations for changes in which VNS models its exit polling and its data and presents that data to the networks. Is that correct?

Mr. BIEMER. Yes.

Chairman TAUZIN. And the report of the three of you to CNN basically says don't use exit polling any more. Which is the better option? Can we trust that exit polling can be remodeled at VNS to a point of high confidence at the networks and with the American public, or should the networks heed your advice and simply stop relying upon exit polling to predict results?

Ms. KONNER. I think our report doesn't say don't use exit polls. It says don't use exit polls for projecting elections, that exit polls are very valuable instruments for analyzing how voters vote and that they should continue to be done.

Chairman TAUZIN. So what you are saying is that exit polling is a very good tool for analysis that follows an election, but you're basically saying don't use exit polls to make these predictions and these calls. Mr. Biemer is, on the other hand, recommending improvements in the VNS system which the networks rely upon now. And I'm asking, basically, which is the better approach. Mr. Wattenberg.

Mr. WATTENBERG. My sense of the matter is that as Joan Konner says is that exit polling is extremely valuable as an analytical tool, and becoming almost worthless as a predictive tool.

Chairman TAUZIN. Almost worthless.

Mr. WATTENBERG. Yes, sir.

Chairman TAUZIN. Why is it getting worse?

Mr. WATTENBERG. I will tell you why. Because of the move to absentee balloting, early balloting, nonresponse rates which, as Mr. Biemer says, are now down below 50 percent, and we saw in Florida that the exit poll was off by 7.6 percent. That is an enormous error. That is not, as the VNS people would like to say, well, it is a one in 200 chance. That is a 1 in 10,000, one in a million sort of a shot. And the only way it can be fixed, Mr. Chairman, as I understand it, is to use standard polling, telephone polling in advance of the election to find out how the absentee voters and early voters voted; but the standard preelection polling is in a bigger ditch than election polling. They are getting only 20 percent of response of every hundred people called. They are getting only 20 percent of the people responding.

Chairman TAUZIN. So your conclusion is that exit polling itself is becoming less and less reliable as a predictor rather than increasingly more reliable.

Chairman TAUZIN. Mr. Biemer, do you want to comment on that?

Mr. WATTENBERG. And so is polling generally.

Chairman TAUZIN. And so is polling generally.

Mr. Biemer.

Mr. BIEMER. I think that exit polls can be useful for calling races, and I think that the main lesson here is that we have to look at all of the data. We have to look at the measures of uncertainty associated with what the exit polls are telling us. And the first rule is to get those measures of uncertainty right so that if we have a

projection that is being made by an exit poll, but measures of uncertainty are large, we hold back and we don't make the call. It is like a margin of error. If you use the margins of error and let them direct you, whether it is close or not——

Chairman TAUZIN. Let's talk about that. VNS does establish what we call "crit numbers," which are the minimum statistical numbers that should be reached in these surveys in order to justify a call for one candidate or another in that State; is that right?

Mr. BIEMER. Right.

Chairman TAUZIN. Now, one of the questions we were focused on as we convened this hearing is the one your committee actually addressed and that is, was the rush to be first with the call more important than the responsibility to be right? You've concluded that there was too much of a rush to be first and the responsibility to be right perhaps may have suffered as a result. I want you to explain that to me. If VNS is setting these crit numbers and VNS is giving these crit numbers to every one of the networks commonly, how is there a contest? These decision desks at the networks actually make decisions in front of or behind those crit numbers? Do they make decisions to call a State for example before the crit numbers are reached?

Mr. BIEMER. Can I address that?

Chairman TAUZIN. Please do.

Mr. BIEMER. I think in the case of the Gore call the crit numbers, the margins of error, on the screen were misleading because it did not show the total error.

Chairman TAUZIN. But I have given all of that——

Mr. BIEMER. But if——

Chairman TAUZIN. Did they, in fact, call States before the crit numbers were reached in some cases?

Mr. BIEMER. I don't think so. I don't think they——

Chairman TAUZIN. We think we have evidence that that happened. We want to get to that.

Mr. BIEMER. I don't know about other States. I don't think it was the case in Florida.

Chairman TAUZIN. We have also know in some States, even though the crit numbers were released, the calls were delayed significantly; and we are wondering how that happened, and I wondered if the committee had looked into that and what was your conclusions about that.

Mr. RISSER. I don't think we felt we had the expertise to look into it in great detail. But we did ask about it, and our report includes an appendix by the CNN-CBS decision team giving their answer as to why each of those States was called.

Chairman TAUZIN. I think we will get into that later with the witnesses, and I believe my time has expired. I simply want to put one thing on the record though: What were your instructions from CNN when you were commissioned to do this report?

Mr. RISSER. Our instructions were to find out what went wrong on election night, why it went wrong.

Chairman TAUZIN. And you had full freedom to do that.

Mr. RISSER. Absolutely.

Chairman TAUZIN. Thank you very much. The Chair yields to Mr. Dingell.

Mr. DINGELL. Thank you, Mr. Chairman. Welcome to the panel. Mr. Biemer, about the Research Triangle Institute, can you tell me whether your work there indicates to you that there was any intentional or unintentional bias that favors either party, Republicans or Democrats?

Mr. BIEMER. We found no evidence of any intentional bias.

Mr. DINGELL. Does the rest of the panel agree with that?

Ms. KONNER. Yes.

Mr. DINGELL. The reporter doesn't have a nod button. You have to say yes, please.

Ms. KONNER. That was our finding.

Mr. RISSER. Yes.

Mr. WATTENBERG. Yes.

Mr. DINGELL. Now, it can go both ways, does it not, the bias sort of built into the system to be triggered by events outside? Isn't that the way it works? It's a bias that goes either way.

Mr. BIEMER. Yes, the biases can go either way. There are systematic errors.

Mr. DINGELL. What is the correction for that?

Mr. BIEMER. A correction?

Mr. DINGELL. Yeah, what do we do to correct that? More money? Better polling? More assistance to the agency that did the work for the network?

Mr. BIEMER. If you're talking about the bias in the exit poll.

Mr. DINGELL. How do you break the bias out of the system?

Mr. BIEMER. There's a bias in the exit poll that I think was caused by the so-called ratio estimator, which is a technical bias associated with the type of estimator. One way in which one can alleviate that bias or eliminate that bias, this estimator uses a past vote. In the case of Florida, it used the, I think, the 1998 gubernatorial past vote as a way of correlating this past vote with the current vote to try to make a projection. If another vote, the 1994 Presidential election—I'm sorry, 1996 Presidential election had been used, you would have gotten a very different estimator and the call for Gore would not have been made.

So part of this is not to rely on one past vote or maybe on several past votes to try to get some idea of how much these estimates are bouncing around. And that would slow down the calls and prevent, I think, what happened with the Gore call in Florida. So that is the technical bias.

Then there's another bias associated with the nonresponse bias of the exit poll. And as I mentioned, the nonresponse rate is around 49 percent. If the respondents—if the people who respond to the poll and the people who do not respond to the poll have essentially the same split for one candidate or another, there's no bias associated with that. The problem comes in when the people who do not respond tend to favor one candidate more than the other more so than the people who do respond. And there's very little you can do I think to try to alleviate that bias unless you can somehow increase the response rates in such a way that it doesn't exasperate the differential candidate split in the nonresponse.

So I think more research looking at ways to increase the response rate in the exit poll might be one answer to that, eliminating that bias.

Mr. DINGELL. Would you suggest that if we forget all of this business of statistical correction which appears to be difficult and just set a higher risk level that that would probably reduce or terminate the risk?

Mr. BIEMER. I think if one can widen the error, thinking in terms of confidence level, if one widens the bounds of the confidence level, that is to say, increase the measures of uncertainty, that it makes the estimate look less precise than they currently do on the decision screens, what the effect that will have is to slow down the process of calling an election. And I think that may be one thing to investigate, whether or not we can obtain measures of uncertainty that better reflect the total error, not just sampling error but the nonsampling error as well. And that way there won't be any significant difference between the candidate vote-share and it will be too close to call for more elections which, I think, will, I think, slow down the process of calling the elections. So that is one possibility.

Mr. DINGELL. Would you say the right precincts or the wrong precincts were used for sampling?

Mr. BIEMER. The precincts were drawn randomly and it looks like that randomization was done properly.

Mr. DINGELL. It was done properly.

Mr. BIEMER. Yes.

Mr. DINGELL. Should they have used a larger sample?

Mr. BIEMER. I think a larger sample would certainly have solved a number of problems.

Mr. DINGELL. It would have eliminated the bias.

Mr. BIEMER. It would certainly have affected the bias, the technical bias in the ratio estimator, because that estimator was based on 45, 44 precincts. If we double that, I think we would have gotten a more accurate estimator; and if the bias would have been reduced, the technical bias would have gone down with the increase in sample size. It wouldn't have reduced the nonresponse bias due to the exit poll, however, which was not a big factor.

Mr. DINGELL. How much would it cost to fix this thing? And that would mean that more money would have to be paid by the networks to get to VNS to get a better work product, would it not?

Mr. BIEMER. If you doubled the sample, the field work would increase by a factor of two; and I imagine the budget would increase by the same factor, or close to it.

Mr. DINGELL. My time has expired, Mr. Chairman. Thank you.

Chairman TAUZIN. I thank the gentleman. The Chair would recognize the gentleman from Florida, Mr. Stearns.

Mr. STEARNS. Thank you, Mr. Chairman. Mr. Biemer, I want to direct my attention to you. I've got this report here that you folks prepared, and I specifically want to go to page 28 and just read—so I think you have in front of you—"since the bias tends to consistently favor the Democratic candidate, such an adjustment could be quite effective for reducing this bias. In addition to the point estimate of the bias, an estimate of variance of the bias estimate should also be given to user so they can evaluate how reliable the available information on exit poll bias really is."

And then when you go into another section of your report on page 38 in the second paragraph, it says: "We are not convinced

that nonresponse of this magnitude can be safely ignored. Further, in our 2-day meeting with VNS staff, we were told that the exit poll have consistently overrepresented, Democrats which could reflect a bias from nonresponse."

So I just want to clarify, in your written testimony you indicate that VNS advised you that exit polls more often represent Democrats than they do Republicans and that this effect could be the result of statistical bias due to nonresponse. If there is this bias, how can you properly account for this?

Mr. BIEMER. What we suggested in here was that if there were a State, for example, that had a consistent bias over a number of elections that favored, say, Democrats and we knew that that was, you know, at least 1 percentage point or 2 percentage points, one could require that the margin of victory for that Democratic candidate be greater than that, say, twice what we think that bias is before we would call an election. In other words, we would hold back calling the election if there was any chance that the Democratic bias associated with the exit poll could be causing the numbers to sort of tilt toward the Democratic candidate. So one way we could do it would be to try to work that into the decision rules. Now that would only be the case if we knew that the State over a number of elections consistently, the exit poll consistently was favoring the Democratic candidate. I don't know how often that happens——

Mr. STEARNS. Let me take that statement. Consistently, are you saying it is unintentional or intentional.

Mr. BIEMER. It is unintentional——

Mr. STEARNS. How do you distinguish between unintentional and intentional? How do you do that quantitatively not qualitatively? Can you do it?

Mr. BIEMER. I think what we have to do is there are a set of procedures that interviewers follow to try to get the exit poll data and we look at those procedures and say okay are those procedures favoring one candidate or another or are they going to be nonpartisan-type procedures. We looked at those procedures and we didn't see any evidence that they would favor one candidate or the other. It doesn't mean that the respondent, the Democratic respondents, may behave differently in terms of how they might respond. But from what we could see, it wasn't anything we could see that the interviewers were doing; and the procedures, you know, seemed to follow the statistical practices and what we would consider to be good statistical practices and conservative methods.

Mr. STEARNS. Isn't it true these procedures have been used for years?

Mr. BIEMER. Right.

Mr. STEARNS. So in your report you're talking about an unintentional, to use your words, bias to the Democratic Party. You have pointed out at least four times in your report—in fact on page 50 it says under "potential areas for improvement," it says in fact it is well documented that exit polls tend to be biased toward the Democratic Party. The so-called Democratic bias referred to in earlier sections—the other two, three sections I mentioned, thus some verification of the respondents selection process would seem warranted. So here we have you saying unintentional bias toward the

Democratic Party has consisted for years, the procedures have been there, no one has continued to ferret this out and stop it. So based upon what you said in page 50, how do you intend to correct this in the future if they have not corrected it in the past for all these years?

Mr. BIEMER. Well, what has been done that I know of in the past has been to try to increase response rates by providing incentives to a respondent.

Mr. STEARNS. What's a response rate mean?

Mr. BIEMER. A response rate, essentially you take the number of interviews, divide that by the number of interviews plus the non-interviews. The misses and the people that refused. So it is essentially the rate at which the people approached respond to the exit survey. It is around 50 percent for the exit poll. One way to try to reduce the nonresponse bias is if it were zero nonresponse rate we would have zero nonresponse bias. So one idea would be to try to make the nonresponse rates smaller. Their attempts to do that, however, have actually made the problem worse because with some experimentation they have done they have found that these methods to provide incentive tend to affect the Democrats more than Republicans, so they've been trying to—VNS has been trying to work on this to eliminate this bias.

Mr. STEARNS. I thank you, Mr. Chairman. I think it would be important for you or someone on the committee to bring up that chart again to show the overestimate for Gore in 34 States plus the District of Columbia. And that was, I think, a very telling chart on what we've been talking about.

Chairman TAUZIN. I thank the gentleman. I am intrigued by your statement of incentivizing responses. I'm not sure what you meant by that. If you want to explain that.

Mr. BIEMER. What we typically do in survey work when we have a problem with a low response rate and we recognize that participating in a survey is a burden is that we offer an incentive.

Chairman TAUZIN. What do you mean? Tip them, pay them?

Mr. BIEMER. Yes, we might give them a gift. Usually, this is with no strings attached. We give them a gift like a pen. We might even give them money. We might give them a dollar bill, two dollars.

Chairman TAUZIN. Cigarettes? The Chair will yield to the gentleman from Massachusetts, Mr. Markey.

Mr. MARKEY. Thank you, Mr. Chairman, very much. Mr. Biemer, in your testimony your analysis—you point out that you have uncovered other major sources of errors at VNS, including the exit poll ratio estimator, the end-of-the-night standing-vote needed and county-level reports. In addition, the RTI study highlights that the quality-controlling methods for ensuring that accurate records from precinct and county reporters are, quote, "inadequate particularly for close races." Obviously, the news directors and news anchors did not know of these deficiencies.

Mr. BIEMER. I don't know if they did or not.

Mr. MARKEY. Did you find any evidence that they did?

Mr. BIEMER. I think in discussions with VNS we were told that they do provide the decision desk analysts with information prior to election night about things about the absentee votes.

Mr. MARKEY. Let me read the quote from your own study here on page five. You say: "Measures of uncertainty presented on the decision screens eliminate some potentially important sources of error in the VNS system and thus the true uncertainty in the estimates may be understated." I continue to quote: "In close elections the risk that an election analyst will call an election erroneously could be substantially higher than the information on the decision screens indicates even if the analyst correctly interprets the information."

In other words, VNS is at fault here, not the network news divisions. They were sending up faulty information without giving the actual degree of true uncertainty as pointed out here that existed in the information as it was being presented. Isn't that accurate?

Mr. BIEMER. I don't know who's at fault, but I will say the statement we made there about the decision screens being misleading in terms of uncertainties, that is correct. I believe they are to some extent, and this is true when you look at what happened in the exit poll in Florida. The measures of uncertainty did not include things like the potential bias due to the ratio estimator, the absentee bias. Those things weren't reflected.

Mr. MARKEY. That is what I'm saying. So even if the information was accurately interpreted, it could have still led to erroneous conclusions; is that correct?

Mr. BIEMER. Yes.

Mr. MARKEY. Do you think the news directors would risk their careers based on something that could have led to erroneous conclusions, or do you think that VNS was the source of the problem and it wasn't properly communicated on the decision screens that there was in fact a much higher level of risk that was entailed in making projections based upon these numbers?

Mr. BIEMER. One of things we did not get into is what the addition desk analyst—what their approach was for calling these elections. All we did was look into what procedures VNS used to produce these estimates, to collect the data, and put it on the decision screens. What happens after that we don't know.

Mr. MARKEY. Exactly. The point I am making here is the news anchors don't have Ph.D.s in statistics. VNS failed them—VNS did not give them the information in a form that was usable that would protect the reputations of the news divisions. Don't you agree with that?

Mr. BIEMER. I don't know if I agree or not because I don't know what information they got other than what's on the decision screens. I understand that there was other information——

Mr. MARKEY. You say right here in your report—you say in your report, sir, you say measures of uncertainty presented on the decision screens sent to the networks eliminates some potentially important sources of error in the VNS system and thus the true uncertainty. So you're saying that they sent erroneous information.

Mr. BIEMER. If they're only using the information on the decision screens, they are being misled.

Mr. MARKEY. That has to be said here.

Mr. BIEMER. If they are using the information beyond the decision screens along with the information on the decision screens, they might be correcting some of their misinterpretation. I don't

know about that because I don't know the process that the decision analysts use.

Mr. MARKEY. Did VNS mislead the news directors and the news anchors? Yes or no.

Mr. BIEMER. The information on the decision screen is misleading. Now if you——

Mr. MARKEY. Would a news director be misled?

Mr. BIEMER. Yes, they would.

Mr. MARKEY. If they depended on the information that VNS sent them?

Mr. BIEMER. Yes, they would?

Mr. MARKEY. Would anyone who had that information that you say should have available to them, in your opinion, that made the same decisions?

Mr. BIEMER. I don't know what other information they had available.

Mr. MARKEY. In other words, if VNS had accurately communicated all of these deficiencies on the decision screen to the network, the news directors and news anchors that night.

Mr. BIEMER. If all this information that has come out later was on the screens, no they wouldn't.

Mr. MARKEY. They would not have made it.

Mr. BIEMER. Right.

Mr. MARKEY. Do you understand what we are trying to do here, sir?

Mr. BIEMER. Yes.

Mr. MARKEY. We are trying to put the Queen of Spades in front of someone. I believe the Queen of Spades should sit right in front of VNS. I think there was obviously a terrible set of mistakes that were made at VNS that were then sent on to all of these other people who depended upon them. I know this because we pay for polsters as well as politicians. If a polster makes a mistake even though he's a professional, I'm going to make all of these expenditures based upon that erroneous polling. So once VNS makes the mistake, everyone who's dependent upon it is going to be prone to looking pretty silly because they believe the numbers are accurate.

So what you're saying right now is that you agree that these network news people had every reason to be mistaken once the erroneous information was given to them. And I think that is very helpful to us as we move forward. May I also say, Mr. Chairman—and I beg your indulgence on this—I do believe this should be a legislative hearing and not an oversight hearing. I really don't think that we should be conducting this as though, you know, this kind of a criminalization of news-gathering here. I don't think there's any crime that's been committed. I don't think there's any news—I think this should be a legislative hearing and this should avoid kind of confusing this with the tobacco hearings or the Firestone tire hearings.

There are clearly problems here; but as far as I'm concerned, it's pretty clear that VNS was at fault and that everyone else detrimentally relied upon this erroneous information. And obviously in retrospect they did not want to call the country wrong twice in one evening. There was great risk they all ran depending upon this information.

Chairman TAUZIN. The Chair thanks the gentleman. The Chair acknowledges the gentleman is entitled to his opinion and I accept your opinion. Let me just remind the gentleman, however, we are in a fact-finding mode, and that is what this committee goes into. And that's where we are today. Let me quickly get something before I move on, that is, that we have evidence that there was a new unified VNS system that would combine voter tabulation and projection and analysis functions under development since 1993, but that due to budget limitations the project has not moved beyond the creation of a partially unified data base.

Mr. BIEMER. I don't know.

Chairman TAUZIN. You don't know. We will find out a little later. Who owns VNS?

Mr. BIEMER. Who owns VNS?

Chairman TAUZIN. Yes.

Mr. BIEMER. I thought the board of members.

Chairman TAUZIN. Mostly the networks. Right?

Mr. BIEMER. Right, the networks.

Chairman TAUZIN. Mr. Bilirakis is recognized.

Mr. BILIRAKIS. Thank you, Mr. Chairman. I guess much of the discussion today has sort of revolved itself around the word of bias, and statistical biases may be a nicer adjective for it. But I submit that as long as we are alive there's going to be bias. And that bias is there with the networks, just like I have a bias, just like you all have a bias. It is going to be there. And I'm not sure that anything this committee can do is going to climb into the heart and the head and the mind of an individual or corporation or whatever to try to keep a bias from entering into it.

And so I personally think that we have got to be concerned with a process which offers the opportunity for the bias. And I guess it goes maybe more to what Mr. Wattenberg and some others, like Ms. Konner said that they don't use exit polls at all. Did you say that at all during the election period?

Ms. KONNER. To project.

Mr. BILIRAKIS. To project. But you think we should use exit polls during the election period for other purposes?

Ms. KONNER. After the election.

Mr. BILIRAKIS. After the election, not during the election?

Ms. KONNER. After the election. They are a very useful tool for analyzing the vote.

Mr. BILIRAKIS. I can understand that, but after the election. Mr. Risser do you agree with that?

Mr. RISSER. Yes, I do.

Mr. BILIRAKIS. Mr. Wattenberg.

Mr. WATTENBERG. I certainly agree that it is a very valuable tool for students of politics. I would just like to make one note about Mr. Markey's search for the Queen of Spades and this distinction between the news directors and VNS. If I were a network news director, I would have a little sign on my desk that said "VNS or Us." In other words, VNS is, am, are the networks. They own it lock, stock, and barrel. They have been advised, as I understand it—I mean, there's a paper trail going back 20 years as to how we should do this process: Is it a good process? Is it biased? When

should we call? When shouldn't we call? I think the whole thing, listening to this discourse, is somewhat bizarre.

Mr. BILIRAKIS. Mr. Wattenberg.

Mr. WATTENBERG. I'm sorry.

Mr. BILIRAKIS. You're doing this on my time. And it's okay.

Mr. MARKEY. Could you open the mike for me.

Mr. BILIRAKIS. I don't know that I have the time.

Mr. Wattenberg, you refer to the preamble and you read the preamble to us of the report. So I ask you, how tough should we as a Congress be? We all believe very strongly in the first amendment; and we all want to be careful that we don't trample all over it and that sort of thing. But how tough should we be considering this is a real problem. After all, it can affect and has affected our elections.

Mr. Brown and others have referred to some of the things that have happened in Florida, et cetera, et cetera, that's, you know, that's one opinion. But we know what exit polls can do. We know what calling these elections early, if you will, in an incorrect manner or even a correct manner can do insofar as voting around the country is concerned. If these early Eastern elections had been called even correctly, if you will, I think we all agree it would have affected what took place in the West in California and what not.

Ms. KONNER. I don't think we would all agree to that.

Mr. BILIRAKIS. You wouldn't agree with that. With what?

Ms. KONNER. That no matter what happened in the East it would affect the West. I don't think there's any evidence for that.

Mr. BILIRAKIS. Is that—Mr. Wattenberg.

Mr. WATTENBERG. The evidence is that there is no evidence. That no one knows what sort of effect——

Mr. BILIRAKIS. All right.

Mr. WATTENBERG. [continuing] what sort of effect early reporting has. In my own view, I think perhaps Joan and I may or may not disagree on this, but that sets up a mode of suspicion and rancor some of which is reflected.

Mr. BILIRAKIS. Mrs. Konner, what is wrong, then, with exit polling which may be correct, which may be incorrect, things that have took place, what is wrong with it all if it isn't going to make—disenfranchise, if you will, people in certain election areas in certain States, the Western part of Florida, for instance, the Northwestern part of Florida, California, et cetera, what is wrong with it then if it's not going to——

Ms. KONNER. It's up to a voter to vote. It's up to a voter to vote. The polls are open, the voter may vote. It's just that simple. We are not disenfranchising, we being——

Mr. BILIRAKIS. You don't feel that they might be influenced?

Ms. KONNER. That is their responsibility whether or not to be influenced. The voter. Exactly as the respondent in a polling operation is responsible for responding or not responding. As it was said, that the procedure was judged to be in concert with the best polling procedures. What they cannot control is the response from the person that's being asked the question.

Mr. BILIRAKIS. What are we doing here today then? What are we concerned about. What are you concerned about when you say there should be not be an exit poll.

Chairman TAUZIN. The gentleman's time has expired, but you may answer if you would like.

Ms. KONNER. We are concerned about using polls for projections.

Mr. BILIRAKIS. If they don't cause any harm what's the trouble? What's the problem?

Ms. KONNER. Faulty information causes harm. It distorts the view of reality. Our job is to give a picture of reality that is based on fact. That is the role of the journalist.

Chairman TAUZIN. The gentleman's time has expired. The Chair recognizes the gentleman from Ohio Mr. Brown.

Mr. BROWN. Thank you, Mr. Chairman. I was intrigued by Mr. Waxman's opening statement when he read an article from, I think, the L.A. Times citing a reporter who was surprised and perhaps more than surprised about the election night about the placement of certain people, if you will, in the election night operation of Fox, that the first cousin of the Governor of Florida, Governor of Texas, the first cousin worked in a crucial position on the election night desk.

And that that article, I believe, went on to say from Mr. Waxman's statement that that was the—that was the first network that called the election and at 2 or 3 in the morning for Governor Bush, that network. Then in the very highly charged competitive atmosphere as we saw in the clips, as we've heard from several up here, as we've heard from others and that the highly charged competitive atmosphere that the other networks soon followed suit and called the election for Governor Bush. The article went on to say the burden that sort of put, or the imprimatur that that put on the election on the American public's view of who won the election, that and immediately some very clever people came up with the "Sore Loserman" signs, it looked immediately a take-off on the Gore-Lieberman signs as you recall. It immediately made it really look like—it gave some impetus to Republicans consistently saying Gore is stealing the election, Gore is stealing the election, Gore is stealing the election.

I'll start with you, Mr. Wattenberg. Do you recommend that the networks adopt a policy prohibiting the hiring of a Presidential candidate's close relatives, second cousins first cousins, brothers, sisters? Should that be a statement that this panel makes?

Mr. WATTENBERG. No, sir. I think that's preposterous.

Mr. BROWN. And why?

Mr. WATTENBERG. Because you hire people based on their merit and their qualifications. And I don't think anybody ought to be kept out of a job because he's related to someone or not. And the idea that the other five distinguished and professionally—professional journalistic operations base their call on what Fox did, which is one of the minor players in this game, strikes me as equally preposterous. And I would be much surprised if any of these network executives acknowledged any sort of—they all were calling from the same screen. Somebody had to call first. It was within 2 minutes they all started calling.

Mr. BROWN. You believe it was all coincidence that Fox, where Governor Bush's first cousin worked and helped make a decision having talked several times that night with, I believe, both Gov-

ernors both of—two of his first cousins, that they went first and the other networks when afterwards. That's total coincidence.

Mr. WATTENBERG. Fox called Gore while the election was still in the first call, Fox called Gore along with all the other networks, and that was while the election was being held. This was post election. I see no particular evidence.

Mr. BROWN. You say it was a coincidence.

Mr. WATTENBERG. I should hope. So I would imagine so. I can't imagine it being anything else.

Mr. BROWN. Do any of the other three of you think just for appearances sake, I know that journalists generally believe that the appearance of a conflict of interest is a problem. And when, you know, the fact is the networks, no—reporters didn't report very extensively that George Bush's first cousin was in a decisionmaking position, if you will, for what is acknowledged by almost everybody up here as the most conservative, politically, of the major networks. Most of the public doesn't know that. When you tell people that George Bush's first cousin works for Fox and they called the election first, I'm not a conspiracist either but I also think that the appearance of that could be troubling to some people. And journalists are always very aware of appearances.

Mr. WATTENBERG. Sir, there are a lot of Americans who think that the other five networks are too liberal. So there's bias and there's bias.

Mr. BROWN. Only because conservative columnists, yourself excluded, of course, have been telling the American public for years that the networks and the media in this country are so liberal.

Mr. WATTENBERG. Based on some pretty good data.

Mr. BROWN. We could debate that. Anybody else on the panel think it would be a good idea that there's a policy you don't hire in decisionmaking positions, on election night, close relatives of Presidential candidates? Ms. Konner.

Ms. KONNER. Policy decision?

Mr. RISSER. I don't think there should be any policy set by Congress or an official body.

Mr. BROWN. No. I don't either.

Mr. RISSER. I think networks, when they look at who they're going to hire to operate the news side of the business, they look at their past, what their qualifications are; but I certainly wouldn't recommend any kind of ban. There are lots of people working in the news media who have been in government or politics on one side or the other over the years and still can do fine jobs in journalism.

Mr. BROWN. Ms. Konner.

Ms. KONNER. I don't think there should be a policy. I don't know the qualifications of that particular individual. If there is a perceived conflict of interest, I would think that there would be some layers of insulation between that individual and the person who was going to make the announcement on the air.

Mr. BROWN. Mr. Biemer, do you have an opinion?

Mr. BIEMER. Well, all I want to really point out is that the, you know, when the Bush call was made there was only like a .6 percentage point difference between the candidates. And VNS did not make the Bush call, the networks did. But looking at the data on

the screen, I would not have made that call. So I don't know what happened in terms of calling it for Bush. The data didn't support the call as far as I'm concerned.

Mr. BROWN. So it may not be out of the question that the calls to Austin and to Tallahassee to wherever, I don't know where the Florida Governor was that night, that those calls could have possibly had an impact or the American public could think they had an impact on Fox making a decision that VNS really didn't suggest that they make?

Mr. BIEMER. I guess anything is possible. I don't understand why the call was made is all I would to say.

Chairman TAUZIN. The gentleman's time has expired. The Chair needs to report however to the committee that we do have some factual information gathered by the investigatory staff on this point. That there were, in fact, four members of that decision desk, three of whom were Democrats, that Fox had a unanimous decision requirement all four had to agree before a call was made. And that other members of the desk were, in fact, talking with Democratic operatives throughout the election night just as calls were being made to the Bush operatives that evening.

That's the facts we've uncovered. Judge as you may. The other thing we have, we do have a VNS screen from that time period at 2:10 in the morning which we will discuss when VNS is here.

Mr. BROWN. Can I ask for Ms. Konner's response.

Ms. KONNER. That somebody should check those facts? As we should check all facts. There are three Democratic operatives plus one Republican operative.

Chairman TAUZIN. No, Ms. Konner, let me repeat what our investigative team discovered, that there were four members of the desk at that network. And that the policy of the network, according to the network, that was all four had to agree upon a call. Three of the members of that four-man team were Democrats and that calls were made to Democratic operatives that evening just as they were made to Republican operatives. That's all I know.

Mr. BROWN. That was done by an internal not external investigatory scheme if you will. I would add if we're going to play tit for tat.

Chairman TAUZIN. The gentleman——

Mr. BROWN. Who is the CEO of this Fox news is also a former political consultant. If we want to play that game. The point is——

Chairman TAUZIN. The gentleman doesn't have the time. I will yield to the gentleman if he wants to continue this. But the Chair is simply laying down facts discovered by our committee investigative team—by the committee's investigative team. If you dispute those facts, you can do so in your inquiries.

The Chair now recognizes the gentleman from Pennsylvania Mr. Greenwood.

Mr. GREENWOOD. I'm calling that the hen in the Fox house conspiracy theory. It was a laugh line. And I also note that on the question of whether these TV programs influence voters, they did an exit poll and 100 percent of the voters coming out of the polling booth said they were not dissuaded from voting by television programs. That was also a laugh line.

Anyway, absentee ballots. Mr. Biemer, you indicated that in your report that failure to accurately account for bias due to under coverage of absentee ballots was a major source of error in the VPA estimate. Can you quantify that?

Mr. BIEMER. Yeah.

Mr. GREENWOOD. How much of the problem was due to absentee ballot undercoverage?

Mr. BIEMER. I think we have a table on page 10 that shows that the absentee ballots accounted for about 20 percent of the bias.

Mr. GREENWOOD. Okay. And do you have information as to for how long VNS and/or their network owners were aware, have been aware of this issue of absentee ballot under coverage?

Mr. BIEMER. I think they were aware of that. And I think they tried to project an absentee correction in one of the models that they used on their decision screens. What happened though is the projection was off.

Mr. GREENWOOD. Isn't it the case, and I think this is a serious issue, because of the use of absentee ballots is on the increase. I believe in some States you can vote by absentee ballot for weeks in advance of the election. I think they're going to become increasingly a higher percentage of the total vote tally.

And in Florida, I understand, that Bush received 23.7 percent more absentee ballots than Vice President Gore; is that correct?

Mr. BIEMER. I think so. 23.7.

Mr. GREENWOOD. Isn't it the case that in order to—in order to dispense with this source of error, to do it effectively, you'd have to do telephone surveys in advance of the election. Isn't that the most effective way to correct this? In other words do some kind of telephone survey to get a statistically accurate count of how many people had voted by absentee ballot and how they had voted?

Mr. BIEMER. That's the best way I can think of.

Mr. GREENWOOD. Is there reason to believe that the reason that the networks—despite the fact that the networks had known and VNS had known this is a source of—significant major source of error, and that they've known it for awhile and that they've known the way to correct it is with the telephone surveys, is it apparent that they didn't do that because of the cost involved?

Mr. BIEMER. That would be my guess, it would be the cost because it is pretty expensive.

Mr. GREENWOOD. Do any of the other panelists have information with regard to this issue and for how long it has been the fact that the networks have known that the absentee ballot undercoverage is a major issue and to what extent they chose to resolve it; ignore it?

Ms. KONNER. I don't know.

Mr. GREENWOOD. Let me return to Mr. Biemer then. Would your recommendation to the networks be, if they continue to use this kind of a system, that they pretty much have to if they want to be accurate, that they're going to have to spend the money to do the telephone surveys in advance of the election in order to accurately count the absentee ballots they would have to do that in every State.

Mr. BIEMER. I'm not sure it would be necessary in every State because I think it becomes a real issue in States that are going to

have a very close election. I think there might be other ways which are less expensive to try to project what the absentee vote would be well enough so that in States where there's a wider margin it's not going to come into play.

In Florida because essentially it was a tie between the two candidates, a small error in their projection of the absentee vote made a difference, a pretty important difference in the way that they called the election. In other States where there's a wider margin of victory there, the methods that they're using maybe with some improvements, looking at sort of trends over a number of elections to see which way, you know, if absentee votes are on the increase, how much are they increasing and be able to sort of project what they are for the next election, do that a little bit better than they're currently doing. I think there might be some ways there which you can use that methodology. But it would not work in all States.

Mr. GREENWOOD. Mr. Chairman, I yield back the balance of my time.

Chairman TAUZIN. The Chair thanks the gentleman. The Chair recognizes the gentleman, Mr. Stupak, for questions.

Mr. STUPAK. Thank you, Mr. Chairman. Ms. Konner, the original allegation made by this committee was that the networks had delayed or deliberately otherwise certain State calls for George W. Bush that made the rest of the country believe that Mr. Gore was sweeping the country and discouraging people on the West Coast from voting. Did you find any evidence of that?

Ms. KONNER. No.

Mr. STUPAK. Mr. Wattenberg, you provided us a copy of your column in the Washington Times in which you discuss much about Gore's, if I can quote, winning ways on the East Coast, that Slade Gordon lost the Senatorial election in Washington State. Washington, of course, is a State that has 50 percent absentee vote. Well let me ask you, was that a conclusion reached in review of your report for CNN or is this your own personal view?

Mr. WATTENBERG. My column is my own personal views.

Mr. STUPAK. Okay. Was there anything in this report that you did for CNN that would lead you to conclude that?

Mr. WATTENBERG. That to——

Mr. STUPAK. That Slade Gordon lost because of the so-called winning ways of Al Gore on the East Coast.

Mr. WATTENBERG. The point that I was making, Congressman, was that he lost by just a couple of thousand vote in a medium-size State. And if, in terms, of all the scholarly evidence that we have about the impact of voting behavior in States that vote after other States are called is that we don't know. There are scholars who say it one way and scholars who say it the other way. And my point is that is just opening up a whole new ground of rancor and——

Mr. STUPAK. The CNN study you did, anything in there that would lead you to make that review or that decision. Or it was just these other scholarly reports that you've read in the past.

Mr. WATTENBERG. We looked at the scholarly report, and I think we jointly came to the conclusion that they're pretty well all over the lot. And my own conclusion was that they all seemed to end up with the idea that well, even if it is a factor of the ones that

were positive in this sense, that even if it is a factor, it was a very small factor. And the whole lesson of Florida is that every vote counts. And consequently, the early release of these votes is just asking to take the Titanic to another iceberg.

Mr. STUPAK. But early announcement like this on the East Coast would have less impact in Washington than other States on the West Coast because Washington has such a high absentee voter after votes were in before the announcement could be made. So the impact upon the State of Washington of any of the West Coat States would be minimal if anything.

Mr. PICKERING. Is 2,000 votes minimal?

Mr. WATTENBERG. Yes. That's my point. It might be minimal. But if the margin of victory was only a hundred votes or ten votes or one vote, you're opening up a system that leads you directly to these kinds of hearings with everybody else saying you know, you're not telling the truth and the election was stolen.

Mr. STUPAK. Did anyone else on the panel other than Mr. Wattenberg reach that conclusion that Slade Gordon lost because of——

Mr. WATTENBERG. I don't say that, sir. I indicated what the margin of difference was, using it as an example to show how close certain elections can be.

Mr. STUPAK. In Michigan, Mike Rogers beat Diane Byrum by 88 votes, and that was called before. Do you think that would have influenced the Mike Rogers win over Diane Byrum?

Mr. WATTENBERG. No.

Mr. STUPAK. But yet Washington it's different.

Mr. WATTENBERG. It's two time zones later. It's 2 hours later. Certainly.

Mr. STUPAK. Well, part of Michigan is on central time zone too.

Mr. WATTENBERG. Then it's 1 hour later.

Mr. STUPAK. Could be 2 hours later. Did anyone else reach that same conclusion? Ms. Konner.

Ms. KONNER. All of the—what we read, this is secondhand evidence, what we read that none of the so-called scholarly studies were beyond criticism. That all of them had serious flaws in the methods they use to study it. And there was no conclusion that could be drawn from the studies that early reporting had any impact on voting in the other time zones.

Mr. RISSER. If I can just add, one of the problems or questions is even if it does have an impact, it's not always clear which way the impact would be. If I hear my candidate lost, okay, maybe I don't go to the polls then; but maybe so does the person who wanted to vote for the winner because they think well he's already won. So you don't really know which way the effect would go if there is any.

Mr. STUPAK. Ms. Konner, in your testimony, you indicated also that the networks pooled their resources in VNS to cut costs and expanded their polling research. It's my understanding that they actually reduced it from 2000 precincts that CBS previously did plus the 2000 that NBC did which may have some overlapping to some extent to about 1400 precincts. So there is actually less polling instead of more. Is that fair to say?

Ms. KONNER. My understanding is that the service was expanded when this collaboration was set in motion.

Mr. STUPAK. Okay. So it was expanded. But was there some overlapping then which would actually produce less precincts being looked at.

Chairman TAUZIN. The gentleman's time has expired.

Ms. KONNER. That may be so in some areas, but I think overall there was an expansion of service.

Mr. STUPAK. Thank you, Mr. Chairman.

Chairman TAUZIN. I thank the gentleman. The Chair recognizes Mr. Deal, I believe, is next in order.

Mr. DEAL. Thank you, Mr. Chairman. Ms. Konner, in your testimony you cite the report. And one of the statements you made is to follow up on what was just requested or commented on, that the concept of VNS also effectively eliminates competition in the market for the establishment of a second system and it might also stifle journalistic enterprise. The idea being that more than one source is always good in order to check a result. It would seem to me that in light of this result which is embarrassing obviously to the networks, that instead of continuing to pool efforts that maybe the race should be on to see who has the best sources rather than each relying on interpreting the same source. Is that, in effect, part of what the report is recommending?

Ms. KONNER. That's one possible solution. Even so, let us say CNN had its own source, it would be a single source. It might be better to have two sources which they share in, two independent parallel sources of polling. That's just—I mean that's just hypothetical. It's up to the networks to determine now they're going to solve this problem. But it is a problem to have a single source.

Mr. DEAL. Well——

Ms. KONNER. If you had five independent polling operations, but each network was only relying on its own, it might not be an improvement. I don't know the answer to that question.

Mr. DEAL. The other question of course, and I think everyone has commented on it to some degree, you say we also found no convincing evidence that calls made before polls are closed within a State or in another State have an impact on voter turn out. I suppose the corollary of that is true as well, there is no evidence that it did not. Is that correct?

Ms. KONNER. There is no evidence.

Mr. DEAL. That's sort of like trying to call the election almost, isn't it. There is no evidence either way.

Mr. WATTENBERG. That's exactly the point.

Mr. DEAL. That's all, Mr. Chairman.

Chairman TAUZIN. I thank the gentleman. The Chair recognizes Mr. Doyle. I'm sorry, Mr. Deutsch will be first.

Mr. DEUTSCH. Thank you, Mr. Chairman. Mr. Biemer, you know, we've talked a lot about so far today the statistical bias and you know, the error system. And I want to present at least something which we know happened, which is that blacks in America, when they think they're voting for someone, the chance of their voting being counted as an actual vote is lower than non-blacks in America. Would you accept that as a factual statement?

Mr. BIEMER. I'm not sure I'm clear on it.

Mr. DEUTSCH. That when someone goes to the poll, that your exit poll, as a black African American and they are responding to you that they voted for a particular candidate that statistically the chance of their vote not counting ultimately in the actual count of the ballot as opposed to the poll is less than a non-African American.

Mr. BIEMER. I don't know.

Mr. DEUTSCH. It's something you should look at because it's factually accurate. There have been a number of statistical analyses that have been done, I think, for to you take a look. And I'm going to question Research Triangle Institute in your whole premise because if you're looking at the bias, which you have said exists, for you not to have looked at that question, I question the professional competence of the report. I mean think about what you just said.

Okay, there's factual basis that black Americans' votes actually don't count. What I am proposing to you is you're just missing the whole point. And, to some extent, I think the committee and the hearing is missing the whole point.

The chairman has said the error is in the system. The error is in the systems that the exit polling doesn't accurately reflect the results, that there's a bias. Why is there a bias? Why? I would present to you one of the reasons there is a bias is that we have a factual reality that African Americans and others, you know, people in different segments in our society, but specifically African Americans' votes don't count as much because of a system in terms of how votes are counted.

Mr. BIEMER. Right. Are you saying then that the exit poll would count their vote but yet it wouldn't be registered in the official?

Mr. DEUTSCH. Absolutely.

Mr. BIEMER. So there is a bias there. I think we did mention that in our report. There's I think a potential—well it wasn't necessarily with regard to African Americans. But I think 3 percent of the vote in Florida was not counted. And we considered that as a potential source of bias on the other side, that is what we hold to be the gold standard is the actual official vote.

Mr. DEUTSCH. Right. But again the point that I'm making is that the chairman has mentioned, my Republican colleagues have mentioned 34 percent—34 States are biased toward Gore. Why was there that bias? Why? I am presenting to you one of the reasons there is that bias is because African Americans votes were not counted as much.

Let me talk to you a little bit about why. If you're really doing research. And this committee is really talking about the election. There have been other studies that have pointed out that to get through the—Florida had the distinction of having the most candidates for President of the 50 States and the District of Columbia.

It's not a happy distinction in hindsight, but it's—very few, I'm sure, of my colleagues are aware of it. We have the largest number of candidates for President on the ballot of any State in the country. And there's also been an analysis that it took a 4th grade education to get through the average ballot, not just the famous butterfly ballot in Palm Beach County but in Duval County and Jacksonville, 26,000 people in Duval County, predominantly African Americans. And you can go by precinct because Florida is a Voting

Rights Act State where race is actually on your voter registration card. It's not theoretically, it's not just knowing the neighborhoods. We actually know who voted. We know that black, which people voted. That and in Duval County, there was a two-page ballot.

So there is research done that says that ballots required a fourth-grade education. What happens when you need a—if you only have a first-grade education and have you a ballot that needs a fourth-grade education? That would create a statistical bias. Because those people can't count.

Mr. BIEMER. That's not a bias of VNS system; that's a bias in the official——

Mr. DEUTSCH. What I am presenting to you and what I am presenting to my colleagues is what we really should be talking about. You acknowledge statistically that there is a bias. What I am saying to you is that that bias is really at the core of what's wrong with America. And that if we want to be talking about this election, that's what we ought to be talking about.

We ought to be talking about the fact that literally hundreds of thousands of people's votes didn't count, why didn't they count, how we can change that so that never happens again. So that we don't have hundreds in fact millions of people in this society who are functionally illiterate. If you don't have a literacy—there's more than one way to have a literacy test which effectively is what we've had in this country.

Again I would present to you that you know, we're looking—my colleagues are just totally missing it. They're totally missing it. The people on the other side of this room are totally missing both VNS's faults and the faults of what happened in the election. I see my time is up, Mr. Chairman.

Chairman TAUZIN. Thank the gentleman. The Chair recognizes the gentleman from Oklahoma, Mr. Largent.

Mr. LARGENT. I'm not even sure I know what I'm missing, but apparently I'm missing something. My friend from Florida maybe he can explain to me what we're missing.

But I would like to ask, we have a panel of experts up here. I'm just wondering is there any factual data that reflects what he just said, that more African American votes are discounted or not counted than any other percentage of our population? Is there any factual data to that? Anybody on the panel.

Ms. KONNER. I think you have to ask him.

Mr. WATTENBERG. I have seen some data just in the press that indicates that an African American casting a ballot, that ballot is somewhat less likely to end up being counted than for a non-African American. But—and I don't know that for a fact. I've seen allegations of that. But there is a statistical point there to be made which I find very interesting, is if you say that African Americans voted 92 percent Democratic and they were underrepresented in Florida, say, where they represent 15 percent of the vote, so then you have to ask yourself even if there was a lesser discounting of the remaining 85 percent, the non-African American votes who were disproportionately for Bush, doesn't that—don't those errors cancel each other out or perhaps even tilt the other way? I don't know the answer to that.

Mr. DEUTSCH. If the gentleman would yield for 1 second. I would hope that the record can be open for the hearing. I'll provide again these are newspaper accounts and just some you know some quick and dirty stuff I've done myself.

If you cross reference it, the percentage of undervotes or overvotes in precinct, there is a direct correlation between percentage of black, you know, race in that precinct, I mean throughout the State of Florida. You can look at it yourself. I encourage you to look at it yourself. I encourage the staff and committee to look at it yourself, and maybe we'll have another hearing related to. But again just hold the record and, Congressman Largent, I look forward to giving it to you tomorrow.

Chairman TAUZIN. We always allow the record open, and the gentleman may indeed submit the material which will be considered for entry.

Mr. LARGENT. I'm always open to receiving down and dirty information.

Mr. Biemer, do you do any accounting for the minority vote, particularly the black vote? Do you do—in exit polling do you do any kind of adjustments or recalculations or different calculations to account for a minority disparity?

Mr. BIEMER. I know that in—within Florida, there was a separate stratum for blacks that was oversampled to provide more accurate information.

Mr. LARGENT. So explain what you just said. There is an oversampling of the black vote in the State of Florida. What does that mean?

Mr. BIEMER. When I say oversampling, this is a statistical term to mean that they're sampled at a higher rate.

Mr. LARGENT. Why?

Mr. BIEMER. This is a very common way in all survey statistics, it's called the "stratified sample," a common way of increasing the precision of the overall estimate. Because from sample to sample if you were to just sort of repeat samples in Florida, just sort of keep drawing samples, you would find that a stratified sample would be more consistent across the number of samples that you drew than if it was unstratified. And when you have a population that is going to be voting somewhat very differently than the rest of the population, stratifying them improves the precision of the estimates.

Now what you do to compensate for that is you weight down those—after you oversample and you compute an estimate for that stratum, you weight it down in the overall estimate so that in the overall estimates they're getting the right weight. They're being represented in the same proportion as they are represented in the population. They're not getting more weight in the estimate. They're getting the same weight in the estimate as their numbers dictate in the population. But it's just a way of increasing precision.

Mr. LARGENT. So essentially what you're saying in laymen's terms is because the black vote would be at 92 percent Democratic that you would overweight that sample. It doesn't have anything to do with whether they're votes counted more or less.

Mr. BIEMER. No. It has more to do that they're going to vote differently.

Mr. LARGENT. Okay. I understand. Thank you. Dr. Konner, I wanted to ask you a question. You stated a moment ago about that what your job is to give a view of reality based upon the facts. Is that correct?

Ms. KONNER. That's correct.

Mr. LARGENT. Talking about—if exit polling in your opinion, and I think I heard this correctly, you said that you did not know or are not sure that exit polling used for projections affected the outcome of—in polling places where the polls are still open; is that correct?

Ms. KONNER. I said there was no evidence to show that any early projections impacted upon the outcome of an election.

Mr. LARGENT. Why not? Why would there not—why wouldn't that—as a political scientist, why would that not be a really critical issue that some political scientist, some smart person would want to know?

This is an issue that's been going on for 21 years since 1980. Why doesn't a political scientist want to know, do early predictions, based on exit polling, which is not facts—I mean, if you're talking about using exit polling and you're talking about dealing with the facts and views of reality, then don't talk about exit polling because that's not reality. That's a guess. That's a thumbnail.

Ms. KONNER. You have to address that to the political scientist community. Seems like——

Mr. LARGENT. I thought you were a part of the political scientist. You're in journalism. I'm sorry. That's maybe a more appropriate question for another person. My time expired. Thank you, Mr. Chairman.

Chairman TAUZIN. The gentleman's time has expired. The Chair recognizes Mr. Doyle of Pennsylvania.

Mr. DOYLE. Thank you, Mr. Chairman. I want to ask the panel, now CNN retained you three distinguished individuals to tell them what happened in the election and why it happened and how to make sure it doesn't happen again. And two of the recommendations you made was to stop using exit polls and votes from sample precincts to predict the winner of the States; is that correct?

Now, it's my understanding that CNN and for that matter all the other networks are not taking either one of those recommendations. Is that correct?

Mr. RISSER. Well, only partly I would say. CNN's response is that it will no longer use exit polls for projections in close races. And if they can't tell at the time the polls close, clearly who a winner is in a State based on exit polls, then they'll drop the use of exit polls and go to the use of the actual counted votes and sample precincts.

Mr. DOYLE. Have the other networks indicated, have they also indicated that they're not accepting either of those recommendations?

Mr. RISSER. I don't know.

Mr. DOYLE. Why do you suppose that is? Do you envision they're worried that coverage would start at 11 at night and would have winners projected at 4 in the morning or——

Ms. KONNER. Again I think this should be addressed to the network representatives themselves. But I think that it should not be

overlooked that, in fact, the percentage of projections that were correct is very high.

Mr. DOYLE. Let me—yes.

Mr. WATTENBERG. I don't think Mr. Risser indicated that CNN did not accept our recommendation. I mean, I think as I understand it, they from our recommendations and from other material they've gathered, they came to a roughly similar conclusion that we did, which was that exit polls should not be used for projection purposes.

We all agree, and everybody I know in the political community thinks that exit polling is an extremely important part of the democratic process if you don't squeeze it into the demand for results inside of 75 minutes so you can beat somebody else by 3 minutes.

Mr. DOYLE. Let me ask you about actual vote counts too. You've recommended that actual vote counts be used to make these projections. What is the rule of thumb or have you set a standard, when do you—when do you make that judgment when you think that you've seen enough actual votes to actually call an election, have you established some rule of thumb for that?

Ms. KONNER. We didn't do it in the report officially, but I would say a majority of votes. When you have the votes coming in and you have the majority of votes that are able to be cast and that's the—you can call the election.

Mr. DOYLE. But——

Ms. KONNER. The other thing is that there is a second source available in vote counting. The AP has its own, it has its own vote counting operation. And that is the second source that's available.

Mr. DOYLE. But, for instance, in my State of Pennsylvania, the votes from Philadelphia and Pittsburgh come in rather quickly and that tends to skew toward Democratic vote in our State and then the middle of State and the part they call the "T" usually comes in very, very late at night. We've seen elections where we've gone to bed at midnight, 1 in the morning thinking the Democrat had won the election. And you wake up the next morning and the "T" had come in and the Republican had won the election.

It would have been impossible under that scenario in not only Pennsylvania but many, many States to actually call an election without using some sort of a voter projections. And I'm just curious. If we're going to wait until there is the actual majority of votes counted, in most likelihoods we're not going to be able to call Presidential elections on the evening that they occur but we'll know when we wake up in the morning in most cases. I mean——

Mr. RISSER. Excuse me, Congressman, before the days of exit polls, what you would see if you watched television was an account of what percentage of precincts were counted in your State, let's say, and what the margin was for each candidate. And the people on air and their advisors would know enough about whether votes came early from one part of the State or another to whether they could call it. And eventually they would call it. And maybe they occasionally made mistakes. But it was all based on actual vote counts and a determination that at a certain time there was enough known to make a decision.

When you make it solely from exit polls, especially if you do it at closing time, you're not doing it based on any vote not even on

one vote really. You're doing it on what people leaving the polls told the exit poller they were going to do. So it's a difference in what you're using.

Mr. WATTENBERG. Congressman, my view is, and I think the view of my co-authors of this report is, that what you described that the public wouldn't know until the next morning who won the Presidential race, that is not a big problem. I mean——

Mr. DOYLE. There's not necessarily a bad thing, but that would be the result of that. The networks might think that's a problem.

Mr. WATTENBERG. In a non-close election, you'd know right away any way. I mean Reagan in 1980 or 1984, that would be a no-brainer. The point that Mr. Risser has pointed it out that it's a terrific news story if you say we don't know, if you don't know. In some ways, a better story than saying we do know, certainly saying we do know when you don't know. This was a very, very, very close election. That's a dynamite story. We're signing off now; we're not going to know until tomorrow morning.

Chairman TAUZIN. The gentleman's time has expired. There is no question that——

Mr. DOYLE. Thank you, Mr. Chairman.

Chairman TAUZIN. [continuing] that whatever happened on election night, an awful lot of people tuned in. It was pretty interesting. The gentleman from Kentucky, Mr. Whitfield, is recognized.

Mr. WHITFIELD. Mr. Chairman, first of all, I would like to enter into the record the report from the 1984 hearing, joint hearing in Congress, regarding this same subject matter.

And in this report it says, that nonetheless while the committee is not prepared to state with certainty how large the decline in voter turnout was, the available studies and surveys indicate great likelihood that there was a significant decline due to the early network projections.

And I notice that there were five studies conducted between 1981 and 1984 on this subject—one of them had a network affiliation and the other four did not have a network affiliation. Yet all of them indicated that the media did have an effect on voting behavior by early reporting. And then on the bottom part of this, there are 5 or 6 studies that said there is no effect on voting behavior. And every one of those except one, there was a network affiliation. I just want to point that out.

Chairman TAUZIN. Without objection the report is submitted into the record.

[The report appears at pg. 182.]

Mr. WHITFIELD. Now, it's my understanding that this panel is the only independent review of an election-night coverage of a network. That your panel is the only one that's completely independent; is that correct?

Ms. KONNER. I believe so.

Mr. WHITFIELD. And you've recommended: One, that exit polling not be used for calling an election; two, sample precincts not be used for calling an election; and three, that actual returns only be used and then enough votes to be counted so that the outcome is certain so that there is no question.

Now this touches on what the gentleman from Pennsylvania says. When we have local elections, there are no projections. The

actual vote count is reported, and that's it. The winner wins. Now, if you make this recommendation to CNN which you have made and maybe to other networks as well, how would the American public suffer by not knowing the results of an election until all the votes are counted?

Ms. KONNER. I don't know how to answer that question. I don't think that they would suffer by not having their appetite for an immediate result known.

Mr. WATTENBERG. I don't think——

Mr. WHITFIELD. So what is the rationale for this rush to judgment that we must call these elections as soon as possible without having complete data.

Ms. KONNER. I think you have to go to the basis for the competition between/among the networks.

Mr. WHITFIELD. You said that the core mission of journalism is to serve the public.

Ms. KONNER. That's what we believe. That's what journalists believe. I do believe those are the core values that the journalists at CNN have.

However, there is an underlying issue always. Journalism is part of a commercial business. There has always been a tension between commercial values, business values, and journalistic values. They come into conflict frequently in determining what you broadcast and when. However, there is a balance that is struck that has served the public very well in the past. There are indications today, and this is not in the report and I'm going beyond the report, that that balance has shifted——

Mr. WHITFIELD. Right.

Ms. KONNER. [continuing] and that corporate and commercial and business values are holding much more sway over the determination of the actions and behavior of journalists.

Mr. WHITFIELD. You know, I think that's a very good point. We oftentimes don't refocus on that, but every network is a company that's in the business to make money. And there is a conflict sometimes with journalistic standards. I think that's what's happening here. I yield back my time.

Chairman TAUZIN. The Chair thanks the gentleman. The gentleman from Louisiana, Mr. John, is recognized.

Mr. JOHN. I'll be very brief. I just wanted to maybe follow up what the gentleman from Pennsylvania was talking about. I think it was Ms. Konner that was talking generally in answering these questions about the actual votes or maybe it was Mr. Risser that was talking about some of the networks who had folks that were hired to look into the actual votes that were coming in, and where they were coming in from. And, of course, making that call once you get over that threshold would be the safest way to call an election.

In your report, you recommend or talk about sampling and some of the biases which exist out there. Is there a methodology, to your knowledge, of where you combine both of those type of sampling where you're looking at the actual but you're meshing it together with some of the exit polling to verify or not verify what's going on? Did that happen election night, to your knowledge, in investigating

this? And would that be a good or bad thing to look at a model that might have both of those methodologies combined?

Ms. KONNER. I think that's the way it is done now. It's just that they do not wait for—they don't wait for the actual vote count to make the call. But those different figures are being balanced. And they are all being taken into consideration at the point at which they make the calls or the projection.

Mr. JOHN. But I think it was obvious from some of the predictions that the actual—depending on where they are coming from and which State. I mean, I offer the State of Louisiana as an example. If you call an election before the city of New Orleans comes in, then you're making a big mistake. So I would think that as you look at these and some of the States and some of the States were called by just looking at some of this exit polling and not—couldn't possibly be looking at actual votes because of the timeframe of the calling and the closing times.

Mr. WATTENBERG. I think what you're describing is a function that is performed by the decision desks at the various networks and there are some eminently qualified people there. And I don't believe anything that we have recommended would set up rigid rules certainly in non-close elections where you could not use the accrued wisdom of experts to say, well, New Orleans isn't in yet or the "T" in Philadelphia isn't in yet. I mean that's part of the game.

I think what we came away with is that there is an arms race going on, a time race, an arms race going on within the networks that they feel pulled. On the one hand, they want to be accurate. On the other hand, they don't want to be left behind; or they want to be first. And my own—you'll have to ask them, I don't want to engage in amateur psychiatrics, but they are sort of in a mode of stop me before I kill again.

That's why I suggested in these various proposals of uniform voting that they're in a mode where they can't stop because of the competition. So if you have an outside force that says, you're not going to get those real ballots until later or we're going to have uniform poll closing, and that takes the burden away from the appropriate defense of the first amendment, that they can go about doing their job as admirable professional journalists, which they are indeed.

Mr. BIEMER. Can I comment?

Mr. JOHN. Sure.

Mr. BIEMER. I don't know if you are aware that the exit poll is just one component in the process. They have the exit poll, then they use the precinct, sample precinct information, then they use the county level information.

Mr. JOHN. So they overlay each other.

Mr. BIEMER. Throughout the night, they bounce around. For example, early on they may use the exit poll. If it's too close to call for the exit poll, then they will wait for more data to come in from the precincts; or maybe they'll even wait for the county data to come in. So they postpone, they postpone these calls if it's too close to call until the actual vote counts are done at the end of the evening.

So they're doing it now it's just that I think what you're—what we're talking about here is possibly not using the exit poll compo-

nent. I don't agree with that. I think the exit poll component can be valuable in States where there's a wide margin to call a race early if that's what you want to do. But they do rely on other sources, not just that.

Mr. JOHN. That really answers my question because there are different components that we have to look at. If indeed what happened on November 7 was—your initial was looking at exit polls and then you moved down the ladder and if it's still too close to call, you wait for those actual numbers. If that's, in fact, what they did, then maybe I can understand. But I'm sure that just by the time of some of the closing of the polls these actual numbers in some of these places weren't able to be verified or matched against some of the exit polls.

Mr. BIEMER. They do call on partial information even when they're waiting for data from the county, they may call a State before all the county data are in.

Chairman TAUZIN. The gentleman's time has expired. The Chair thanks the gentleman. The Chair yields to the gentleman from Mississippi, Mr. Pickering.

Mr. PICKERING. Mr. Chairman, I want to thank you for holding this hearing. I'm not going to ask any questions, just make a quick statement because I know we need to get to the next panel. And everyone has been very patient as we try to get to the facts of this case.

To the gentleman beside me, the gentleman from Florida, who raised some points a while ago, let me, in the spirit I hope that will get us to a positive outcome of these hearings. The reality of the truth is that the counties where you had the most undervotes, overvotes, and the questions related to the African American community were in Democratic counties with Democratic election commissioners, represented by Democratic Congressmen, in districts designed by Democrats. Now that's the truth.

The reality is we need to all come together as Republicans and Democrats and do something to modernize and reform the election process. But it doesn't do any good to try to say one side understands and one side doesn't understand and that there was somehow a conspiracy on our side on those areas that we had no control over.

The point of this hearing is to get to the truth, to get the facts out, and to, hopefully, have constructive reforms for the future both in the way the networks and the press cover elections and the way we conduct elections. That's a separate issue. But since it was raised, I just wanted to make that point, Mr. Chairman.

Chairman TAUZIN. I thank the gentleman. The Chair recognizes the gentlelady from California, Ms. Harman, for a round of questions.

Ms. HARMAN. Thank you, Mr. Chairman. I just would like to say how happy I am to be a voice from the bleachers on this committee and to agree with the comments of the last speaker.

I hale from what at least one member of this committee calls the left coast of California where we are vulnerable to fires, floods, earthquakes, and early election calls. And I would just like to tell a little story which is that in the 1980's I had the good fortune to practice law with a man named Jim Corman. James C. Corman

was a senior Member of the House until he lost his election in 1980. And many say now, certainly or even then, that the reason he lost his election in 1980 was that then-President Jimmy Carter conceded on the East Coast at 8 p.m. after East Coast election results were known. That was 5 p.m. in California and no Democrats showed up at the polls after that. And Jim Corman lost an election that most had thought would be a sure win. It was, of course, my good fortune since I got to practice law with him.

But since my election to the House beginning in 1992, I have never been elected by a margin of more than 5 percent. In fact, I have only gotten to 50 percent once. And it was not this past election; so I am extremely sensitive to the impact of early election calls on the Left Coast of California.

The solutions, it seems to me, should include this notion of a uniform poll closing; and, in that regard, I want to ask my friend, Ben Wattenberg, why he thinks his idea of conditioning the receipt of Federal funds on the agreement not to disclose election counts would be easier to implement than would a uniform poll closing time.

Mr. WATTENBERG. I am not against a uniform poll closing time. It seems to me that in a disparate country of 50 States that jealously guard their rights, they are going to want to set their own rules; and if you can work out a uniform poll closing thing which, as I understand it, involves probably disadvantaging the West Coast in terms of the number of hours when people are wide awake that they will be able to vote, so there are some built-in problems.

I am not against it. It just seems to me that this other idea, if even a few States—I mean if you say Ohio and Pennsylvania said, yes, we will take your money for voting machines or we are going to hold our vote, none of the political gurus are going to be able to make a call in a close race nationally. They are not going to be able to come close. Even if one of those States is out of the—if the race is close in Ohio or Pennsylvania, the actual votes are not called, I don't see how they can make a call before the Left Coast closes. So it seems to me to be a much simpler matter.

I would just like to make one other point, which is, in the course of our interviews, we had a long discussion with Tom Johnson, who is the President of CNN who, in an act of rare corporate courage, I must say, commissioned this panel to tell it with the bark off, and he used to be the publisher, as you know, of The Los Angeles Times, which has a lot of information at its fingertips. And his view anecdotally, not scientifically, was just as you say, is that a lot of people in California believe they do not vote because the election has already been decided. So that is a pretty high cotton source, in my judgment.

Ms. HARMAN. Well, Mr. Chairman, time is short. I would just like to conclude by saying that there are human casualties from things like this. There may be no precise statistical proof of that, but as one potential casualty, I have an enormous interest in this and hope we get it right. I do think that uniform poll closing is a piece of the answer. It may be that this other idea could work, but I worry about counting on appropriations for anything and feel that that may be more uncertain.

Thank you, Mr. Chairman. Again, I am very happy to be part of this committee.

Chairman TAUZIN. Thank you, Jane. And we are very happy to have you, by the way. Thanks for joining us.

The Chair is now pleased to recognize Mr. Buyer for a round of questions.

Mr. BUYER. I have listened to some of my colleagues and their comments. I just want to share with you, I spent 8 days in Florida during the recount. So when you are there on the ground and you have spent those days in three different counties, you learn a lot. You learn what the rhetoric is, and then you find out what the reality is.

I sat and I looked at a lot of those nameless and faceless ballots of which allegations are being made here today. You can't tell the race or the gender of that individual voter, but I do know what happened. A lot of those thousands of ballots that I saw is that for whatever reason that voter walked in there, you cannot believe how many people voted for multiple candidates for President, and you can't believe how many voters actually walked in and voted in this election, not just in Florida, but in all States, and didn't choose to vote in the Presidential column. They went to vote for a sheriff's race or the State election. They didn't vote in the Presidential column. So we end up coming up with different theories as to why.

In my State of Indiana, we had about the same number of percentage of undervote as the State of Florida. So I get really uneasy here when I hear these allegations of people saying, well, something happened with regard to the suppression of the black vote or that type of thing.

I just want to share the reality of actually seeing it on the ground in Florida. Of course, you know, there has been no discussion here about the Gore-Lieberman ticket having an overt act to disenfranchise absentee military voters. That was the most disgusting thing I have seen in my entire tenure in politics, but Steve, let's don't talk about that here, that is kind of a side issue, I suppose.

Chairman TAUZIN. Please.

Mr. BUYER. Let me make several observations. Ms. Konner, you were so strong and emphatic in your remarks, that there was no evidence, with regard to any influence that a reporter might report something that would have an impact upon a listener. From my opinion, I think that is absurd. I do however agree with your analysis that there is stress upon the journalist of today. Their actions and behavior are a result of the commercialism which exists today in the news industry.

Sitting there in Indiana, you know, news is almost more about entertainment than it is news, and so I agree with that comment. But when I look at this chart over there about published studies indicating a media affect on voting behavior, it is clear that evidence exists of media news reporting affecting voters. There might be evidence that perhaps you don't agree with, but I would say that your testimony that there is "no evidence" may not necessarily be accurate. It does appear that some information exists supporting your position that there is no evidence of media affecting voters. However, the evidence you speak of is all supported by published

studies that have a network affiliation. Now, that is called bias. That is called bias. That bothers me.

Another thing that sort of bothers me at the moment is for us to, well, there is no statistical evidence of a bias or we have found no evidence of a bias. I think we ought to be straightforward with each other. There are biases, and one of the biases that I think is pretty obvious is that some or all networks beat VNS to making calls for either Bush or Gore in 21 States.

So when Mr. Markey tried to say that we are going to lay all the fault is VNS, I say wait a second. The networks, didn't even wait for VNS on many occasions to make calls. Michigan and Pennsylvania are two examples. Michigan and Pennsylvania both were called for Gore. Michigan was called 83 minutes before VNS, and Pennsylvania was called 37 minutes before VNS. But the call for Ohio turns out differently it was delayed. The networks called Ohio for Bush within 4 minutes of VNS call, which happened to be almost 2 hours after the polls closed in Ohio.

Look at Virginia. Virginia is another example of a delayed call for Bush. Fox, NBC, MSNBC, calls Virginia for Bush at poll closing; at poll closing Bush is ahead by 7.6 percent. The crit is very safe, yet they delayed making the call for 30 minutes. There was no aggressive action in this case. Networks were so aggressive to make the call in Michigan and Pennsylvania for Gore, yet in other States like Alabama, and others there was a delay. So it does appear that there was bias by the networks.

Chairman TAUZIN. The gentleman's time has expired.

The Chair recognizes the gentleman from Texas, Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman. I won't—we need to get to our other panel, but one of the things I wanted to point out to my colleague from Indiana was that the undervote is not the concern.

When you look at the numbers in Florida, and I would dare say that that is true around the country, that of the 2.7 million votes cast in the eight largest counties, the overvotes for Vice President Gore was 46,000 votes compared to President Bush, with 17,000. And I would say that maybe we need to do a lot better job on voter education and voter assistance in helping people to know that if they have a spoiled ballot, they can go get another one, which is I know Texas law and I would assume it would be in Florida. And that is what I hope this committee is about to say, okay, what can we do to make sure people are exercising their right to vote and it is being counted correctly.

I know I heard earlier that the, for example, the closing or the announcement of the calling of Florida before the Panhandle had finished voting, and we looked it up and I guess it was 10 minutes before the polls closed in the Panhandle of Florida, and I know my own experience in Texas standing out in front of the poll for 10 minutes, I don't see people watching TV or listening to the radio while they are waiting the 10 minutes for it to close. So the argument that people in west Florida had decided they were not going to vote because it was already called, I think we out to get down to the real issues and not necessarily say somebody standing in line in Pensacola walked away because it had already been called.

Again, hopefully that is what our committee will do, Mr. Chairman, and see what we can do to make sure about voter education, but also to make sure we have some type of uniformity in calling these elections. Thank you.

Chairman TAUZIN. I thank the gentleman. Thanks for also expediting, because we do need to get to the next panel as quickly as we can.

Mr. Pitts.

Mr. PITTS. Thank you, Mr. Chairman.

Mr. Biemer or any other panelist who may wish to respond, if you look at VNS's best model estimates immediately before and after poll closing, 20 minutes before the poll closing, the best model underestimated Bush's margin of victory in 23 States and underestimated Gore's margin of victory in only 5 States. The best model overestimated Bush's margin of victory in only 5 States, but overestimated Gore's margin of victory in 12 States.

Now, the underestimate for Bush was 4½ times Gore, and the overestimate for Gore was 2½ times more than Bush.

Ten minutes after poll closing, the best model underestimated Bush's margin of victory in 24 States, and underestimated Gore's margin of victory in only 4 States. That is six times underestimated. The best model overestimated Bush margin of victory in 4 States, but it overestimated Gore's margin of victory in 14 States. That is three and a half times.

Now, that may not be intentional, but why did that happen? Can you explain that disparity?

Mr. BIEMER. I am not able to answer that. We only looked at Florida, and we really didn't do the analysis that you're talking about there, so I would have to actually see the data and delve into it. On the surface of it, you know, it doesn't sound like that type of thing would happen purely by chance, but that is if there were equal chances for both candidates to be under and over. It sounds like that is not happening, but I am not sure what the cause would be or what the data are saying in that instance.

Chairman TAUZIN. The Chair will keep the record open and members will be permitted to submit that kind of information and get responses. You, perhaps, would like to do that so that the gentleman can review your data.

Mr. PITTS. We will provide the data.

Mr. Wattenberg, do you have any comment?

Mr. WATTENBERG. My general view is that we asked the VNS people about that, and the answers they gave us, I think, were convincing, which was, in effect, that it was—that that was the way the cookie crumbled, that there was nothing devious about it or preprogrammed in it.

What I found was bizarre was the magnitude of the miss—of the miscall by VNS in so many States. I mean I just have a couple here. Both Alabama and North Carolina, the swing difference was 16 percent off. Now, that is—that is why I come to the conclusion, and I think our panel came to the conclusion, is that the last thing in the world you want to do is start making—using this for projection purposes. When you can let the dust settle and use it for analytical purposes and hopefully have a second or third source so you can see who is the outlier, that is of enormous value, but when

they are missing calls by 16 percent with no adequate way of correcting for that, that is where the scandal is, in my judgment.

Mr. PITTS. Any other panelists want to respond?

We will provide this information to you. If you have any insight as to why this was always tilting toward Gore and in such magnitude, we would be interested in your opinion.

Thank you, Mr. Chairman.

Chairman TAUZIN. Thank you, Mr. Pitts. I believe Mr. Walden is next.

Mr. WALDEN. Thank you, Mr. Chairman.

I have a question, back to Mr. Wattenberg, the point about being off by 16 percent. What should they do to fix the problem that got them there?

Mr. WATTENBERG. I am not a statistician, but I have been working with polls for many years; and this is an intractable problem they have. It is built into the structure of low-response rates and getting lower, it was the 60 percent, now it is at 55, now it is at 51, whatever it is, exacerbated by the growing tendency of States to have early voting and more absentee voting, and combined, that sets up the exit poll for wide margins of error, and the only way to fix it, they say, is to go to standard telephone polling. But standard telephone polling, as we saw from the results during the course of the election, have—they have enormous new problems themselves.

I mean the telemarketers are driving people away from responding, phone answering machines, there is a whole panoply of problems in regular polling where, as I understand it, of every 100 people they call, they are only getting 20 responses. So the logistical problem of picking up the absentee ballots, plus the general accuracy of those polls, which were all over the lot during the election; they came out all right, but at the same time, in the course of the election, the polls varied enormously, tells me that this early calling is not only a bad idea in terms of democratic theory, but it is becoming practically less and less plausible.

Mr. WALDEN. Should we then be using the exit polling to call elections?

Mr. WATTENBERG. I don't think—our panel thinks not, thinks that they are a great tool for analysis, but not a tool that should be used to project races.

Mr. WALDEN. Let me project into another area as well. I noticed in your report which, by the way, was quite comprehensive and I think quite to the point, shall I say, well written. But a question I have, you did not take a stand on whether there is a trade issue involved with VNS with all of the networks going to one source and then agreeing to this thing, and I respect that. Do you think there is an ethical issue, and do you think there is an ethical issue with CNN and CBS, from a journalistic standpoint, not from standards or ethical things that we look at here in the Congress sometimes, but just from a journalistic ethic, is that a good way to operate?

Ms. KONNER. I think the question has to be asked legally, not ethically. I don't think there is an ethical problem here, and I don't think there is an ethical problem with CNN and CBS sharing a decision desk. The question about VNS as a collaborative effort among competing agencies has been raised by thoughtful people in

the legal profession, and I think they are the ones that have to address it.

Mr. WALDEN. But as a professor of journalism, is this something you would recommend to emerging journalism students from competing organizations to team up to achieve a common information source and outcome?

Mr. RISSER. I personally don't think there is anything wrong with them teaming—of teaming up and having the source that they use; the problem is if it is the one source that they use and if they either don't have competing sources or don't check it against other available sources. I think that is really where the problem came up this time.

Mr. WALDEN. Let me ask one final question then. In Oregon, we now do all of our voting by mail; and as you know, in the report, VNS, they did a telepoll. That is the only way, and of course it ended up being two votes per precinct difference in the Presidential race. Anyway, it was very close and one of the last ones called.

In these States, as you see a great increase in absentee ballots or vote by mail, what recommendation would you give to the networks regarding how they treat, how they acquire information? Should they be out calling and reporting along the way? Because you can determine who has already voted. You can go to the clerks and determine who has already cast their ballot.

Do you think it is appropriate then for the networks or any news-gathering organization to determine who those people are who have voted, figure out how they voted and begin to report that?

Ms. KONNER. I think any factually accurate information that is available can be reported.

Mr. WATTENBERG. I think it is fine in Oregon; I don't think it is fine in Florida because of the time zone difference.

Mr. WALDEN. Oregon has——

Mr. WATTENBERG. Excuse me?

Mr. WALDEN. Could you elaborate on what you mean by the time zone?

Chairman TAUZIN. The gentleman's time has expired but go ahead and answer.

Mr. WATTENBERG. Well, if it is an East Coast State and you are reporting real votes during the Election Day or at poll closing time when American voters are still voting 3 hours later, you are intruding in a sacred secular moment of democracy; and we ought to devise some methods that make it difficult, keeping in mind the first amendment, from keeping the networks from intruding in that way.

Chairman TAUZIN. The gentleman's time has expired.

Mr. Terry is recognized.

Mr. TERRY. Thank you. Being last means we get to move to the next panel, so I can feel the anticipation in the audience that I am asking questions now.

Let me just ask two quick questions. First of all, when we talk about this sacred moment in democracy, that is what we are talking about here, is how can we encourage or discuss the accuracy of the information from network media which the press, the print media doesn't like to hear it, but that is where most of us get our

information any more. So I am curious, it seems to me that we are splitting hairs when we talk about using inherently flawed exit polling data for analysis versus calling. I know in your field they are two distinct things; from a listener if I am hearing Brokaw, you, or O'Reilly, whoever, or Bernard Shaw talking about in their analysis, my goodness, Bush is in a tight race in Alabama or North Carolina, this is devastating to their campaign, what is the difference?

Mr. WATTENBERG. Well, I think there are two big differences. One is, in theory, at least, most of the analytical examination of exit polling would come after the polls close, so it is no longer influencing the vote, and second it would deal in sort of broad categories to say, well, people seem to be voting on the economy, or that is the No. 1 issue or no, as some of the polls have showed, it is more on moral issues than the economy, blacks seem to be voting one way, Jews seem to be voting another, this is enormously important material for voters and for journalists to have, but it doesn't—it is not intrusive on the process of voting.

Mr. TERRY. All right. I accept that point. But if they are still using it as a cloaked way to call an election by saying, you know, in essence that this is too close to call, it shouldn't be this close, that type of editorial language using that statistic, I still think that is wrong. But I see your point. I think we need to define more succinctly the proper uses for the polling, exit polling data.

Mr. Biemer, let me ask you. You seem to be the point person on statistics, and believe me, as a lawyer and as a politician, the last thing I am good at is statistics in this realm, but is there a way, of all of the suggestions you have made, of making it at least a little bit more viable? Is there a margin of error still to it that can be assessed to it that at least the public will know, gees, even when they talk about this, as good as the model has become, you are still talking about something that inherently is going to be 4, 5, 6, 7 points off.

Mr. BIEMER. Well, it is important to realize that the exit poll does a pretty good job in estimating the election day voting, despite the fact that, you know, you have this tendency to overpressure the Democrats in some areas, and there is a problem with the estimator, the ratio estimator in particular.

The second problem—the ratio estimator problem can be fixed. We can either show more estimators on the screen and actually show how the vote changes, depending upon which past vote you are using to buildup your projection, or you can build in the error in choosing a past vote into the measure of uncertainty there, which would also allow people to know what the uncertainty is and they would slow down the calls.

So the problems, the more difficult problem is of course the nonresponse rate is going to be—is one that we I think can address with research, try to increase response rate and reduce the bias associated with that nonresponse, but the absentee vote is not part of that exit poll right now. It is a separate adjustment that has to be made to the exit poll, and we shouldn't be throwing out the exit poll because we are not getting some other component right, which is the absentee vote.

There are ways of getting that component right, and some of those ways are expensive. And in close races, you may have to use a more expensive approach rather than trying to use past races to project what the absentee vote is. But the exit poll itself is not bad for the election day vote estimate.

Mr. TERRY. It is not bad, okay.

Mr. BIEMER. It can be improved. I am saying it is not hopeless. We can—I think we can fix the problems with it.

Mr. TERRY. The point that I was trying to make is that no matter how you improve it, it is still going to be flawed to some extent.

Mr. BIEMER. Well, it is an estimator. It is——

Mr. TERRY. I am going to cut you off because I am curious on how the executives are going to adopt the policy of using this exit poll.

Chairman TAUZIN. The gentleman's time has expired.

Let me thank you all very much. One final thought. I remember back in the 1980's when Mr. Markey and I were considering all of these same issues, and I think he and I came to the conclusion that if Americans really didn't like exit polls, perhaps they ought to adopt a simple strategy and that is to lie about how they voted when they came out of the polls. Do you think maybe they took our advice?

Thank you very much. We appreciate it.

We are going to welcome the next panel of witnesses, so I would like to see if we could bring them up right now as a group. I will introduce them all to you as we prepare to receive their testimony. While we are doing so, let me thank you very much for this long evening. I don't know if it is appropriate, but perhaps I should wish you all a happy Valentine's Day today. I realize this may not be the best way to spend Valentine's Day together.

Ladies and gentlemen, the second panel that we are assembling is representative indeed of the networks and the news agencies of our country. Let me first introduce Mr. Roger Ailes, the Chairman and Chief Executive Officer of Fox News in New York, New York; Mr. Andrew Heyward, President of CBS News, New York, New York; Mr. Tom Johnson, the Chairman and Chief Executive Officer of CNN of Atlanta, Georgia; Mr. Andrew Lack, President of NBC News of New York, New York; Mr. David Westin, the President of ABC News, New York; and Mr. Ted Savaglio, Director of Voter News Service of New York, who is accompanied by Dr. Murray Edelman, Editorial Director of VNS; and finally, Mr. Louis Boccardi, President and Chief Executive Officer of the Associated Press of New York, New York.

This panel again has been asked to come and to give us their thoughts on what went wrong that night, their thoughts on the internal and external reviews that have been commented upon by the previous panel, and also to let Americans know what they and their networks, their news offices may suggest as improvements to the process by which we are informed about the most important election in our country's ongoing history.

In anticipation of that panel, let me announce to the committee I have asked our investigators to be very careful in interviewing and working with these witnesses, because indeed we do respect the first amendment, because it is our tool as well as yours. It is

critical to this Nation that we always respect the line between government and the first amendment. The first amendment was, in fact, designed to protect citizens from their government in their free speech, and so we are deeply concerned that we tread very carefully here.

So it is with deep appreciation, frankly, that I thank you for the cooperation you have given our investigators in learning as much as we could about what went wrong on election night in November 2000, and second, how much we deeply appreciate your willingness to come and share with the American public your own thoughts about how we can improve the situation of reporting on national elections for the future.

I am going on a bit until we get all the pictures taken so we can commence our hearing. Again gentlemen, thank you and welcome.

We will begin as we did the previous panel. We will start with Mr. Ted Savaglio, director of Voter News Service of New York, New York. Mr. Savaglio, again, according to our rules of our investigative hearings, it is our practice to take testimony under oath. Do you have any objection to testifying under oath?

Mr. SAVAGLIO. No, sir.

Chairman TAUZIN. The chairman advises you that under the Rules of the House and the rules of the committee, you are entitled to be advised by counsel. Do you desire to be advised by counsel for your testimony today?

Mr. SAVAGLIO. Yes, sir.

Chairman TAUZIN. Yes, you do. Well, then I have to go to another page. In that case, would you identify your counsel for the record?

Mr. PENCHINA. Robert Penchina.

Chairman TAUZIN. Would you say it again, please.

Mr. PENCHINA. Robert Penchina of the law firm of Clifford Chance Rogers & Wells.

Chairman TAUZIN. Counsel, you may move forward and sit at the table with your client if you like. Counsel, will you be giving testimony today? Counsel, will you be giving personal testimony today?

Mr. PENCHINA. I will not.

Chairman TAUZIN. In that case, let me ask you, Mr. Savaglio, if you will raise your right hand so I may swear you in.

[Witness sworn.]

TESTIMONY OF TED C. SAVAGLIO, DIRECTOR, VOTER NEWS SERVICE

Mr. SAVAGLIO. Thank you, Mr. Chairman and members of the committee. Last fall, we witnessed the closest election that anyone could have imagined. Its closeness brought to light a series of flaws in the election procedures and in reporting on the electoral process to the American people. Those flaws included errors made by the Voter News Service, of which I am the executive director.

As professionals who have tabulated, analyzed, and reported on thousands of elections, my staff and I have spent this post-election period working to understand precisely how those errors occurred and how to prevent them in the future.

The electoral process is a cornerstone of our Nation. Reporting on the culmination of that process is a serious responsibility. We owe

the public an explanation on the mistakes that have been made. I can assure you we feel that responsibility keenly.

At the outset, there is one matter I would like to lay to rest. In reporting to our members and our subscribers and indirectly to the American public, we have one paramount concern: Reporting and analyzing the results of the election accurately and quickly as possible. The notion that some kind of political bias enters into our work is simply without foundation and I am pleased, Mr. Speaker, that it appears to be common ground among us here today. I also appreciate the assurances that you have given that this process will not offend the free speech principles that we both must defend.

The Voter News Service was created in 1993 and is owned by ABC, AP, CBS, CNN, Fox and NBC. They are among the leading news organizations in the country, and they are committed to the highest standards of journalism.

The purpose of the Voter News Service is to collect, tabulate, and disseminate vote returns, exit poll data, and projections of election contests. That information is distributed to our six member organizations and to other subscribing news outlets who conduct their own analysis and interpretation and report it to the American people as they see fit.

In addition to providing information to analyze election results, VNS projects the outcome of contests to its members and subscribers. Our projections are based on complex statistical analysis that take many factors into account, including, among other things, the actual vote in sample precincts, tabulated vote at the county level, and the exit poll. All of this data is reviewed and interpreted by VNS analysts who add their own knowledge and experience before making a decision. Projections are made by people, not by computers. Since 1990, when the first joint polling and projection effort began, we have been involved in nearly 900 elections around the Nation.

The methods that we use to project winners in those races have only been wrong once before. In other words, we have been right 99.8 percent of the time. Unfortunately, when you make a mistake as glaring as calling Al Gore the winner in Florida, the number of times you have been right seems less relevant. The plain fact is that despite our best efforts, the Voter News Service let down its members and subscribers and ultimately the American public. We are determined never to let that happen again.

On election night, our statistical models, based on our exit poll and actual vote from a number of sample precincts, showed that Vice President Gore was ahead in Florida. Our decision team considered other variables and determined that the data clearly justified making a call. The reality, however, is that the race was a virtual tie.

Based on all that we have learned since then, the error in Florida was due to a convergence of a number of factors to which all polling and projections are subject, which, in this case, all pointed in the direction of a Gore victory. None of these factors alone would have caused the error but, taken together, they did. Later, after the Gore calls in Florida had been made and retracted, we discovered problems in the tabulation of the actual Florida votes that led to the race being called for President Bush. In one case, Volusia

County, VNS passed on incorrect numbers that were released by election officials, and this went undiscovered until after the Bush calls had been made. Moreover, we significantly undererestimated the number of votes outstanding.

Based on this experience and following the recommendations in the Research Triangle Institute study and in other reports, we are actively pursuing a number of improvements, including the following: using larger samples for the exit polls; developing new procedures to account for the effects of the growing absentee and early vote; rewriting the VNS projection and statistical models; working to improve exit poll accuracy and response; completing work on the integration of the Associated Press's tabulated vote as a second source of information; and developing more sophisticated quality controls in the tabulated vote system and in the rest of our systems; and finally, upgrading and modernizing the VNS technical capabilities and infrastructure.

We are taking these steps because, as journalists, we are deeply committed to the integrity and accuracy of our reporting. We are determined to do everything humanly possible to make sure that these mistakes will never be made again. Thank you.

[The prepared statement of Ted C. Savaglio follows:]

PREPARED STATEMENT OF TED C. SAVAGLIO, EXECUTIVE DIRECTOR, VOTER NEWS SERVICE

Thank you, Chairman Tauzin, Congressman Dingell, and Members of the Committee.

Last fall, we witnessed a Presidential election that was closer than anyone could have imagined. Its closeness brought to light a series of flaws in election procedures and in reporting on the electoral process to the American people. Those flaws included errors made by the Voter News Service, of which I am Executive Director.

As dedicated professionals who have tabulated, analyzed and reported on thousands of elections, my staff and I have spent this post-election period working to understand precisely how those errors occurred and how to prevent them in the future.

The electoral process is a cornerstone of our nation. Reporting on the culmination of that process is a serious responsibility, and we owe the public an explanation of the mistakes we made last November. As individuals who have devoted much of our lives to educating the American people about elections, I assure you that we feel that sense of accountability very keenly.

At the outset, there is one matter that I would like to lay to rest. In reporting to our member news organizations and, indirectly, to the American public on Election Night, we have one paramount concern: reporting and analyzing the results of the election as accurately and

quickly as possible. The notion that some kind of political bias enters into our work is, quite simply, without any foundation, and I am pleased, Mr. Chairman, that that appears to be common ground among those of us here today. I also appreciate the assurances you have given that this process will not offend the free speech principles that we both must clearly defend.

The Voter News Service (VNS) was created in 1993 and is owned by ABC News, The Associated Press, CBS News, CNN, Fox News, and NBC News. They are among the leading news organizations in the world and are committed to the highest standards of journalism.

The purpose of the Voter News Service is to collect, tabulate, and disseminate vote returns, exit poll data, and projections of presidential primaries and national and statewide election contests. That information is distributed to our six member organizations and to other subscribing news outlets. These news organizations take the data provided by VNS, conduct their own analysis and interpretation, and report it to the American people as they see fit.

Our organization makes possible the timely reporting and in-depth interpretation and analysis of election results that the American people have come to expect and rely upon. On Election Day 2000, our work involved more than 40,000 people who

staffed nearly 28,000 individual precincts and went to some 4,600 counties to obtain the information that we needed.

In national elections, the final VNS National Vote totals, which are verified with official state canvases, become a record of the election that is widely published. The exit polls that we conduct are widely recognized as a critical source of information for understanding an election. They are used by students, scholars, officials, and journalists throughout the world. They tell the public, among other things: who voted and why, what issues mattered most to the voters, which candidates' policy positions were most effective, and which candidates' qualities attracted voters most.

In addition to providing information to analyze election results, on Election Night VNS projects the outcome of contests to its members and subscribers. VNS' projections are based on complex statistical analyses that take many factors into account including, among other things: the actual vote in sample precincts, tabulated vote at the county level, and the exit poll. All of this data is reviewed and interpreted by VNS analysts who add their own knowledge and experience before making a decision that it is possible to project the outcome in a given race. Projections are made by people—not by computers.

Since 1990, when the first joint polling and projection effort began, we have been involved in nearly 900 election contests across the nation. The methods that we use to project winners in those races have only been wrong once before. In other words, we have been right 99.8 percent of the time.

Despite our strong record of accuracy, we constantly strive to eliminate all errors. In between elections, our staff evaluates the performance of our methods and models and considers how they might be improved. The models are based on the accepted statistical theory of sampling, the principles of which have not changed. Nevertheless, over the years, we have made improvements in the models and procedures. For example, we routinely research our sample precincts prior to an election, in order to take into account changes in precinct boundaries and demographic composition. This year, our decision screens for California and Washington were revised in light of a significant increase in absentee voting which has been evident in those states. In this regard, since 1996, we have conducted telephone polls of absentee voters in states where a high percentage of absentee ballots are cast, and we continue to work to improve the methods for polling absentee voters.

Unfortunately, when you make an error as glaring as calling Al Gore the winner in Florida at 7:52 p.m. on November 7th, the number of times that you have been right seems less relevant. The plain fact is that, despite our best efforts, the Voter News Service let down its members, subscribers, and ultimately the American people, on Election Night 2000. We are determined never to let that happen again.

Toward this end, VNS has conducted an intensive internal investigation of what went wrong on Election Night—an inquiry that is still continuing. In addition, our members commissioned an independent review by the prestigious Research Triangle Institute. Several of our members have also conducted investigations of their own.

On Election Night our statistical models, based on our exit polls and actual vote from a number of sample precincts, showed Vice President Gore ahead—decisively it seemed—in Florida. Our decision team considered other variables, including absentee vote beyond that which already was accounted for in the models, and determined that the data clearly justified making a call, which we did shortly before 8:00 pm. The reality, however, is that the race was a virtual tie.

Based on all that we have learned since then, the error in Florida was due to the convergence of a number of the anomalies to which all polling and projections are subject, which in this case all pointed in the direction of a Gore victory. None of these factors alone would have caused the error, but, taken together, they did. These factors include:

- the exit poll, showing Gore ahead;
- the fact that the actual vote from the first sample precincts reporting indicated that the exit poll was actually understating the Gore vote;
- the fact that the model selected the 1998 gubernatorial election in Florida, rather than the 1996 Presidential race, as a basis for statistical comparison, when comparisons based on the latter would have prevented us from making the call; and
- a larger than expected absentee vote.

Later, after the Gore call in Florida had been retracted, we discovered problems in the tabulation of actual Florida votes that led to the race being called in favor of President Bush. In one case, Volusia County, VNS passed on incorrect numbers that were released by election officials, and this went undiscovered until after the Bush calls had been made. Moreover, we significantly underestimated the number of votes outstanding.

Based on this experience, and following the recommendations in the RTI and other reports, we are actively pursuing numerous improvements, including the following:

- using larger sample sizes for exit polls;
- developing new procedures to account for the effects of a growing absentee and early vote, including more extensive telephone polling of absentee voters;
- rewriting of the VNS projection and statistical models;
- working to improve the exit poll accuracy and response rate;
- completing work on the integration of The Associated Press's tabulated vote as a second source of information;
- developing more sophisticated quality control in the tabulated vote system and the rest of the VNS systems; and
- upgrading and modernizing the VNS technical capabilities and infrastructure.

We are taking these steps because, as journalists, we are deeply committed to the integrity and accuracy of our reporting. We are determined to do everything humanly possible to make sure that these mistakes will never be made again.

Our intention is to take all that we have learned and use it to improve our Election Night procedures—and thereby return to the American people the confidence that they will receive timely and accurate Election Night information.

Thank you, Mr. Chairman and Members of the Committee.

Chairman TAUZIN. Thank you very much, Mr. Savaglio.

Next we will welcome Mr. Louis Boccardi, the president and chief executive officer of the Associated Press. Mr. Boccardi, are you also aware that the committee is holding an investigative hearing and when doing so we have the practice of taking testimony under oath?

Mr. BOCCARDI. Yes.

Chairman TAUZIN. Do you have any objection to testifying under oath?

Mr. BOCCARDI. If it is necessary to be sworn to speak, I have no objection; but I don't think it is necessary.

Chairman TAUZIN. The Chair advises you under the Rules of the House, you are entitled to advice by counsel. Do you desire to be advised by counsel during your testimony today?

Mr. BOCCARDI. My counsel is here. I do not anticipate that he will testify.

Chairman TAUZIN. Okay. In that case, would you please raise your right hand, and I will swear you in.

[Witness sworn.]

Chairman TAUZIN. Sir, you are sworn in, and we may receive your testimony.

TESTIMONY OF LOUIS D. BOCCARDI, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ASSOCIATED PRESS

Mr. BOCCARDI. Mr. Chairman and members of the committee, good afternoon. Previous witnesses and those who are going to follow me have spoken and will speak in some detail about November 7 and 8. Before I say something about that, I wanted to take just a couple of minutes very briefly to make a different point. We all accept the seriousness of what happened; that is beyond question. But I first want to place on the record a deep concern about the nature and scope of the committee's inquiry into decisions made by journalists in the course of gathering and reporting the news.

The chairman has said in correspondence with executives of Voter News Service and the networks that there are potential first amendment issues raised by what you are doing. We agree with that assessment; there certainly are. AP has serious doubts that

the committee and its staff, no matter how sensitive they may be, can avoid crossing the line between appropriate government concern with the electoral process itself and, on the other hand, inappropriate government involvement with the reporting on that process by a free press. To put it more plainly, we believe that such an official government inquiry into essentially editorial matters, summoning the people who sit here, is inconsistent with the first amendment values that are fundamental to our society. I say that with conviction, but without disrespect to the important role, important, but I think a critically different role, than that of the media that is played by the various branches of government.

I respect you. As a citizen, I benefit from you. But your job is different from mine, and a hearing such as this confuses the two.

We agree that there were serious shortcomings, call them terrible mistakes, I do, in the election reporting from Florida on November 7 and 8. These mistakes cannot be allowed to happen again. But fixing them is a job for the Nation's editors, not for its legislators. What we report and when we report it are matters between us and the audience we try to serve; they are not matters between us and our Congressmen.

The written statement I have submitted to you reflects what we believe to be the limits of an appropriate public account to a government body of how AP did its work last November 7 and through the morning of November 8. It is an account we have given in stories and speeches and interviews. I will not take your time to repeat it in the few minutes you allow my this afternoon.

The AP is a mutual cooperative that collects and distributes reports to its member news organizations. Those members in turn disseminate that news to their readers, their viewers and listeners. Like newspapers, AP is free of government licensing. Our member editors and publishers and broadcasters hold us strictly accountable for honoring a bedrock of impartiality while vigorously defending the rights of the media to collect and report the news free of outside interference both in the United States and overseas. And overseas, some of our people have paid the ultimate price for this commitment: their lives.

We have covered every Presidential campaign since 1848, the year we were founded. AP editors staffed their newly opened office in New York to report that Zachary Taylor had defeated Lewis Cass and Martin Van Buren and to become the Nation's 12th president. We meet with you this afternoon to talk about the election of our 43rd.

Reporting the names of election winners promptly has always required substantial effort on our part, because as the committee members know, the official vote canvas can take days or even weeks to complete and to announce. To produce unofficial, but accurate results so the public can promptly know who won, AP collects returns at the local level, tabulates them with the greatest care, and reports them. In this way, we are able to provide timely results not only of national and statewide election contests, but also State legislative races. We collect results on 6,000 elections in a quadrennial or biennial year. That number includes the 500 or so for which Voter News Service also has done tabulations.In terms

of races covered, we are the largest and, forgive me, we think the most reliable collector of returns in the country.

Our standards for deciding when to call a projected—to declare a projected election winner have not changed substantially. They are not secret. We have recited them publicly before. Statewide returns from VNS and from AP's own vote collection network are monitored in each State bureau by individuals well versed in State political demographics and the dynamics of individual contests. In the case of Federal elections, analysts in Washington become engaged. We have given a public explanation several times of our work last November. I have restated it in what I gave the committee before today.

We made one erroneous projection on election night, the early call of Florida for Gore. It was based on flawed data and analysis from VNS, but we take full responsibility for what we did. The committee also knows from its review of several publicly released studies by VNS and its members and from its conversations with the managers of VNS, the search for the origins of the erroneous early Florida projection is focused on certain statistical assumptions about the make-up and behavior of the voters that turned out to be incorrect. No point in my reciting them again here.

In regard to the late Bush call, as the committee is aware, AP did not join in the early morning victory declaration that the networks made. It was our independent editorial judgment, based on our own vote counting and what we saw from VNS and the input of our analysts, that the race was too close to call, as indeed it turned out to be. It would be right to surmise that the pressure on AP at that moment was enormous.

In conclusion, Mr. Chairman and members of the committee, AP agrees with much that has been said here all day and will be said after I finish by the network news chiefs. We agree, no projection should be made until all polls in the State are closed. We agree the Florida mistake seriously damaged the news media in the eyes of the public we serve. We agree that VNS must be intensively reviewed to eliminate technical and any other weaknesses, administrative or anything else. What is broken must be fixed. What is broken, I might add, includes many aspects of the election system outside the purview and capacities of the media. But we feel deeply the distinction that must be maintained between the editorial process and legislative inquiry, and I worry that a proceeding such as this blurs that distinction. Thank you very much.

[The prepared statement of Louis D. Boccardi follows:]

PREPARED STATEMENT OF LOUIS D. BOCCARDI, PRESIDENT AND CHIEF EXECUTIVE OFFICER, THE ASSOCIATED PRESS

The Associated Press first wants to place on the record its deep concern about the nature and scope of the Committee's inquiry into decisions made by journalists in the course of gathering and reporting the news.

Chairman Tauzin has stated in correspondence with executives of Voter News Service and the networks that there are "potential First Amendment issues raised by the nature of this inquiry." We agree with the Chairman's assessment. There certainly are.

AP has serious doubts that the Committee and its staff, no matter how sensitive they may be, can avoid crossing the line between appropriate government concern with the electoral process itself and, on the other hand, inappropriate government involvement with the reporting on that process by a free press.

To put it more plainly, we believe that such an official government inquiry into essentially editorial matters is inconsistent with the First Amendment values that are fundamental to our society. That is said with conviction, but without disrespect to the important role—important but critically different from that of the media—played by both legislative and executive branches of government.

I respect you. As a citizen, I benefit from what you do. But your job is different from mine, and a hearing such as this one confuses the two.

We agree that there were serious shortcomings—call them terrible mistakes—in the election reporting of November 7 and 8 and that these mistakes cannot be allowed to happen again.

But fixing them is a job for the nation's editors and news directors, not its legislators.

What we report and when we report it are matters between us and the audience we try to serve, not matters between us and our Congressman.

The statement that follows reflects what we believe to be the limits of an appropriate public account to a government body of how AP did its work last November 7 and through the morning of November 8. It is an account we have given in stories, speeches and interviews.

The Associated Press is a mutual news cooperative that collects and distributes reports to its member news organizations to be incorporated into the news products disseminated by AP's members to their readers, viewers and listeners. Like newspapers, AP is free of government licensing.

AP traces its origins to 1848 when a group of New York newspaper publishers agreed to share the cost of collecting overseas dispatches as they arrived at Halifax, Nova Scotia, at that time the first landfall for transatlantic shipping. The plan worked well and almost immediately developed into a news service in which reports on major events were delivered to all members.

Newspapers of the 19th Century were often fiercely partisan in their editorial policies. The only way for their cooperative news service to satisfy all of them was to provide reports that were strictly factual and impartial. That was the core of AP's mission at the outset, and remains so to this day.

Article I of AP's by laws reads in substantial part as follows:

> "The union for a common aim and purpose of representatives of all shades of thought and opinion—political, social, economic, religious—is assurance the news gathered and distributed by The Associated Press shall be as objective and complete as human endeavor can make it."

AP member editors and publishers continue to hold their cooperative strictly accountable for honoring that bedrock policy, and for vigorously defending the rights of the media to collect and report the news free of outside interference, both in the United States and overseas. Overseas, some have paid the ultimate price for this commitment—their lives.

AP has covered every presidential campaign since 1848, the year of its founding. AP editors staffed their newly opened office in New York around the clock for the first time to report that Zachary Taylor had defeated Lewis Cass and Martin Van Buren to become the nation's 12th president. We concern ourselves today with the election of the nation's 43rd.

Reporting the names of election winners promptly has always required substantial effort on AP's part, because as the Committee members know, the official vote canvass takes days, sometimes weeks, to complete and announce.

To produce unofficial but accurate results so that the public can promptly know who won, AP collects returns at the local level, tabulates them with the greatest care, and reports the totals. To do this, we hire and train special data reporters and post them at county election offices where officials assemble the totals reported from each precinct.

As county totals are updated throughout the night with additional precinct reports, the AP data reporters—about 5,000 of them altogether—are instructed to relay those totals to AP, where they are added to the growing collection of results from across the state and nation.

In this way, AP is able to provide timely results not only of national and statewide election contests but also of state legislative races and a limited number of high-interest local elections. Altogether, AP collects totals for about 6,000 elections in a biennial or quadrennial year. That number includes the approximately 500 elections for which the Voter News Service, and before VNS the News Election Service ("NES"), have also tabulated results. In terms of races covered, AP is the largest and, we believe, most reliable collector of returns in the country.

NES was a consortium formed by AP, UPI, NBC, CBS and ABC in 1964 to share the cost of tabulating national and statewide votes. NES created a collection network much like AP's, and AP's separate network served as a backup to NES, as it

now does to VNS, in addition to producing results for the more than 5,000 races not covered by NES and VNS.

Neither NES nor AP conducted exit polls. AP does not do them now. The broadcast networks have used them for many years, however, and in 1990 they combined their exit polling operations into an organization known as Voter Research Service ("VRS"). In 1993, NES and VRS merged into the present Voter News Service, of which AP is a one-sixth partner.

VNS conducts exit polls at selected precincts on election day, tabulates actual votes after the polls close, and through computerized statistical analysis of both sets of data produces running forecasts throughout election night of the final results in each race.

It is the quality and impact of those forecasts, of course, which have become a principal focus since the night of November 7.

AP's procedures for deciding when to declare a projected election winner have not changed substantially in decades. They are not secret. We have recited them publicly before. Statewide returns from VNS and from AP's own vote collection network are monitored in each state bureau by individuals well versed in state political demographics and in the dynamics of individual contests. In the case of federal elections, analysts in Washington become engaged.

As already noted, AP has never conducted exit polling on its own, and exit poll results only became available to the AP staff as a resource with the formation of VNS.

Exit polls have proven useful to AP reporters and editors in that they may provide advance notice either that the actual results appear to be consistent with expectations from pre-election polls and our own evaluation, or that a surprise may be in store. We consider exit polls a highly valuable part of our understanding, and our audience's understanding, of what the voters are saying.

Valuable, though as we know, not infallible.

We have given a public explanation several times of our work last November. I restate that widely available account here.

AP reported at 7:53 p.m. on November 7 that we had concluded from exit poll and early reports of actual returns from some Florida counties that Vice President Gore would be the winner in Florida. It was the only erroneous projection AP made that night.

From their familiarity with the campaign in Florida and with pre-election poll results made public by the candidates and others, AP editors expected a very close election. They were therefore surprised and skeptical shortly after 7 p.m. Eastern time when the VNS exit polling data were indicating that Mr. Gore could win by a margin of more than 6 percent.

Ordinarily, that wide a projected lead would suggest a sure outcome, but because it ran counter to expectations no projection was made. As the exit poll data were supplemented in the VNS system with the first actual returns from sample precincts, however, the Gore margin held up. That is why AP made the decision to report its conclusion that Florida would end the night in the Gore column.

There has been widespread discussion of the wisdom of projecting a winner at a time when 5 percent of Florida's polling places would still be open for several more minutes. AP's policy has been to comply with the 1985 agreement between Congress and the networks that projections would be withheld for any state until a substantial majority of polling places for that state closed.

In future elections AP will forecast no final results for any state until all its polling places in all time zones are closed. I believe the networks have taken a similar stance.

It would be wrong not to add at this point, however, that if voters were actually discouraged by media projections from casting ballots on November 7—and we have seen no credible evidence to show that many were—their number is eclipsed by the tens of thousands of voters in Florida and the millions nationwide who were disenfranchised by voting machine breakdowns, confusing ballots, lost votes, and a host of other consequences of official error, disorganization and incompetence in administration of the elections.

In fact, problems in Florida's official vote counting apparatus were a part of the media's troubles on election night. AP's projection of a Gore victory in Florida was withdrawn a little over two hours later at 10 p.m. It might have been retracted sooner, but for a keypunch error by officials in Florida's Duval County that inflated the Gore Florida total by 40,000 votes. Until that error was found and fixed, the Gore victory projections continued to flow from the VNS computer.

The Committee already knows from its review of several publicly released studies by VNS and its members and from its conversations with managers of VNS that the search for the origins of the erroneous early Florida projection is focused on cer-

tain statistical assumptions about the makeup and behavior of Florida voters that turned out to be incorrect. AP's knowledge of the details comes from the same studies to which the Committee has access, so it would serve no purpose to repeat them here.

The owners of VNS are determining what must be done to eliminate the technical and organizational weaknesses that made the early misdirection in Florida possible.

As the Committee is aware, AP did not join in the early morning projection of a Bush victory.

As AP has publicly reconstructed events with the help of the reports the Committee has seen, the VNS computer system was indicating at about 2 a.m. November 8 that only 180,000 votes remained to be counted. In fact, because turnout had been higher than the VNS forecast, there were still twice that many votes outstanding. Since we knew a high proportion of the uncounted ballots were in heavily Democratic precincts, Vice President Gore still had a much better chance of overtaking President Bush than it appeared from the VNS reports, despite an apparent margin of 50,000 votes.

It wasn't really 50,000 votes, however. As the Committee is also aware, there had been another official error. Because of a defect in a data storage device in a Volusia County election computer, President Bush's statewide lead was overstated by 20,000 votes, further bolstering the impression that Mr. Gore had no chance to catch up.

The correction of the Volusia County error did not appear in either the AP or the VNS tabulations until after the networks had committed themselves, declaring President Bush the winner at about 2:15 a.m.

AP was not yet ready to follow suit. Even before the Volusia County correction was made, and even allowing for the inaccurate VNS estimate of the number of remaining votes, AP believed Mr. Gore retained a slim chance of overtaking President Bush. That judgment was based on the collective wisdom of AP reporters and editors in both Miami and Washington.

The margin separating the two candidates had descended in the AP tabulation from over 100,000 at 1 a.m. on November 8 to about 45,000 shortly after 2 a.m. In the next 15 minutes, it plummeted to less than 16,000. AP continued to report that it was too close to call.

Because the hour was late, already past the deadlines of many newspapers, and because the networks were reporting that President Bush had won, editors around the country wondered why they had received no such declaration from AP. Many of them called our bureaus or our general editing desk in New York to demand an explanation.

As another hour passed and the pressure increased, however, President Bush's lead continued to shrink. Shortly after 3 a.m., it stood at just over 6,300. At 3:11 a.m. AP transmitted a note to editors and broadcasters on its news wires advising them that with 6,000 votes separating the candidates' totals and with votes outstanding in heavily Democratic Broward and Palm Beach, the outcome remained uncertain.

Just minutes later, the gap closed to roughly 2,000, and there it remained.

AP is proud of its century and a half of election result tabulation and political reporting. We believe our experience and our commitment to accuracy and fairness have produced an extremely valuable service for our membership and for the American public.

Chairman TAUZIN. Thank you very much. I might add that we all share a mutual respect, I hope we understand that, for our different roles and we appreciate your concerns and we have tried to be very sensitive to them throughout the process.

Let me add one fact. I don't believe that AP was invited to testify in the 1980's. But I know the networks were, and they did participate in hearings in the 1980's. And we did have these conversations in the 1980's as a precedent to the ones we are having today.

Mr. BOCCARDI. We were not involved.

Chairman TAUZIN. I don't believe you were involved; that is correct.

Let me also add, and I know this is not a rule of our committee, but you all may respectfully decline to answer any question if you think we are intruding. We will always give you that right, and I hope you will use it lightly. Obviously we are here to find the truth

and the facts, but you always have that right in respect for the different roles that we play.

Let me turn to our next witness, Mr. David Westin, president of ABC News in New York. David, if you will join me in the process.

David, under the committee practice for investigative hearings, it is the practice to take testimony under oath. Do you have any objection to testifying under oath?

Mr. WESTIN. No, sir.

Chairman TAUZIN. The Chair advises you that under the Rules of the House, the rules of the committee, you are entitled to advice by counsel. Do you desire to be advised by counsel during your testimony today?

Mr. WESTIN. No, thank you.

Chairman TAUZIN. Then if you will raise your right hand, I will swear you in.

[Witness sworn.]

Chairman TAUZIN. You are properly sworn under oath, and you may give your testimony, sir.

TESTIMONY OF DAVID WESTIN, PRESIDENT, ABC NEWS

Mr. WESTIN. Thank you. I appear before the Chair and the members of the committee today to talk about ABC News coverage of the election in November of 2000. In addition to a copy of my remarks, I also would like to submit for the record a copy of the February 8 statement that we submitted to committee staff earlier in which we go through in detail.

Chairman TAUZIN. Without objection, it is admitted into the record.

Mr. WESTIN. Thank you very much. Those of us at ABC News are very proud of the job that we have done over many years in covering elections. From the days of Frank Reynolds and Howard K. Smith through the days of David Brinkley, to the team of journalists headed by Peter Jennings today, we have done everything within our power to make sure that we report elections to our audience in an accurate and timely fashion. There is literally nothing that we do that is more important to us. I am pleased that by and large, there have not been exceptions. We have succeeded in our mission of being accurate and timely.

But let me start right at the outset and say in November, we failed twice in the projections we made for President in Florida. Those were serious mistakes. We take them seriously. ABC News is responsible for those and as the head of ABC News I am responsible for them. But ultimately, the American people will hold us responsible for what happened.

We all are mindful as well, as the Chair has said more than once today, that in our system of government, it is ultimately the marketplace of ideas protected by the United States Constitution that will correct those mistakes for us. They provide the check on us, not the government.

The morning after the election on November 8, early in the morning, we began our investigation to find out as much as we possibly could about what happened and what went wrong. To answer the question earlier from the Chair, that investigation was conducted by internal people from ABC News who are responsible for

our standards and practices, by in-house counsel from ABC, Inc., which is our corporate parent, and ultimately by the outside law firm of Verner, Liipfert located here in Washington. So that is who participated in the investigation.

From the investigation we learned a number of things, many of which, frankly, have been reported here. Early on, 2 weeks after the election, we came out with a statement in which we addressed a number of the issues that have been raised here, both the commitment to do whatever it takes to get VNS fixed; to address things like absentee ballots; to address things like errors that arise in exit polls; also to support a change, frankly, in ABC News policy so that we will no longer project the winner of a State until all polls, every one of them have closed within the State, which is, as you indicated earlier, Mr. Chairman, a change from what we talked about in 1985.

We also in that early stage said it was critically important as we go forward that we are much clearer and more emphatic about what a projection is and what it isn't. It is not reporting the ultimate certified result of a race; it is a statistical estimate which always has a margin of error in it, and we need to do a better job of explaining that to all of our viewers.

We are committed to making whatever changes need to be made. At the same time, I have to say with all of the problems we have talked about today and I have heard about with VNS and with exit polls and with absentee ballots, all of which are terribly important and need to be addressed, we could have served our viewers much better if on election night we had been clearer about what was going on when we were making a projection. We have tried to do that over the years, but we have fallen back in part, frankly, because of the success of the process over many years. I think it bears reminding that for many, many years this process has generated accurate projections. And even on November 7, ABC News made some 100 projections of races; and we were wrong in one instance, a very serious one and we take it very seriously, but we do need to put it into perspective.

In addition, in reflecting on our system and how it works, we concluded that we could have served our viewers better if we had done a better job of insulating the key people, our professional analysts who are looking at the data as they come in and looking at the statistical models, had insulated them better from the competitive pressures that inevitably arise. I can tell you that if you sit there and four of your competitors have projected the next President of the United States and you haven't, there is a lot of competitive pressure, no matter what anybody tells you.

You will notice, I haven't really talked about VNS and there is a reason for that. We are a co-owner of VNS, we are on the board of VNS. We are responsible, ultimately, for the accuracy of the output of VNS, just as if ABC News people were out there conducting all the exit polls and gathering all the raw vote data from the counties and from the precincts, and I do not want to shrink from that responsibility. I have to be direct and honest with you about it. Having said that and having reviewed what we have reviewed at this point, I must also tell you that I continue to believe that properly corrected, and there are a number of corrections we can talk

about some more, properly corrected, the VNS approach supported by our decision desk and our professional analysts remains the best and most accurate way of doing timely reporting of the election, which is our only goal, ultimately.

Now, in conclusion, let me address for a moment the possibility of effect on voter behavior of early projections, because there has been a lot of discussion about that today. From what I know, and I am not a professional in this area, some academics have looked at it, it is inconclusive, it is complicated. Nevertheless, as I said earlier, we are committed to try to help address this in two ways.

No. 1, not to project the race in any State until all of the polls, not just the substantial majority, have closed in that State.

But No. 2, we wholeheartedly support the efforts of certain members of this committee to adopt a uniform poll closing time.

We think that is the right approach and speaking personally, I would be perfectly happy with a world in which we don't make any projections, in which there is a uniform time for closing and there is a system of voting in this country that is so reliable and so instantaneous that ABC News, in future elections, can simply get on the air and say, these are the actual bona fide, certified results. I would be very pleased with that. But until we can get to that time in this country, ABC News, I can assure you, will remain committed to doing our very best to reporting accurately and in a timely fashion on all elections. Thank you.

[The prepared statement of David Westin follows:]

PREPARED STATEMENT OF DAVID WESTIN, PRESIDENT, ABC NEWS

Mr. Chairman and Members of the Committee: I am here today to discuss ABC News' reporting on the presidential election of 2000. I am submitting with a copy of these remarks the complete ABC News statement concerning its election reporting last year.

Those of us at ABC News are proud of our record of covering elections. From the days of Howard K. Smith and Harry Reasoner, through David Brinkley, to our present group of journalists headed by Peter Jennings, we have always done everything in our power to bring an accurate and timely account of the nation's elections to our audience. There is nothing we do at ABC News that is more important than covering elections.

With remarkably few exceptions, we have succeeded in our mission of accurate and timely reporting of elections. But last year there was an important exception: the projections we made of the presidential race in Florida. The fact that this was one of the closest presidential races in history is no excuse; the fact that we correctly projected the results of almost 100 other races that night is no excuse; the fact that others had similar difficulties is no excuse. Ours was a serious mistake for which we are responsible and for which the American people rightly hold us accountable. At the same time, all of us are mindful that in our system it is the marketplace of ideas created under our Constitution—not the government—that provides the check when we in the press make a mistake.

The morning after the election, at ABC News we began an investigation to determine everything we could about what went wrong in our Florida projections. Although we continue to believe that our system for making projections is fundamentally sound, we have found several things that we must correct and several things that we must do differently or better. We are committed to doing everything we can to correct the problems we have identified.

In brief, our review shows the following problems:

1. We did not accurately anticipate the absentee balloting in Florida.
2. We did not adequately protect against the error that comes from some people not responding to exit polls.
3. People made mistakes in putting actual Florida vote tallies into the system.
4. The second ABC News projection in Florida was based on a dramatically mistaken estimate of the remaining, uncounted vote.

5. All election projections are based on a comparison of the current election with the past election that appears to be most similar. In Florida, the computer model chose the wrong past election for comparison.

In our written statement of February 8, we set out the various steps we will take to avoid each of these problems in the future. But even with all of the problems that affected projections in Florida on election night, ABC News could have served its audience better if it had been clearer and more emphatic about the nature of election projections and their basis. No matter how reliable, projections are just that—statistical estimates based on past experience and the data available. They are not the same as reporting the actual results of the election, and they are always subject to some margin of error (as was shown so dramatically in Florida). In addition, ABC News could have protected itself against error by resisting the inevitable competitive pressures that came with knowing that other news organizations were projecting the next President of the United States while we were not.

Please notice that in my discussion I have not referred to the Voter News Service. As an owner, we are responsible for the accuracy of what VNS did in 2000—as responsible as if ABC News had itself conducted all of the exit polls and gathered all of the actual vote tallies across the country. With all of the criticism of VNS, based on everything we now know, we continue to believe that an improved VNS remains the best way for us to gather accurate, timely information about individual races on election night.

Finally, there has been much discussion over the years of the possible effect of election night reporting on whether voters go to the polls. I know that there has been some academic work on this subject, that it is a complex area, and that the academic work is largely inconclusive. Nevertheless, ABC News from now on will not project the results of a race in a state where any polls remain open—even if it is a minority of the polls.

In addition, some—including some on this Committee—have advocated adopting a uniform time across the country for all polls to close. ABC News wholeheartedly supports such proposals. Indeed, I personally would welcome the day when, shortly after all the polls closed at a set time, we could simply report the actual results of all of the elections because they had been quickly tabulated by a reliable, instantaneous system. But until that day arrives, ABC News will remain committed to providing its audience with the most accurate and most timely reporting of elections possible.

Thank you.

STATEMENT OF ABC NEWS CONCERNING THE 2000 ELECTION PROJECTIONS

On November 7, 2000, the United States set out to elect a new President. Leading up to Election Day, all indications were that the race would be very close. As it turned out, it was the closest race in recent history (in terms of electoral votes) and was not resolved for over a month, when the Supreme Court of the United States ended the legal challenges to the vote count in the State of Florida.

During the evening hours of November 7 and the early morning hours of November 8, ABC News projected the winner of the presidential race in 49 states and the District of Columbia.[1] In each of these but one, ABC News' projections were correct. But in what turned out to be the key state of Florida, ABC News made two projections, one of them mistaken and the other premature.

In this statement, we discuss the practices and procedures followed by ABC News in making its election projections, the reasons for the flawed projections in Florida, and the steps we are taking to prevent a recurrence of the mistakes we made on Election Night. This statement follows a comprehensive review conducted by ABC News, ABC's in-house counsel, and ABC's outside counsel. Among other things, we: (1) reviewed transcripts and videotapes of ABC News' election coverage; (2) interviewed members of the ABC News team responsible for making election projections and producing ABC News' election coverage; (3) reviewed archival copies of computer screens containing some of the data and statistical models provided to ABC News on Election Day by Voter News Service ("VNS"); and (4) reviewed post-election reports by VNS and others analyzing the Election Night projections.

[1] ABC News never projected a winner in the presidential race in Oregon, which was resolved several days later, after the last of the absentee ballots were counted. In addition to the projections in the race for President, ABC News made 45 projections in races for the Senate and for Governor, all of which were correct. ABC News never projected a winner in the key Senate race in Washington, which was ultimately resolved several days later as well.

A. ABC NEWS' PRACTICES AND PROCEDURES IN PROJECTING ELECTION RESULTS

1. Background

For many years, ABC News has included in its election coverage projections of likely winners in individual races. When done properly, such projections provide our viewers with highly reliable and timely insights into the election, including the likely outcome of races in the various states.

These projections go beyond mere reporting of actual vote tallies as they come in. They involve the interpretation of sophisticated statistical models that evaluate the exit poll and actual vote data in various ways. Although grounded in mathematics and science, projections of likely outcomes always depend in critical part on the informed judgments of knowledgeable analysts. To make these judgments, ABC News relies on teams of experts, including political scientists and statisticians, with the experience and acumen necessary to interpret the data properly.

2. The Role of the Voter News Service

In 2000, as in previous years, ABC News relied heavily on data and statistical modeling from VNS in making its election projections. VNS was established in 1994 through the merger of two predecessor organizations. The first, the News Election Service, was founded in 1964 and collected raw vote data. The second, Voter Research and Surveys, was formed in 1989 and did three things: (1) polled voters as they exited the polling place; (2) reported the exit poll results; and (3) used statistical models to help project race results based on the exit polls and on vote data. Since 1994, VNS has performed the functions of both of these predecessor organizations.

VNS was founded in 1994 by ABC, NBC, CBS, CNN, and the Associated Press; in 1997, Fox became a full member. The members collectively share the costs of operating VNS and govern it through a Board of Directors consisting of one voting representative from each member. VNS data and analysis are provided to all of the members equally. In addition, many other news organizations subscribe to VNS, paying fees that partially defray operating expenses in exchange for projections and some VNS data. By sharing the costs among the members and subscribers, VNS collectively provides a better service to all than any individual member or subscriber could afford on its own. As one of the owners of VNS, with a substantial role in its management and supervision, ABC News (with the other members) is ultimately responsible for the reliability and accuracy of VNS' product.

Each election, VNS collects survey responses provided to VNS personnel by voters as they leave polling places ("exit polls"), actual vote tallies from selected precincts, and the vote count from all reporting counties, cities, or towns nationwide. VNS loads this material into a central computer that feeds information to VNS members and subscribers. VNS also provides members with statistical analyses under various VNS models, which use different methods to extrapolate from the data received by VNS at that juncture. Some models include pre-election poll data; some include exit poll data; some models use geographical distinctions within a state; some reflect political distinctions within a state; others rely on actual vote tallies as reported by precincts or by counties. VNS models also estimate the remaining vote outstanding for precincts not yet reporting, and provide a check on the accuracy of exit poll data by comparing that data to actual vote tallies as they come in.

Before polls close and actual vote tallies become available, the VNS models rely upon exit poll data provided by VNS, together with various pre-election poll data. As actual vote tallies become available from precincts, these data are included in the models, replacing exit poll data. When county data is available, it is included in several other models.

Early in the afternoon of Election Day, VNS begins providing its members with preliminary results of the first exit polls taken. As the day progresses, VNS updates these results, including later exit poll data and actual vote tabulations. All of these data are provided to VNS members so that they may evaluate for themselves whether and when to project the results in a race. VNS also makes its own projections for the benefit of its members and subscribers.

Prior to the election of 2000, those most closely involved with VNS can remember only one instance in which a VNS projection ultimately proved wrong. In the 1996 New Hampshire Senate race, exit poll data available at the time the polls closed showed the Democratic candidate to have such a commanding lead that VNS members (including ABC News) projected the outcome of the race. When the actual vote tallies began to come in, it became apparent that the exit poll data were seriously flawed and the projections were retracted. After the 1996 error, VNS conducted its own study and retained outside experts to examine what happened and how to avoid similar mistakes in the future. Despite intensive study, the experts could find

no definitive solution to the problem that could be applied across states and elections. In 2000, ABC News included as part of its team two of the experts most knowledgeable about the 1996 New Hampshire race, so that they could brief the other ABC News experts responsible for making projections.

3. ABC News' Decision Desk

On Election Day, ABC News employs a separate unit of professionals charged with deciding whether and when to make projections. This group is generally referred to collectively as the ABC News "Decision Desk." It is headed by an expert journalist who is experienced both in covering previous elections and in the statistical analysis of elections.

The Decision Desk on November 7 consisted in principal part of four decision teams. Each decision team included two individuals chosen for their experience in covering past elections and/or their background in statistics or political science. The 50 states and the District of Columbia were divided among three teams, each responsible for making projections of statewide elections (for President, for Senate, and for Governor) in certain states. The fourth team was assigned to follow certain races in the House of Representatives that ABC News had identified in advance as having particular importance in the election. In order for ABC News to make a projection in any race, both members of the decision team assigned to that race had to agree that the projection was justified.

The ABC News Decision Desk also included a team of two individuals reporting directly to the head of the Desk and responsible for monitoring the overall presidential race and the battle for control of the Senate. ABC News also retained two experts who were posted at VNS headquarters as a liaison between the ABC News Decision Desk and VNS.

The Decision Desk independently studies the data as they are reported by VNS, analyzes the results indicated by the VNS application of the statistical models to these data, and decides whether and when it is appropriate for ABC News to project an outcome in each race. Sometimes this projection comes after VNS has made its own projection; often it comes before VNS does so.

If the margin reflected in exit polls is sufficiently large to justify making a projection based on these data alone, ABC News may be able to project results at the time polls close. In determining whether it can make an accurate projection based on exit polls and other research at the time of poll closing, ABC News relies on the following considerations:

1. the extent to which all of the exit poll data from the several exit polls taken throughout the day are complete and available;
2. the size of the lead for a particular candidate indicated in the exit poll models;
3. a comparison of the margin indicated in the exit polls with a statistical calculation of the margin of error;
4. a comparison of the results generated by the different VNS statistical models;
5. prior estimates of the race in the particular state;
6. special factors that might affect the reliability of exit poll results, such as the size of past absentee balloting in the state and the distance restrictions placed on VNS personnel conducting local exit polls;
7. past experience in projecting results in the particular state or in states having similar characteristics; and
8. any special messages from VNS concerning problems or irregularities that may have arisen during the collection of exit poll data.

If exit poll results do not demonstrate a sufficiently decisive lead for one candidate after assessment of these factors, then ABC News considers the following factors as actual vote tallies arrive, in addition to exit poll data, pre-election estimates, and the patterns of prior elections:

1. the size of the lead and the margin of error indicated in the various models as actual votes from the precincts are substituted for exit poll results;
2. the size of the lead and the statistical margin of error indicated in the models analyzing actual vote tallies in selected precincts and in overall county results;
3. the degree to which the exit poll data for the state differed from actual vote tallies in precincts where exit poll data are available;
4. the number, percentage, and location of precincts from which actual vote tallies have been received;
5. the number, percentage and location of counties from which actual vote tallies have been received;
6. the likely outstanding absentee vote not yet counted;
7. the likely other vote not yet counted; and
8. the percentage of the remaining vote outstanding that the trailing candidate would have to garner in order to prevail.

In each case, the question is whether ABC News in its independent journalistic judgment can conclude that the data make it appropriate to project the outcome in a given race—that is, that the results are decisive enough to make a projection with great confidence that it will be right.

In addition to these steps, ABC News makes an effort to say explicitly on the air that it is reporting a projection, not an accomplished fact. And, since 1985, ABC News has followed the policy of not projecting any statewide race until the polls in the state have closed. In the few states with multiple poll closing times, ABC News has not projected the results of races until the substantial majority of the polls have closed.

B. ABC NEWS' ELECTION PROJECTIONS IN 2000

On the morning of November 8, ABC News initiated an investigation to determine the cause of its erroneous and premature projections in the Florida presidential race and the measures it should take to avoid similar problems in the future. In addition, VNS conducted its own internal investigation and—at the urging of ABC News and other members—commissioned a thorough review of its actions by outside experts. These investigations lead us to the following primary findings and conclusions about the problems in Florida and some areas for improvement.

1. The Flawed Florida Projections

a. *ABC News' Projection for Vice President Gore*—The first of ABC News' Florida presidential projections in the 2000 election came shortly before 8:00 p.m. EST on November 7. VNS projected that Mr. Gore would win the presidential race in Florida at 7:52 p.m., after some 90% of the polls in state had closed (but before polls in the panhandle of the state were to close at 8:00 p.m.). At 7:55, ABC News Radio reported that ABC News projected that Mr. Gore would win in Florida. At that time, the ABC Television Network was in commercial and local broadcast time. ABC News did not project Mr. Gore to win in Florida on the ABC Television Network until shortly after 8:00 p.m., after all polls in the state had closed.

A review of the computer data preserved by VNS that night[2] indicates that, as of 6:40 p.m., exit poll data and statistical models revealed a lead for Mr. Gore in Florida, but not by a sufficient margin to warrant a projection. As a result, ABC News did not project a winner in the Florida race for President when 90% of the Florida polls closed at 7:00 p.m.

By 7:40 p.m., VNS was reporting actual vote tallies from eight of the sample precincts. These actual vote tallies significantly reduced the margin of error for the projections under the various statistical models, and therefore indicated a greater confidence in the accuracy of the projections. Based on these indications, and in accord with the factors listed above, the ABC News Decision Desk projected that Mr. Gore would win in Florida shortly before 8:00 p.m. At 8:10 p.m. and 8:40 p.m., the numbers continued to show a solid lead for Mr. Gore in Florida. In fact, at that time, a comparison of the actual vote tallies with the exit poll data in those eight precincts suggested that the VNS exit poll models had actually understated the extent of Mr. Gore's lead in the state.

At 9:10 p.m., the statistical models continued to indicate sufficient strength to justify the projection for Mr. Gore—even with 36% of the county vote tallies reported. But the precinct models showed some weakening. At about 9:40 p.m., VNS began to send messages to its members that called into question the accuracy of the Florida projection. And by 10:10 p.m., the models incorporating real vote tallies were mixed, with some continuing to project Mr. Gore the winner with sufficient confidence to warrant the projection, but the county vote model pointing to Mr. Bush, although without sufficient certainty of accuracy to warrant a projection in his favor. At approximately 10:00 p.m., ABC News withdrew its projection that Mr. Gore would prevail in Florida.

Based on subsequent reviews, it is now apparent that there were three principal causes of the flawed projection for Mr. Gore in Florida. First, the exit poll data actually overstated—rather than understated—Mr. Gore's lead. Although the risk of such error normally is checked by the comparison of the exit poll data in the first several precincts with actual vote tallies in these precincts, in this particular case the first precincts reporting actual vote were atypical of the larger sample.

Second, the first Florida projection was based in part on a mistaken estimation of the absentee vote in Florida. Although VNS anticipated a significant absentee vote in the state and expected that the absentee vote would favor Mr. Bush, it

[2] VNS automatically archived the primary data (or "decision screens") it sent to members at only 10 and 40 minutes past each hour on Election Day. Minute-by-minute screens reflecting then-available VNS data were not retained.

turned out that there was a much larger vote than anticipated, and that vote was slightly more favorable to Governor Bush than predicted.

Finally, the projection for Mr. Gore resulted in part from the VNS system failing to choose the most appropriate past race to use in its models. It chose the 1998 Governor's race, rather than the 1996 presidential race. As it turned out, the latter was more similar in pattern and result than the former. Absent any of these three VNS errors—the mistaken check on the exit poll data, the mistaken estimation of the absentee vote, and the choice of the wrong past race to use in its models—ABC News likely would not have found the data sufficient to make the first projection in the Florida presidential race.

b. *ABC News' Projection for Governor Bush*—From 10:10 p.m. until 1:40 a.m. EST, the data and statistical models continued to be mixed, with all but one model (the one that included actual vote count from the counties) indicating that Mr. Gore would prevail. By 2:10 a.m., however, the data provided by VNS indicated that a full 96% of all precincts had reported and that, given the projections of the remaining outstanding vote, Mr. Gore would have had to win over 63% of the remaining vote to prevail. Based on these data and these estimates, ABC News projected at 2:20 a.m. that Mr. Bush would prevail in the Florida presidential race.

It now appears that two primary factors precipitated the second ABC News projection for President in Florida. First, raw vote data coming into VNS from Volusia County significantly overstated Mr. Bush's totals and significantly understated Mr. Gore's totals. Normally such variations in a single county would not be significant, but with the race in Florida as close as it turned out to be, this variation alone led ABC News to have more confidence in its projection than was warranted.

Second, the VNS model projected significantly fewer outstanding votes at 2:10 a.m. than in fact was the case, leading the VNS model to underestimate the outstanding vote and thereby to overestimate the percentage of the vote that Mr. Gore would have to receive to prevail. Once again, these mistakes in the data and the models led ABC News to make a flawed projection.

2. Projections in Other States

As noted above, ABC News made 49 other projections of state races for President on November 7-8, and each one was correct. Overall, leaving Florida aside, ABC News correctly projected that Mr. Bush would prevail in 29 states and that Mr. Gore would prevail in 19 states and the District of Columbia. Of these, ABC News projected the winner at the time of poll closing in 28 states, including 16 states for Mr. Bush and 11 states and the District of Columbia for Mr. Gore. Of the 21 states in which ABC News waited to project a presidential winner until after polls had closed (other than Florida), ABC News projected 13 for Mr. Bush and 8 for Mr. Gore.

Some have questioned not the accuracy, but the timing of some of our projections. In particular, they have questioned the delay in the projection of some of the states won by Mr. Bush. Based on our review and the analyses described above, the timing of each of these projections is fully explainable by the data available at various times of the night, the application of uniform statistical models to those data, and prior experience with the states involved. There is no basis whatsoever for concluding that there was any intentional bias on the part of anyone who took part in the projection process at ABC News.

In determining whether and when to make a projection, there are a variety of factors ABC News considers, as set forth above. Significantly, however, the ultimate actual margin of victory in a state in no way indicates the speed with which a projection could have been made with a sufficient assurance of accuracy. Rather, the question is whether at any given time the margin shown by the exit poll (and, when available, actual vote tallies) is sufficiently larger than the statistical margin of error that ABC News can make a projection with a high level of confidence that it will be accurate. This statistical margin of error can be affected by a number of things, including the number of precincts sampled, the relative homogeneity of the state in question, and the percentage of actual vote available at the time of a projection.

This last factor is extremely important, as the ability of VNS and ABC News to assess the accuracy of close exit poll data and the certainty of a projection often depends on how quickly a given state reports actual vote data. In some states, precincts and counties report vote totals relatively quickly, and may facilitate an earlier projection; in others, vote totals arrive more slowly, and may delay the projection of the race.

A careful review of ABC News projections in states other than Florida shows that in each case—whether for Mr. Gore or for Mr. Bush—the projection was not only

accurate, but was made at a reasonable time, given the available data and the need for great confidence in its accuracy.

Some have also raised concerns that, before all polls have closed in a state with multiple poll closing times, (like Florida) projections of race could influence voting behavior in other parts of the state. There have also been claims that projecting winners in presidential races in states where polls have closed may affect voting behavior in other states where polls remain open. These questions have been researched extensively for many years, with no clear answer.

C. AREAS FOR IMPROVEMENT

Based on our experience in making the Florida projections, our post-election review of ABC News' practices and procedures in general, and our review of other reports about the events of Election Night, we have identified the following primary areas that warrant further attention and improvement.

1. Improve the Accuracy and Reliability of VNS' Data and Statistical Analyses

VNS has a long and enviable track record of accuracy in projecting races over the years. In the November election, however, VNS fell short.

In the days since the election, VNS' performance has been analyzed extensively by internal and external investigations. Most recently, the VNS Board of Directors commissioned and released a detailed report by an independent consultant, the Research Triangle Institute ("RTI") of North Carolina, containing comprehensive findings and recommendations.

On the basis of the RTI report and our own review, we believe VNS must do a better job in future elections in the following principal areas:

First, it must account more accurately for the size and likely outcome of absentee ballots. In 2000, VNS made special efforts to account for absentee ballots in Washington, Oregon, and California by conducting telephone polling targeted at these ballots. In Florida, however (as noted above), it relied upon a rough estimate of the size and the outcome of the ballots. In the future, one or both of two things must happen: (1) VNS should make similar, targeted efforts in all states where there is reason to believe that absentee balloting may affect the accuracy of projections; and/or (2) ABC News will need to take into account the increased risk of inaccuracy from VNS' not having made such efforts and, as a result, be more conservative in its projections in those states.

Second, VNS must do a better job of quality control. For example, in 2000, there was a plan to include in the VNS computer models process data from the separate Associated Press reporting of actual vote tallies. This would have provided a check on the accuracy of VNS' data. ABC News believed on Election Night that this had been done; as it turned out, it was not. In the future, the AP (or other, similar sources of data) should be included in election projections—either by VNS itself or by ABC News if VNS is unable to include such data.

Third, VNS must make adjustments in its statistical models to ensure that the best past election in a state is selected for comparison with exit poll and raw vote data. VNS itself has suggested that one solution may be to consult more than a single past election.

Fourth, VNS must devote further study to the causes of discrepancies between exit poll data and actual vote returns within the same precinct. In any given race, such discrepancies can favor either candidate, but on average over time they have been shown to favor Democratic candidates somewhat more than Republican. Experts believe these discrepancies may result in part from the refusal of some people to respond to exit poll surveys as they leave the polls. However, studies have not shown a clear direct relationship between overall response rate and exit poll accuracy. Moreover, the size of the discrepancy and whether it favors the Republican or the Democrat is highly variable from precinct to precinct, state to state, and year to year, and experts have yet to develop an overall statistical solution. Nevertheless, we must work to develop reliable ways either to reduce the causes of the discrepancies or to compensate for them.

Fifth, VNS must improve its system to provide better correction on inaccuracies in exit poll data. As discussed above, it was previously thought that the comparison of actual vote totals in six selected precincts against exit poll results in those same precincts would give some reasonably accurate indication of the reliability of the exit poll data in all the precincts. The experience in 2000 with the exit poll data in Florida demonstrates that this is not the case.

Finally, VNS must do a better job estimating the outstanding vote. This is a crucial piece of information in any close election.

Based on its review, ABC News at this point believes that with improvements such as those outlined above VNS can remain a highly reliable means for analyzing

and reporting election results. Any system, however, no matter how sophisticated and how reliable, is inherently fallible. ABC News will remain open, therefore, to any reasonable alternative sources of information that can help to improve the accuracy of its election projections.

2. Further Insulate ABC News' Decision Desk from Competitive Pressure

In the past, and in 2000, the ABC News Decision Desk has been located separately from the remainder of ABC News editorial operations on Election Night. Communications between the Decision Desk and those responsible for ABC News election coverage have been structured through a single senior producer located in the control room.

Until now, however, ABC News has not sought to restrict access of members of its Decision Desk to the reporting of other news organizations, including competing television news organizations. It was thought that the knowledge of what other credible news organizations were and were not projecting could be helpful to the Desk in determining when it was appropriate to make a projection.

Competition, in news reporting as in other enterprises, can be a good thing. It can spur us to work harder, do better, be faster. But competition that encourages a journalist to report a story prematurely is bad. In the particular instance of the Decision Desk, it is most important that the individuals making projections do so based on two things: the data provided to them (from exit polls, from actual vote tallies, and from statistical models), and their own experience and judgment. They should not be distracted or influenced by the decisions of other news organizations.

3. Improve the Manner in which ABC News Reports and Discusses its Projections

Although valid statistical methods applied to raw vote tallies and exit poll data are the best and most accurate means of projecting election outcomes, they also pose risks if not properly used and explained. First and foremost, they are projections—not actual results of elections. As such, there is always some margin for error, some chance that they will ultimately be proved wrong.

ABC News for some time has attempted to describe its predictions of the likely winners in election contests as "projections." We try to avoid saying on air that we are "calling" a race with the implication that the election is truly over simply because we feel sufficiently confident in the statistics to make a prediction. This policy was generally followed on November 7-8 in the initial announcements of projections in the presidential races in individual states.

In reviewing the transcript of ABC News' Election Night coverage, however, it appears that ABC News did not make sufficiently clear to our audience the nature of projections in election races in several respects. First, after having initially described the prediction as a "projection," ABC News journalists on the air sometimes later referred to the candidate as having "won" the race in a particular state. Second, we were not always as careful in our use of language in making projections in races for the House of representatives, the Senate, and Governors. Third, ABC News did not explain adequately to our viewers what a projection means. We did not make it clear that, as with any statistical projection, there is a margin of error. We would not be reporting the projection unless, according to our analysis, the margin of error is sufficiently small. But we need to do a better job of pointing out that our projection can be wrong.

D. CONCLUSION

In light of our review, ABC News will implement the following changes and clarifications to its practices and procedures in making election projections. Many of these measures were announced on November 22, 2000.

1. ABC News will project the winner in a race in a given state only after the last scheduled poll closing time in that state.
2. ABC News continues to support a uniform national poll closing time. We also support efforts to reform balloting processes to enable faster and more reliable official tabulation and reporting of vote totals.
3. ABC News will continue to make projections only if they are justified by ABC News' independent analysis of the data and the relevant statistical models.
4. In making and discussing projections, ABC News will explain to its viewers that they are informed, statistically based estimates of the probable results of elections. Projections are not reports of the actual, final results of elections.
5. ABC News will take all reasonable steps to insulate those involved directly in making projections from the pressures of competition from other news organizations.
6. ABC News will ensure that voting data from the Associated Press is fully incorporated into its projections, providing a check on inaccurate information. ABC

News will remain open to additional sources of information on election night, including national exit polling conducted by organizations other than VNS.

7. ABC News will support a continuing comprehensive review of and improvement in the operation of VNS, including improvements in the collection of data, reporting of data, and application of statistical models to those data. Further, ABC News will provide its share of resources to ensure that these improvements and upgrades are made as quickly as possible.

Chairman TAUZIN. Andrew Heyward, president of CBS News in York. Mr. Heyward, if you will help me through the process again.

As you are aware, the committee is holding an investigative hearing. When doing so, we have the practice of taking testimony under oath. Do you have any objection to testifying under oath?

Mr. HEYWARD. Given that it is your practice, Mr. Chairman, it is okay with me.

Chairman TAUZIN. Thank you, sir.

The chairman advises you that under the Rules of the House and the rules of the committee, you are entitled to be advised by counsel.

Mr. HEYWARD. No, thanks.

Chairman TAUZIN. Do you desire—you do not. In any case then, would you please raise your right hand and we will swear you in.

[Witness sworn.]

TESTIMONY OF ANDREW HEYWARD, PRESIDENT, CBS NEWS

Mr. HEYWARD. Thanks very much Chairman Tauzin, Congressman Dingell, members of the committee. I am Andrew Heyward, president of CBS News; and I appreciate the opportunity to turn on the microphone and to provide my comments on this subject, news coverage of Election Night 2000.

CBS News and the other network news operations made very, very serious mistakes that night, and they are mistakes that all of us at the table and certainly I deeply regret. Our Florida flip-flops were deeply embarrassing to us; and more importantly, damaging to our most important asset, which is the hard-won credibility we fought for over the years with our viewers and listeners and Internet users. It is evident, in retrospect, we should not have called Florida for either candidate. Our method of projecting winners, one that, as you have heard, has produced only six bad calls in over 2000 races since the 1960's, failed us this time; and as a well-known candidate would say, failed us big time in the very State that held the key to this election.

That is why everyone at this table has acknowledged the problems; and I think moved very quickly to address them, not in response to outside pressure or to criticism, but at our own initiative. The American people who are our viewers and listeners deserve nothing less than this.

On November 14, CBS News appointed a distinguished three-person panel, including a well-known outside expert, Kathleen Hall Jamieson, who is Dean of the Annenberg School of Communication at the University of Pennsylvania, to investigate what went wrong and to recommend a set of steps for future election coverage. On January 4, the panel issued an exhaustive 87-page report, and we made it available to you and every American citizen on our Web site, CBS News.com. We have also entered its recommendations into the record of these proceedings.

The recommendations are far reaching and thoughtful, and CBS News intends to adopt all of them. Very briefly, we will strengthen the checks and balances on the CBS News decision desk which is the entity responsible for analyzing exit poll data and vote data on election night; we will beef up our news-gathering resources on the ground in key States with particularly close races and will toughen the criteria for projecting winners in very close races. We will develop and consult multiple sources for vote tallies. We will explain to the audience very clearly how exit polls work and exactly how a particular projection is made. We will clarify our language and our graphics to distinguish more clearly between projections and final results. We will also work with our network colleagues to address problems with the Voter News Service; and, if necessary, we will develop alternatives to VNS. Finally, we will not project a winner in a State until all the polls have closed there.

Now, I believe that these changes and similar ones that have been announced by our competitors will go a very long way toward ensuring the credibility that draws a vast national audience to election night coverage on television. Having said that, I think it is equally important to point out that I don't accept all of the criticisms that have been leveled at the networks.

The notion that the pattern of State by State calls reflected bias against President Bush, for example, has been rejected by every single outside expert who examined each of the networks, even those experts, and you heard from them today, who are the most highly critical of us. I was glad to hear you say again today, Mr. Chairman, that the committee's investigators found no evidence of intentionally misleading or biased reporting.

This election also revived a decades-old debate about calling races in States before all of the polls have closed there. Our report, like the findings of the other networks, rejects the argument that the first call in Florida, which occurred about 10 minutes before the final 5 percent of the State polls closed in the Panhandle, had any measurable effect on voters. Nevertheless, as I mentioned earlier, given the widespread perception that network projections do affect voter behavior, CBS News has decided that in future elections we will not project the winner in a State until all the polls have closed there.

There is a simple way to resolve this issue once and for all. And we have heard a lot about it today. One that CBS News has advocated since the 1960's, and that is a uniform national poll closing. We applaud the news that you, Mr. Chairman, along with Congressmen Dingell and Markey and Stearns and several other committee members are sponsoring such a bill.

Finally, I think it is important, and this is really important to me, not to confuse news coverage of the election with the election itself. It took the Nation, not the networks, the Nation 5 weeks to pick a President. Let's assume for a second that we had gotten Florida right and never projected a winner there. The country would still have undergone its 5-week marathon, and there would still have been debate about the outcome and how it was reached.

We come here today voluntarily, out of our sense of duty to this respected body and to the American people that all of us here serve. I want to state for the record that I am very grateful to you,

Mr. Chairman, for your written assurances that the hearing is not out to prove a point or make a political statement and that this committee will, in all respects, continue to be mindful of our first amendment rights and protections in this matter. The Constitution does protect us against unwarranted interference from government; but we, like you, are accountable to the most important constituency in America, the citizens of this great Nation. So please accept that it is in that spirit that I am here to answer your questions today. Thank you very much, Mr. Chairman.

[The prepared statement of Andrew Heyward follows:]

PREPARED STATEMENT OF ANDREW HEYWARD, PRESIDENT, CBS NEWS

Good morning, Chairman Tauzin, Congressman Dingell and members of the Committee. I am Andrew Heyward, President of CBS News. I appreciate this opportunity to provide my comments on the very important subject before us today: news coverage of Election Night 2000.

The election of 2000 will long be remembered as a test of our democratic system—a test that the nation passed with distinction. Arguably, our democracy emerged from the five-week "Election Night" even stronger than it was before. Whatever your views about its outcome, the nation was able to resolve a complex and contentious election peacefully, and we now have a new President of all the people.

I believe the network news divisions will also draw strength from this unique experience and emerge as even better public citizens than we were before November 7, 2000. That is because we have, since that night, worked hard to confront what went wrong and to chart a series of reforms that we believe will ensure, within the limits of what is possible, that our mistakes are not repeated.

CBS News and the other network news operations made serious mistakes that long, confusing night—mistakes I deeply regret. Projecting Vice President Gore as the winner in Florida . . . then retracting that projection . . . then projecting and retracting a similar call for then-Governor Bush was not only embarrassing to say the least, but it was damaging to our most important asset—our hard-won credibility with our viewers, listeners, and Internet users. These citizens have every right to expect accurate information above all else. We would quickly lose our audience and soon our entire business if people could not rely on the truth of what we say.

It is evident, in retrospect, that we should not have called Florida for either candidate. Our method of projecting winners—one that had produced only six bad calls in more than 2000 races since the 1960's—failed us this time, and in the very state that held the key to the election. That's why everyone at this table has acknowledged the magnitude of the mistakes, analyzed the problems we encountered, and moved quickly to address them "not in response to outside pressure or criticism, but at our own initiative. The American people who are our viewers and listeners deserve nothing less.

On November 14, CBS News appointed a distinguished three-person panel, including a well-known outside expert, Kathleen Hall Jamieson, Dean of the Annenberg School for Communication at the University of Pennsylvania, to investigate what went wrong and recommend a set of steps for future election coverage. On January 4, the panel issued an exhaustive 87-page report, and we made it available to the Committee and to every American citizen on our cbsnews.com website. It can be read in its entirety at http:///CBSNews.com/htdocs/c2k/pdf/REPFINAL.pdf. The report consists of an internal CBS News review of what happened Election Night, an analysis of the Election Night broadcast by Dr. Jamieson, and a historical perspective by Dr. Kathleen Frankovic, CBS News Director of Surveys and a well-known political scientist. The chairperson of the panel was Linda Mason, Vice President, Public Affairs, a respected 34-year veteran of CBS News.

The report analyzes the mistaken calls in great detail and makes recommendations for how CBS News should improve its coverage of elections in the future. The recommendations are far-reaching and thoughtful, and CBS News intends to adopt all of them. Here they are, taken in their entirety from the panel's report:

RECOMMENDATIONS

Changing How CBS News Calls Races

• **As an added precaution, assign a member of CBS News senior management to head the Decision Desk.** The goal is to provide a larger and more authoritative context for each call. This person, who would report to the president of

CBS News on Election Night, would have significant training in the decision process, with extensive knowledge of the data screens and how they work. He or she would monitor the editorial flow (in this case, the Florida breaking news) and integrate it with the Decision Desk's activities. This senior manager would also have to be able to withstand the competitive pressure if others made a call and he or she argued that more facts were needed before CBS News also made the call. CBS News has to be ready to be second or even last, and can make a virtue of its patience and determination to be accurate, even if it takes longer.

• **Move the Decision Desk into the Election Night studio.** This will promote constant contact between the news gatherers and the analysts. The consultants who work at the various correspondent desks on Election Night could also contribute to this dialogue. If a story is breaking, as it was in Florida this year, there will be constant interaction, instead of the Decision Desk functioning in a vacuum, as it did this time in an office three floors from the studio.

• **Assign a correspondent to the Decision Desk.** He or she can dissect close races in detail, with precise descriptions of what went into a call or why one has not been made. For example, he or she could explain that one call was made using only exit polls, another using exit polls and tabulated data, another not made at all because the exit polls did not match historical patterns, and so on.

• **Identify the closest races and toughen the criteria for making those calls.** CBS News should insist on a critical mass of both exit-poll and tabulated data before making a call in those close races; similarly, a call should be withheld in those states until the level of certainty meets an even higher standard than usual for calling a race. Such precautions might have prevented the bad calls in Florida.

• **Develop a new category of "leaning" to describe some races.** These are races in which one candidate has a solid lead but CBS News is not yet ready to make a call. This category could also be displayed graphically and integrated into CBS News' overall projections for the night. We should be willing to trade the illusion of certainty for genuine credibility.

• **Check multiple sources for vote tallies.** Make certain that members of the CBS News Decision Desk compare VNS numbers to those in the AP reports and on the Web sites of the Secretaries of State and, if there is a discrepancy, find out why. It would have rung an alarm if CBS News analysts had consulted those sources on Election Night 2000.

• **Strengthen our information gathering in close states.** We must unilaterally strengthen our operation by placing local political experts in appropriate state election locations to help us obtain actual vote numbers quickly and to assess the situation on the ground in places where it appears that the race will be close. We should conduct more pre-election telephone polls in closely contested states to deal with the growing number of absentee voters, and to achieve a better grasp of unique circumstances in each state. There will usually be no more than 10 or 12 states in this category.

"Fuller" Disclosure

• **Tell the viewers how calls are made, as often as possible.** We must explain regularly throughout the early hours of the broadcast how the exit poll is conducted and what it shows, so that the audience knows we are not consulting a crystal ball. The process should be less mysterious, more open: it will be informative and interesting for the audience to understand more of how we come to our conclusions. An explanation of how the exit poll is conducted should also be posted on the CBS News Web site.

• **Label calls appropriately.** We should use the words "projected" or "estimated" early and often, and make the word "estimate" much larger on the CBS News graphics. We need to remind the audience repeatedly that these are just predictions until the votes are actually counted. We should stress this language, with explanations, on the CBS News Web site.

• **Tell viewers why calls are not made.** We must clearly distinguish between races that are too close to call and races for which there is simply not yet enough information.

The Future of VNS

• **Invest more in VNS to address its problems or form a new consortium to build an alternative service.** VNS, in a preliminary review, cites its own imperfections: problems with the sample, with the equipment, with the software and with quality control. If the decision is to fix VNS, CBS News will have to spend more to address these issues, as will the other VNS members. The alternative is to develop a new service to perform the functions of VNS. This decision should be

made after members receive the final results of the review by the outside group that is studying VNS.

• **If the decision is to fix VNS, CBS News should recommend reorganizing the board.** To date, the VNS board has been made up primarily of polling or election-unit personnel from each network. We suggest that the board be composed of a vice president from each organization and that it focus on broad-based policy rather than on day-to-day management.

Poll Closing

• **Change the policy for calling with multiple poll closings.** We recommend that CBS News not make a call in any state until all the polls have closed in that state; this is a new policy. However, in states with multiple poll closings where less than 5 percent of the voting-age population remains after the first poll closing, or in states that report early results themselves, we recommend using the new "leaning" characterization if appropriate. Under this recommendation, for example, races in Texas, Kansas and Michigan—states where the voting-age population remaining after the first polls close is very small—could be described as "leaning" if one candidate has a solid lead. A Florida race could also be described as "leaning" under this formula because the states itself releases early results, even while polls are still open in the Panhandle.

• **Support a uniform poll-closing bill in Congress.** As CBS News has done since 1964, we continue to urge the adoption of a uniform poll-closing time. This reform would completely eliminate the possibility of voters being influenced by reported results elsewhere in the country; all results would be reported at the same time, as the polls close across the nation.

• **Encourage turnout.** During the broadcast, the anchor should repeatedly urge people to vote, as Dan Rather did on Election Night 2000.

I believe that these changes, and similar ones announced by our competitors, will go a long way towards ensuring the credibility that draws a vast national audience to Election Night coverage on television. We have performed this important role in the political life of our nation since the advent of broadcast journalism. Nothing is more important to us than meeting that responsibility with accuracy and fairness.

On a personal note, I am very proud of the process by which CBS News has publicly exposed the flaws in its Election Night performance and procedures. I believe we have met this challenge with a candor and thoroughness that few corporations have ever displayed in acknowledging and addressing their own problems.

Having said that, I think it is equally important to point out that I do not accept all the criticisms that have been leveled at our industry since the election.

The notion that the pattern of state-by-state calls reflected bias against President Bush, for example, has been rejected by the outside experts who examined every network, even those who were the most highly critical of us.

I can tell you from personal experience that the analysts and news executives who interpret Election Night data are worrying about one thing above all others: getting it right. Every projection is unique, based on a complex and ever-shifting set of data. And as we have all seen, the networks' calls are exposed for the world to see—and the penalty for mistakes is severe. It is simply not credible that politics plays any role whatsoever in the analysts' recommendations or in what makes it onto the screen. I was glad to hear Chairman Tauzin say last Thursday that the Committee's investigators "found no evidence of intentionally misleading or biased reporting."

This election also revived the decades-old debate about calling races in states before all the polls have closed there. Our report, like the findings of other networks, rejects the argument that the first calls in Florida—which came just 10 minutes before the final 5% of state polls closed in the Panhandle—had any measurable effect on voters.

However, as I mentioned earlier, given the widespread perception that network projections do affect voter behavior, CBS News has decided that in future elections we will not project a winner until all polls have closed in a given state.

In this regard, it is worth reminding the Committee that there is a simple way to resolve this issue once and for all—one that CBS News has advocated since the mid-1960's. This is a uniform national poll closing. We applaud the news that you, Mr. Chairman, Congressmen Dingell and Markey and several other Committee members are sponsoring such a bill.

Finally, I think it's important not to confuse news coverage of the election with the election itself. This election was unique in the experience of every living American. It took the nation—not the networks, the nation—five weeks to pick a President. Let's assume we had gotten Florida right and never projected a winner there: the country would still have undergone its five-week marathon, and there would still have been debate about the outcome and how it was reached.

Here is another excerpt from the CBS Election Night report, from the section entitled "Lessons Learned."

> "The election of 2000 revealed to the American people what had been a dirty little secret known only to politicians: even when elections are conducted with the best of intentions, they are approximations, prone to human error, mechanical error, confusion and disorganization . . . Across the country, not every vote cast is counted. In fact, according to the Committee for the Study of the American Electorate, for every 100 million voters, nearly two million ballots will not be counted for various reasons . . .

Against this background, it is important to consider how many factors were beyond the control of the news organizations covering this election, factors that affected each organization's ability to make some crucial calls correctly. There was human error: election workers improperly entered votes into the computer; precinct workers incorrectly copied or misread ballot tallies because of poor penmanship; voters made mistakes marking butterfly ballots; and ballots were lost. There was machine error as well: punch cards were not read; a memory disk malfunctioned in Volusia County; and there were other mechanical problems.

VNS could not or did not correct for these factors. Hindsight is always 20/20, and it is easy to observe in retrospect that VNS most certainly should have done so. Instead, it relied on, among other things, models and methods that had been very dependable in the past but that came up short in this extraordinary election. In the Florida exit polls, people reported how they had voted, assuming that their votes were being counted. Some may not have been. VNS also did not accurately factor in the absentee balloting. The unique circumstances of the Florida election exposed problems at VNS that must now be corrected.

But the ultimate responsibility for the calls we made lies with us at CBS News. It was we at CBS News who analyzed the data from VNS and decided when to make a call. And it is here where there are the greatest lessons to be learned. We hope we have incorporated all of those lessons in our recommendations for future election coverage.

CBS News will continue to strive for perfection, realizing that, as was made all too clear by this long election, perfection in any human endeavor is difficult to achieve and impossible to guarantee. What we can guarantee is this: that, just as we have learned from our mistakes in the past, we will learn from the mistakes made during this election and adopt new policies and procedures that will guard against similar mistakes being made in the future; that we will continue to reach for the truth in all we do, and report to the public without fear, favor or bias the events as they occur, no matter how complex or difficult the story might be."

We come here today voluntarily, out of our sense of duty to this respected body, and to the American people we all serve. I want to state for the record that I am very grateful for Chairman Tauzin's written assurances that this hearing is, "not out to prove a point or to make a political statement"—and that this Committee "will—in all respects—continue to be mindful" of [our] "1st Amendment rights and protections in this matter."

I believe the network news divisions play a vital role in our democratic process by informing citizens about the issues that shape their lives. In effect, we get "elected" every time someone turns on one of our programs or logs on to one of our websites. The Constitution protects us against unwarranted interference from government, but we, like you, are accountable to the most important constituency in America: the citizens of this great nation.

Chairman TAUZIN. Thank you very much. I deeply appreciate that attitude. That is what this is indeed all about. As I was asked this morning a little bit what this was about, I identified it as a platform for all of us to come and tell the American public what we are going to try to do to make it better and that is essentially it. I thank you for that.

Our next witness will be Mr. Tom Johnson, Chairman and Chief Executive Officer of CNN in Atlanta, Georgia.

Mr. Johnson, if you will help me through this again. You are aware that the committee is holding an investigative hearing and when doing so, it is the practice to take testimony under oath. Do you have any objection to testifying under oath?

Mr. JOHNSON. I do not.

Chairman TAUZIN. The Chair then advises you under our rules and the rules of the committee you are entitled to be advised by counsel.

Mr. JOHNSON. I am.

Chairman TAUZIN. In that case, would you raise your right hand, sir?

Oh, you have your counsel?

Mr. JOHNSON. I do. Floyd Abrams.

Chairman TAUZIN. I didn't hear that. Do you intend to testify, counsel?

Mr. ABRAMS. No, I will not.

Chairman TAUZIN. Then will you please raise your hand, sir.

[Witness sworn.]

Chairman TAUZIN. Counsel, you are entitled to sit at the table if you would like to.

Mr. ABRAMS. No, I am fine.

TESTIMONY OF TOM JOHNSON, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, CNN

Mr. JOHNSON. Mr. Chairman, members of the committee, I appear before you today to outline the decisions CNN has reached about the changes we will make in future election night coverage.

At the outset, I would like to say that CNN is acutely aware of our responsibilities to the American public and of the responsibility of Congress to enact appropriate legislation relating to the electoral process. At the same time, as you have heard earlier today, there are sensitive first amendment issues raised by any hearing relating to editorial decisions by journalists; and I trust the committee will, as it has said, bear those in mind.

Looking back on campaign 2000 coverage, I am very proud of the hundreds of CNN journalists who devoted their efforts to informing the American public about the issues of this last election. However, CNN did make major mistakes, both in its initial projection of Vice President Gore as the winner in Florida and then prematurely projecting that then Governor George Bush had won in Florida. As a result, I appointed a totally independent panel to advise us on what went wrong, why it happened, and what should be done to prevent a recurrence in the future. You heard from that outside panel earlier today.

As a result of our full review and to ensure complete reliability in the future, CNN has announced a number of decisions last week. The first relates to CNN's future connection with VNS. We will remain with VNS if and only if significant changes are made. The errors that plagued election night 2000 must never be repeated. Among the action steps: a revision of VNS's projection system and statistical models. These then will be reviewed by outside experts. Additional research into methods for better estimating the increasing number of absentee and early voters, as well as to better analyze the nonresponse rates and possible statistical bias which we have discussed in the exit polls themselves.

Beyond the efforts to improve VNS, CNN has decided that it will have a second source for the data used to make projections for the close races. CNN will fund a back-up sample key precinct vote-reporting system in the States that are expected to have the most

competitive races. We will then cross-check the information we received from this second source against the VNS data, making any projections based on the data more reliable. Also, CNN will insist that the Associated Press tabulation system, which has been very reliable, be better integrated into the VNS election night data collection system. CNN also will limit our reliance on exit polls. We will only use exit polls survey data to project a winner when the data indicate clearly that one of the candidates has a large margin at closing time.

Twenty-six States were called by CNN using VNS exit poll data. All of those were correct calls. Despite that, CNN will raise significantly criteria for future exit poll projections. If a race cannot be called at poll closing, CNN will only project a winner in that State using actual vote data from the statewide vote tabulations and sample precincts.

One of the lessons learned from election night is that when a race is extremely close, the reported vote might be incorrect. Therefore, even if it is reported and all of the outstanding ballots of the State are counted, CNN will not project a winner if the balloting shows there is a less than 1 percent margin between the two candidates. These new policies certainly will slow down our election night projections. Had these standards been in place this past year, we would have delayed at least 30 minutes in 10 States, and Florida never would have been called early in the evening for Vice President Gore or in the early morning hours for Governor Bush.

As you have heard from others today, CNN also has decided they will no longer project the winner in any State until all the polls are closed within that State.

As a result of our review CNN will also change our language regarding projections. CNN anchors will avoid saying that a State is too close to call if in fact we just don't have enough data available to call that State, and CNN's anchors will describe more specifically in each State the basis for our projections, whether it's exit polls, sample precincts or the reported votes. With these and the other proposed changes, I am confident the errors of the past will not be repeated.

I do want to respond to one question that has been raised, and I think it has been emphasized earlier today our reporting about election night was not biased. CNN's selection of which States to project winners at particular times in the evening was not biased. And on the matter of legislation, and I say this as much as a former Californian as a person today living in Georgia, I strongly urge the Congress to adopt a nationwide uniform poll closing act. If such an act were adopted, CNN would not make any projections until all the polls are closed nationwide.

To close, I assure this committee that CNN will go the last mile to fix the problems which have been identified. As I have told our staff, and I know that we all understand it, we would rather be right than first.

Thank you, Mr. Chairman.

[The prepared statement of Tom Johnson follows:]

PREPARED STATEMENT OF TOM JOHNSON, CHAIRMAN AND CEO, CNN NEWS GROUP

Mr. Chairman and Members of the Committee: I am Tom Johnson, Chairman and CEO of the CNN News Group. I appear before you today to outline the decisions CNN has reached about the changes it will make in its future election night coverage.

Let me start with our election night coverage. I want you to know that I am very proud of the hundreds of CNN journalists who devoted all their efforts to informing the American public about the issues in the last Presidential election, the electoral contest itself, the events on election day, and the extraordinary 35-day period afterwards in which the Florida vote was at issue. All of our efforts were dedicated to ensure that the American public was better informed than ever before. To a significant degree, I believe we did just that.

At the same time, however, CNN, as did the other networks, erred both in its initial projection of Vice President Gore as the winner in Florida and then in prematurely projecting that President George W. Bush had prevailed in Florida. As a result, I appointed a totally independent panel of experts to advise us on what had gone wrong at CNN, why it had happened, and what should be done to prevent against a recurrence in future elections. Three widely respected scholars accepted CNN's request to work on this project: Jim Risser, two-time Pulitzer Prize winner and former director of the Knight Fellowship program at Stanford University; Joan Konner, former dean and current professor of the Columbia Graduate School of Journalism; and Ben Wattenberg, senior fellow at the American Enterprise Institute. Last week, the panel completed its report and CNN released it publicly.

In addition to the panel's review, CNN, along with the other networks, funded a separate report by the Research Triangle Institute (RTI) of Raleigh, N.C. on the operations of the Voter News Service (VNS), an organization created and jointly funded by ABC, CBS, CNN, FOX, NBC and the AP. VNS provided, and all the networks used, Election Day survey data for projections and analysis and also provided a nationwide vote tabulation reporting system. As has become clear, some of the data VNS generated was erroneous and an examination of VNS's role was required and was initiated by the VNS board.

As a result of our review of events surrounding the erroneous Florida calls, CNN has made a number of decisions about the future. The first relates to CNN's future connection with VNS itself. CNN has determined to remain with VNS if, and only if, significant changes are made to ensure that the errors that plagued election night coverage in 2000 do not recur. The steps necessary to accomplish this include, but are not limited to:

- Implementation of the bulk of recommendations contained in the RTI report regarding VNS.
- Rewriting of VNS's projection system and statistical models that will then be reviewed by outside experts.
- Additional research into methods for better estimating the increasing number of absentee and early voters, as well as to better analyze non-response rates and statistical bias in exit polls.
- Initiation of a major upgrade and modernization of VNS's technical capabilities and infrastructure as outlined in the Battelle Practice Report, commissioned by VNS members in August 2000 and completed this month.

To accomplish these goals and to implement the bulk of the recommendations made in the RTI Report, additional financial contributions will be required of VNS members. CNN is prepared to pay its fair share. Further, if it remains a member of VNS, CNN will urge the addition of one or more outside respected academics, journalists or research professionals to the board to provide independent perspective regarding VNS operations.

CNN will, as well, appoint its Executive Vice President for News Standards to take an active role in its involvement with VNS. Let me reiterate, if VNS is not reformed, we will pull out and will support a potential successor organization should VNS fail to meet CNN's requirements.

Beyond the efforts to improve VNS, CNN has decided that it should have a second source for the data used to make projections in the closer races on election night. Therefore, CNN will fund a sample key precinct vote-reporting system in the states expected to have the closest races. This will ensure that our network can cross-check the information it receives from its new second source against the VNS data, making any projections based on that data more reliable. In addition, CNN will insist that the Associated Press tabulation system be better integrated into the VNS election night data collection system.

In addition, CNN has decided to limit its reliance on exit polls. CNN will only use exit poll survey data to project a winner when the data indicate one of the candidates has a large margin at the time that the polls close in that state.

If the race is too close to call, CNN will then only project a winner in that state using actual vote data from the statewide vote tabulations and key precincts.

If these standards had been in place on election night 2000, CNN's projection of a winner would have been delayed by at least 30 minutes in 10 states and Florida would never have been called early in the evening for Vice President Gore. As for calls made at poll closing in the 2000 election, 26 states were called by CNN, using VNS exit poll data, when the polls closed in those states. All were correct calls, and none was close. Despite that, CNN will raise significantly the criteria for these exit poll projections above what was used on election night.

CNN also has decided not to project a winner in a state, even if it is reported that all the outstanding ballots have been accounted for, if the balloting shows that there is less than a 1% margin between the candidates. This would have prevented the too-early call of Florida for President Bush.

CNN also has decided that it will no longer project the winner in any state until all the polls are closed within that state.

We believe it is important that our viewers know more about how we gather information and how we deal with the information we have gathered. Accordingly, CNN will draw back the curtain for our viewers on the exit poll and projection process. In the days leading up to the election, CNN will produce a number of reports on its election night reporting. We will provide other "behind the scenes" reporting to show viewers how the projection process works. In addition, on Election Day, CNN will assign a number of correspondents to report on how the key precinct and exit poll workers do their jobs.

In addition, CNN will assign its own reporters to the control room, the CNN Decision Desk, and to VNS (or its successor) during the broadcast to provide "behind the scenes" reporting that will let viewers see how the projection process works.

As a result of our review of our coverage on election night, we have decided that CNN will change its language and graphics on election night regarding projections. Until all the votes have been counted in each state, CNN will no longer call anyone the winner of a state. No longer will CNN anchors say, "CNN calls Al Gore the winner in Michigan," but will instead try to explain better what is the basis of the projection. For example, anchors will say, "CNN projects that, based primarily on exit poll estimates, Al Gore will win Michigan," or will say, "Based on the results of voting from key precincts and an evaluation of the returns so far from around the state, CNN estimates George Bush will win the state of Virginia."

In addition, CNN will be careful with its language regarding the reasons for why a call is not being made. It will instruct its anchors to be specific. "It's too close to call in Georgia," has a different meaning from "We don't have enough information yet in Georgia to make a call there." The former means it is a close race. The latter simply means we need more information to make any type of characterization.

CNN's onscreen graphics will reflect better what it knows and precisely what it means to say. On election night, CNN's full-screen graphics included the words "CNN Estimate," but the words were not as prominent as they should have been. CNN's new policy will position the words "CNN Estimate" as the title on the full-screen graphic.

In very close races, CNN's reporting will inform viewers at the earliest appropriate time regarding a state's mandatory recount provisions.

With these changes in effect, we believe that we can address the future confident that the errors of the past will not recur. We will do all in our power to ensure that they do not.

I want to add a further observation of my own about the past and the future. We are, as I have said, proud of the CNN journalists who worked so hard on election night to inform our public. And I want to respond to one question that has been raised about our coverage in the clearest, most unambiguous way. CNN's reporting about election night 2000 was not biased. CNN's journalists were not biased, CNN's coverage was not biased, CNN's selection of which states to project winners, at particular times in the evening, was not biased. I strongly believe that the same is true, as well, of VNS.

Finally, I do want to address the matter of legislation. I strongly urge the Congress to adopt a nationwide Uniform Poll Closing Act. If such an act were adopted, CNN would not make any projections until all the polls were closed nationwide, just as it will not make any projections in any state until all the votes in that state are cast. To the extent that the committee is concerned that the announcement of who the likely, or even certain, winner is in one state could affect voting patterns in another, the adoption of legislation providing for a single time at which all voting

ceases in the country would assure that even the potential of any such impact was avoided.

Because the 2000 election was so close, it exposed problems with the mechanics of voting, that have been there for some time, but were not noticed. In the same way, it exposed problems with the operation of VNS. I say this not as an excuse, but to put the situation in perspective. As with the steps that are being taken with election reform, we are going to take every measure to make sure our own problems are corrected.

Chairman TAUZIN. Thank you very much, sir. Our next panelist will be Roger Ailes, Chairman and Chief Executive Office of Fox News, New York, New York. Mr. Ailes, if you will help me through this process. Mr. Ailes, you are aware that our practice is to take testimony under oath when we are doing an investigative hearing. Do you have any objection to testifying under oath?

Mr. AILES. It wouldn't make any difference. I plan to tell the truth either way.

Chairman TAUZIN. Very good. The Chair then advises you that under the rules of the House and rules of the committee you're entitled to be advised by counsel. Do you desire to be advised by counsel here?

Mr. AILES. My counsel is here, Diane Brandy, in case I need some documents or whatever. She does not plan to testify.

Chairman TAUZIN. In that case will you please raise your right hand?

[Witness sworn.]

Chairman TAUZIN. You are now under oath. You may give your testimony.

TESTIMONY OF ROGER AILES, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, FOX NEWS

Mr. AILES. Thank you, Mr. Chairman, Mr. Dingell, who I guess is not here, members of the committee. I appreciate the opportunity to tell what happened on election night 2000. This was Fox News' first cycle with VNS, 1998 and 2000, and our first Presidential election. In a sense both the networks and Congress have similar tasks. We've had to come up with solutions for our reporting on election night and Congress is considering election reform and campaign finance reform. These are very complicated issues and take years to sort out, but in just a few weeks we've come up with what we collectively believe are solutions to the problems that we had on election night 2000.

Like you, I am concerned about the mistakes we made. Our viewers depend on us for reliable and accurate information, especially during important events like a Presidential election. If we lose their confidence we have lost everything. For this reason at my direction Fox News performed an in-depth review of events that transpired on election night. As everyone knows, Voter News Service, a consortium with a good track record, gave out bad numbers that night. In the closest race in history the wheels apparently came off a rattle trap computer system which we relied on and paid millions for.

As Fox relied on those numbers, we gave our audience bad information. Our lengthy and critical self-examination shows that we let our viewers down. I apologize for making those bad projections that night. It will not happen again. We were the first network to an-

nounce that we will never call a State again until all the polls are closed in that State. We are working on internal safeguards, including placing more of our own personnel in key precincts, in order to gather information and report results. If we stay with VNS, we will spend more money to help fix the computer models and help report the elections.

Fox News favors Mr. Markey, Mr. Dingell, Chairman Tauzin's legislation for universal closing times across the Nation.

Now I would like to say a few words about this hearing. From the beginning Fox News cooperated fully with this committee to find solutions. While I honor and respect this committee's role in searching for legislative solutions, Mr. Chairman, I am deeply disappointed that this is being handled as an investigative and not a legislative, fact finding matter. I am further disappointed that this committee views its role as adversarial, requiring us to take an oath as if we have something to hide. We do not. With or without a swearing in photo op, we will hide nothing. I know all of these gentlemen at this table personally. I have worked with some. We are all competitors and in some cases we don't agree on issues and in other cases we are not even that fond of each other. However, we all understand the importance of our respective journalistic enterprises and journalistic integrity. And they as well as I will tell the truth whether we are under oath or not. Everything our organizations did on election night was done under the protection of the first amendment, and that may become more relevant as these discussions and questions continue.

A final personal note: There seems to be a bipartisan agreement that we should slow down our competitive spirit and thereby slow down the election, and I can almost assure you that if you put us through another day like this the next results may not be known for 3 weeks.

Thank you, Mr. Chairman.

[The prepared statement of Roger Ailes follows:]

PREPARED STATEMENT OF ROGER AILES, CHAIRMAN AND CEO, FOX NEWS NETWORK

Let me begin by stating that Fox News, along with all the other television networks, made errors on election night which cannot be repeated, the biggest of which occurred in Florida.

Fox News acknowledges here that it failed the American public on Election Night and takes full responsibility for this failure.

These errors have led to much self-examination of the processes we used on election night, how the Voter News Service operated on election night, and our membership in the Voter News Service.

Through our self-examination and investigation we have determined that there was no intentional political favoritism in play on election night on the part of Fox News.

In hindsight we made a significant error in relying on VNS data alone, although that was the only data available. Obviously, it would have been better to have at least one other source of data, but up until now economic considerations have made this unfeasible. We look at VNS in much the same way the networks combine resources for pool cameras, the Associated Press, etc.

As you may know, the Fox News Channel launched on October 7, 1996. From the moment we launched we intended to compete with the big established television news networks. In order to cover elections in a competitive manner, we believed we would have to join VNS. But it was not an easy decision for us. First and foremost, membership in VNS was (and is) very expensive, especially for what was, at the time, a fledgling television network. But, after many internal discussions of both editorial and financial natures, we decided to join. I understood VNS had a good, solid record of calling races until the 2000 elections. For example, 99% of the calls

which VNS made over the last two election cycles have been accurate; 100% of VNS' calls in 1998 were accurate.

Now, however, we feel the purpose, intent, processes and models of VNS must be carefully examined in a formal manner and we are willing to spend more money as a VNS Member to make this examination happen.

Let me assure you that Fox News operates in the interest of the public and attempts at all times to conduct itself with that fact in mind.

Since election night, the issue of voter suppression has been written about and discussed.

Would it have made any difference in voter turnout if the television networks waited until all polls in the state of Florida, and in every other state for that matter, had closed before declaring a winner. When Fox News called Florida for Al Gore at 7:52 pm, there were eight minutes remaining for citizens in the Florida panhandle to vote.

Well, I don't know the answer to that question, but to remove all doubt it is a simple enough remedy for a television network to wait until all polls in a given state have closed before declaring a winner in that state.

Shortly after election night, Fox News became the first network to announce that going forward it would not call a winner in a given state until all polls in that state were closed.

I would now like to discuss briefly Fox News' relationship with VNS and our Decision Desk Team.

John Ellis headed our Decision Desk team. He was joined by John Gorman, Arnon Mishkin and Cynthia Talkov. All four members of the Decision Desk had to agree on a call before it was recommended to John Moody, our Vice President of News Editorial. Mr. Moody then made the final decision regarding whether or not to make a call on the air on election night. The Decision Desk team would unanimously recommend a call and Mr. Moody would either accept it, in which case it got to air, or he would question it in which case the Decision Desk team would walk him through the numbers until he was comfortable making the call on the air. Mr. Moody was also responsible for the retractions we made on the air.

I would like to say a few words about John Ellis because I am sure you are all familiar with him and his family connections. Mr. Ellis is the first cousin of President George W. Bush and Governor Jeb Bush. We at Fox News do not discriminate against people because of their family connections. I am more than happy to give you examples of offspring of famous politicians who are employed at Fox News.

As for Mr. Ellis, he has almost 23 years of experience in calling elections. I won't go through his entire resume with you, but I will highlight the fact that he worked in NBC's election unit for over 10 years, including when George Herbert Walker Bush ran for President in 1988. I have personally known Mr. Ellis for almost 20 years. He is a consummate professional. Much ado has been made about a column Mr. Ellis wrote for The Boston Globe in July 1999 where he stated in effect that his loyalty to then Governor George W Bush would prevent him from writing further columns about politics.

I am aware that Mr. Ellis was speaking to then Governor George W Bush and Jeb Bush on election night. Obviously, through his family connections, Mr. Ellis has very good sources. I do not see this as a fault or shortcoming of Mr. Ellis. Quite the contrary, I see this as a good journalist talking to his very high level sources on election night. Our investigation of election night 2000 found not one shred of evidence that Mr. Ellis revealed information to either or both of the Bush brothers which he should not have, or that he acted improperly or broke any rules or policies of either Fox News or VNS. By the way, Mr. Gorman and Mr. Mishkin were speaking to high level Democratic sources throughout the evening.

To be clear, there was no information which John Ellis could have given to anyone nor was there any unilateral decision which Mr. Ellis could have made which would have affected the outcome of the election.

I understand that you may ask me specific questions about the decision screens which were used that night and about other data. I depended entirely on our Decision Desk. I trusted them (and still trust them) to do a professional job and I believe they did the best job that night they possibly could have.

I elected not to study these decision screens and other data solely in preparation for this hearing since I have never looked at them before in my life. So any questions you ask me about data will be a blind alley.

Conclusion:

We must all question what purpose early calls serve, apart from bragging rights. We must especially question the purpose of early calls since we all rely on one source for our information.

You know I have toyed with the idea of not covering the next election until the day after when all the votes have been tallied and the winners are certain beyond all doubt. I have even thrown this idea out to some members of my senior staff. They looked at me skeptically, as if they weren't sure whether or not I was kidding. I am, after all, the head of a news organization and this idea seems completely contrary to all I should be about.

But in my heart I do believe that democracy was harmed by my network and others on November 7, 2000. I do believe that the great profession of journalism took many steps backward.

Here is what Fox News recommends going forward.

- No announcing of winners in any state until all polls in that state have closed.
- Fox News favors uniform poll opening and closing times across the entire country, perhaps opening at 11 am Eastern time and closing at 11 pm Eastern time (i.e. opening at 8 am Pacific time and closing at 8 pm Pacific time). Perhaps voting takes place on a Saturday or perhaps a new federal holiday is declared for voting.
- Fox News intends to produce several news packages around the time of the next elections to explain various elements of the election process, including how the Electoral College was established, what its purpose is, explaining how "projections" are made, explaining any built-in biases in the systems that are used to interpret data and call elections.
- Going forward, Fox News will inform its viewers of the margin of error in each call it makes, however small.
- Fox News is considering more internal safeguards for the next election including placing more of its own personnel in key precincts in key states to gather information and report on results.
- Fox News recognizes that having all networks relying on one source of data, VNS, is problematic.
- Accordingly, the purpose and processes of VNS must be carefully reexamined in a formal manner. The models must be rebuilt. The systems must be modernized. Fox News is willing to spend more money as a Member of VNS to go through this reexamination process to ensure that we get it right the next time.

Thank you for the opportunity to address you.

Chairman TAUZIN. Thank you, Mr. Ailes. I would like to report to the committee that we held quite a number of investigative hearings during the last session of Congress. We had 128 government and 170 nongovernment witness, all of whom were traditionally placed under oath. It has no other meaning other than the fact that investigative hearings are taken under oath.

Our final witness on this panel is Mr. Andrew Lack, President of NBC News, New York, New York. Mr. Lack, if you will kindly go through the procedure with me.

You are aware the committee is holding the investigative hearing and when in doing so the practice is we take testimony under oath. Do you have an objection to testifying under oath?

Mr. LACK. No, sir.

Chairman TAUZIN. The Chair advises you that under the rules of the House and the rules of the committee you are entitled to be advised by counsel. Do you desire to be advised by counsel during your testimony today?

Mr. LACK. No, sir.

Chairman TAUZIN. Then if you will kindly raise your hand, sir.

[Witness sworn.]

Chairman TAUZIN. You are properly sworn and you may give your testimony, please, sir.

TESTIMONY OF ANDREW LACK, PRESIDENT, NBC NEWS

Mr. LACK. Mr. Chairman and members of committee, thank you. I would expect that you would like to get to some questions and answers pretty quickly, so I'm not going to use all of the time that's

allotted to me for my initial remarks. You already have my prepared statements and you know that that summarizes the findings of our election night broadcast and details the steps that we are taking and the steps that we have taken to avoid the errors that occurred that night. Make no mistake about it, we are embarrassed by those errors, and you have heard chapter and verse today from some of my distinguished competitors. I join them in ensuring that we are absolutely intent on avoiding them and making sure they don't happen again.

But I would, if I may, like to spend just a few moments to take a different cut at this and call your attention to something that is far more embarrassing to me and more important to me as a reporter and as the President of NBC News. It is something which was exposed to the country in the days and weeks following November 7, and it's something that I worry may get just a little bit lost in the context of these hearings. Where was our reporting before November 7 about the potential impact of ineffective voting machines or confusing ballots or inadequately staffed polling sites? What was the potential impact of a system that might in fact be protecting felons who vote? We knew this was going to be a close election, and I just don't understand how it quite turned out that we didn't know much about automatic recount standards which are, as you know, somewhat arbitrary and incredibly arcane, at least for me.

We know now that if you are registered to vote it doesn't always mean you will be permitted to. We know if you're in the military and you mail in an absentee ballot it doesn't necessarily mean it will be counted. We know if you're poor in this country it means it will likely be that you will have a little bit more difficulty voting than if you are rich. It occurs to me that a good question for us would be for the price of a new Federal highway could we have gotten this whole system fixed?

Millions of votes are thrown out in election after election in this country. Now that is a story. Now there's a screw-up. We didn't do nearly enough digging, it seems to me, into those facts. And if we'd asked some of these questions before the election and had some answers, we might have been in a whole lot better shape on election night than we were. We booted it in more ways than one.

So I just ask respectfully of this committee that as this hearing winds down, that you extend your focus beyond just the problems that the networks experience on election night and look at the problems that the voters experience on Election Day. As a journalist I wish I had.

And I yield, Mr. Chairman, the balance of my time.

[The prepared statement of Andrew Lack follows:]

PREPARED STATEMENT OF ANDREW LACK, PRESIDENT, NBC NEWS

Thank you for the opportunity to speak here today.

I know that many of you have expressed concern about the way NBC and the other networks reported the presidential election results on the evening of November 7th. Let me assure you that no one is more concerned about what happened on election night than we are at NBC News. That is why we have moved aggressively to determine what went wrong and to begin to put in place the checks and balances needed to ensure that our future election night reporting is in keeping with our proud tradition.

On election night, NBC News had to take back a call made in an important race. And we had to do it not once, but twice. We reported at 7:49 p.m. Eastern time that Al Gore would win the state of Florida, and then had to withdraw that call at 10:16. Next, we reported, at 2:17 in the morning, that the state of Florida and the Presidency would go to George W. Bush—a call we had to withdraw at 4:00 a.m. because the vote count, in fact, was still very much in dispute. At that point, as Tom Brokaw said, we didn't just have egg on our face, we had omelet all over our suits.

The next morning, we began a top-to-bottom review of NBC's own election night procedures and insisted on an independent assessment of Voter News Service as well. In the process, we have learned a lot about how we cover elections, about the quality of the information that is supplied to us on election night, and about some of the steps that we need to take to improve our election coverage.

I'd like to outline some of those conclusions for the Committee, but there are two important issues that I'd like to address first: one, the charge that political or partisan considerations are a factor in our election reporting, and two, the allegation that our election projections cause voters to stay home from the polls.

I have heard the allegation of political bias, and as I understand it, the charge is that our projections for certain states were delayed—that some of the so-called "Gore states" were called more quickly than some of the "Bush states"—that, somehow, we favored the Democratic candidate.

Let me respond by stating, unequivocally, that I am absolutely certain that political bias played no role in NBC's election night reporting. We have one mission when it comes to reporting results on election night: to do so as accurately and as quickly as possible. We believe our election night viewers want to know who is winning and who *will* win that night, and they want to know as soon as we have the ability to tell them. We aim to provide that information—with no agenda other than timely and responsible reporting. We have reviewed each of the projections we made on election night; we have confirmed that each projection was made just as soon as our highly experienced election experts determined, in good faith and based on the data in front of them, that a call was appropriate.

We are mindful, of course, of the concern that projecting election results while polls are still open in some places may discourage some voters from voting. We have decided that, for states in which polls close at different times (such as Florida), we will no longer project until after the last scheduled poll closing time in that state. We think this change will help avoid confusion among potential voters about what time the polls in a state actually close.

As for the charge that voters in the western time zones stay home on election day because of televised coverage of results in the east: the Committee no doubt is aware that no *reliable* study has ever concluded that voters are actually so affected by our broadcasts. We have looked closely at this issue, however, and we continue to keep an eye on all of the research and data available. And, although, as a news organization, we tend not to take positions on legislative policy initiatives, we do support, as we have stated in the past, a national uniform poll-closing time.

It's worth pointing out as well that, during our election-night broadcasts, our anchors frequently remind our viewers that polls may still be open in their communities and that they may still have the opportunity to vote. On November 7th, Tom Brokaw made statements to this effect a number of times during the broadcast.

Of course, we did make mistakes on election night. Our review of NBC's performance that night is ongoing, but we have already learned and concluded that a number of fixes have to be put into place. I make these observations having accepted the recommendations of a review team that included two NBC executives and the dean of the Graduate School of Journalism of Columbia University:

* VNS has to be retooled or replaced. We now have the benefit of an extensive report by Research Triangle Institute, an independent non-profit firm, and RTI has confirmed what we immediately suspected: that the data our experts relied upon on election night was flawed in a number of ways. We now know that, while the fundamentals of the VNS methodologies are sound, VNS performance suffered when it came to implementation and quality control in a contest as close as the Florida presidential race. In addition, the VNS computer system, a critical part of the process, appears not to have been up to the complexity of the job.

  As for whether we should continue to use exit polls and early vote returns from key precincts to project election results, we continue to believe that these can be valuable sources of information for our viewers. It is obvious, however, that polling methods need to be further adapted to address recent trends and changes in voting patterns, including the increase in absentee voting. For instance, we may need to increase election day exit polling and pre-election tele-

phone polling for races expected to be close. We have stated already that we are prepared to increase our budget to make such improvements.

* We also need to make certain that we use supplementary sources of data as a way to verify the accuracy of the information we get. We learned from election night 2000 that even the tabulated vote as reported by election officials can be inaccurate. We are hopeful that, by the time of the next elections, official data from states and counties will be more accurate as well as more easily and quickly available, on the Internet or through direct computer feeds.
* And, perhaps most important, we need to better explain to our viewers the type of data that we have, where it comes from and what it means. We must differentiate for our audience the projections that we make based on exit polling and those that we make based on actual tabulated votes, and we need to define our terms, like "projection" and "too close to call". Our nomenclature and our graphics must be clear, understandable and precise.

Finally, I'd like to address the ultimate issue of whether we should stop making election night projections at all. We think not. Projections answer the questions our viewers want to know: how have people voted, and who will win a given race. And, of course, holding back this information would hardly stop the flow of unreliable information coming from the Internet and elsewhere, raising the potential for far greater confusion.

In summary, we at NBC News have already learned a great deal about what went wrong on election night and what we need to do in the future to ensure that our viewers have the most accurate, reliable and understandable election night information.

It is no consolation to us that the closeness of the election revealed far more serious problems in the American election system than the ones we experienced, that many citizens had trouble voting or having their votes count. It will be up to the members of Congress and other elected officials to spend whatever time and effort are required to fix those problems. In the meantime, we are committed to fixing our own.

Chairman TAUZIN. You do that very well. The Chair recognizes himself and members in order. Let me first again thank you all for voluntarily appearing and for participating under the rules that are set for these types of hearing. And second, I can assure you that as we go through this process I've asked all the members on our side and I know that Mr. Dingell has similarly requested all members to respect the boundaries that we've discussed here today.

Let me first ask you a bit about your thoughts on exit polling and the value of exit polling in this process. The testimony we just heard and a lot of our own research indicates that exit polling has not gotten much better and it may have gotten worse over the years in being a good determinator in which to make a projection, that, as you heard witnesses say, that the number of nonresponses drives up the margins of error, and we've seen some statistics indicating as much as 16 percent errors in those election projections because of that and other problems that you identified, Mr. Savaglio.

Do you disagree that exit polling is getting worse not better? Anyone. Anyone thinks it's getting better?

Mr. LACK. Well, I don't know that I know the scientific answer to that from a statistician's point of view, but my sense is that in fact it is getting better. From our conversations at our decision desk and with the people that we speak to at VNS, one of the problems that occurred on election night is they didn't have enough exit polls arguably to make some of the projections or to use it as one of the tools that they were using as part of the projection process.

Chairman TAUZIN. Does anyone else think—Mr. Ailes, do you think it's getting better?

Mr. AILES. I think—was there some question of bias toward the Democrats in the exit polls? Because that's a question that I heard

earlier today. There seemed to be some statistical bias in that direction.

Chairman TAUZIN. No, I'm just asking do you think it's a better reliable indicator of where voters had voted than it was 5 or 10 years ago.

Mr. AILES. It is very hard to tell. Some pollsters will tell you they're getting more accurate. Most pollsters will tell you even in polling, let alone exit polls, that fewer and fewer people are willing to offer information about themselves personally and privately. But I don't know the empirical data. I do know that when Republicans come out of polls and you ask them a question they tend to think it's none of your business and Democrats want to share their feelings. So you may get some bias there that is inadvertent, just because it's a cultural thing and unless you send the Republicans to sensitivity training you're not going to get them to do that.

Chairman TAUZIN. Mr. Ailes, that was actually one of the conclusions of the analysis of VNS that was made, that indeed it may be a cultural difference between members of different parties.

Mr. Westin.

Mr. WESTIN. Yes, our statisticians and our analysts have taken a look at this and you go back over the last three elections, including the 2000 election, and you look at the overall statistical skew of the exit polls nationwide, you will find that whereas in 1992 it was roughly 5 percent, in 1996 it was just under 2.5 percent. I think it was 2.3 and in 2000 it was 1.4 percent average overall. So in terms of statistical skew. Now, as you know, Mr. Chairman, the difficulty with statistical skew, while it is true on average over time it tends to overpredict Democrat candidates more than Republican, in any given race it can favor a Republican or a Democrat. And even in 2000, if you go back and look at the elections, there were some larger States and key States where there was a statistical skew in favor of then Governor George W. Bush. For example, Pennsylvania was one we delayed 80 minutes, and I believe that was in large part because in fact our exit polling was overpredicting George W. Bush.

Chairman TAUZIN. Yes, it did go both ways.

Mr. WESTIN. It did go both ways.

Chairman TAUZIN. Let me ask you, do you as a group believe that the original opinion of the networks, you know, we've got the opinions going back to 1980, we were pretty hard on exit polls. Walter Cronkite was tough on them. Robert Whistler, the Executive VP of CNN back then, said this is information of their own manufacture and posed a significant risk that the actions in producing these polls and reporting on them might influence the electoral process themselves. How do you answer the criticism that they really are produced by the news networks themselves? They are literally not news you find but news you create.

Mr. WESTIN. Right, two or three points. First of all, at ABC News, and I know this is true of my colleagues, we would not use exit polls if we didn't think it increased the accuracy of our reporting. It doesn't mean they're always accurate in and of themselves, but if that additional input into our consideration doesn't increase the accuracy we wouldn't be using them as a practical matter. That's why we use them. And I think if we took exit polling out

of it, our reporting would tend to be less accurate than it is now. But to your specific question, there is an awful lot of reporting that ABC News does and that all of my colleagues do on any given day in this country that has to do with what is thought to be likely to happen, whether it's conflict in the Middle East or what Alan Greenspan is likely to do or even what Congress is thought to be doing. We would be doing something bad for this country if we said from now on news organizations don't report anything until after it's over and surprise everyone.

Chairman TAUZIN. Let me understand the agreements that I think most of you are trying to make with the American public today in terms of using those polls. Most of you speak about not using the exit poll until all the polls have closed in a given State. By that do you mean the hours that polls have closed or when the voters in line finish voting. Anyone?

Mr. BOCCARDI. I think what we are saying here today is that the hour when the polls close would be the problem.

Chairman TAUZIN. I think that's what you all meant, as I read your statements.

Mr. BOCCARDI. The thing that you are raising would be almost impossible.

Chairman TAUZIN. I don't know how you would administer it, and it is one you could set a time, you could say 15 minutes after, 20 minutes after. But do you understand there is still a lot of concern that there are a lot of people standing in line even at the hour the poll closes. In fact, we had testimony that there were 2 hours of voting in some places going on even after the polls close. So even an agreement that says we won't report an exit poll until the hour the poll closes may leave a lot to be desired, although it goes a long way. I'll give you that.

Mr. BOCCARDI. If they're on line with their radios listening for——

Chairman TAUZIN. Or their cell phones. Gosh, we have all kinds of communications today. But understand that has been raised to us as one of the concerns regarding how we resolve this even if we go to a uniform poll closing time.

I wanted to do one last thing with the very last minute I've got. On the VNS screens, when you post the information to the networks on those screens, we have to tabulate the screen tabulations for 2:10 in the morning. The screen that was presented to all the networks when the networks made the call that the election was over, George Bush won, those screens indicate there were only, according to VNS estimates, only 179,000 voters left in Florida to vote. Was that a correct number, Mr. Savaglio?

Mr. SAVAGLIO. No, that was a pretty substantial underestimation.

Chairman TAUZIN. About two to one. They had almost twice the number left to go. If you could take the mike.

Mr. SAVAGLIO. Thank you. That was——

Chairman TAUZIN. Again, so we can make sure we get the understanding correctly. The screen that presented the information on Florida, the VNS screen, indicated that you had 96 percent of the vote in, 3 percent was out. 179,000 votes was your estimate of votes out. That proved to be fairly inaccurate, right?

Mr. SAVAGLIO. Well, it was inaccurate, correct. It was a considerable amount, 359,000 votes.

Chairman TAUZIN. Almost twice as much were really out. The screen also says that for Al Gore to have a chance to carry Florida at that moment on that screen that he needed to get 63 percent of vote.

Mr. SAVAGLIO. Right.

Chairman TAUZIN. Was that information forwarded to all of the networks at that hour of the night?

Mr. SAVAGLIO. Well, that was on their screens and I appreciate that you've asked me the one question that you don't have to be a statistician to answer because I'm not. The outstanding vote calculation is a very simple, call it crude if you want, calculation. It simply states the number of precincts that have reported out of the total number that are to report. It takes and divides that and assumes all precincts are the same size.

Chairman TAUZIN. But they're not.

Mr. SAVAGLIO. But they're not. And so it's simply a ratio. If 50 percent of the precincts are in and there's 1,000 votes, it assumes the next 50 percent are going to be another 1,000 votes. And the reason the calculation is put in that way is to give the information that's available. It's not possible to—in most cases to get the particular precincts or at least it's not possible in a reporting fashion to put into our system the specific precincts and their size and the number of votes from each one as to come up with a more specific number.

Chairman TAUZIN. But the bottom line is you gave the networks that night on the VNS screen some relatively inaccurate information, right?

Mr. SAVAGLIO. Yeah, there's no question about that.

Chairman TAUZIN. Thank you. Mr. Waxman.

Mr. WAXMAN. Thank you very much, Mr. Chairman. There has been criticism, and I mentioned it earlier in my opening statement, that John Ellis, who was President Bush's cousin and who had talked with Mr. Bush, Governor Bush, now President Bush, throughout the election night was responsible for Fox's decision to be the first network to declare George Bush the winner of Florida and the presidency.

Mr. Lack, I'd like to know if you would walk me through the process at NBC on election night. Who at NBC had the responsibilities assigned to John Ellis at Fox?

Mr. LACK. A gentleman, Dr. Sheldon Gliser, who is director of our election desk.

Mr. WAXMAN. There is an allegation making the rounds that Jack Welch actually intervened in NBC's decision to call the election for George Bush. I don't know if you've heard that rumor before. I would like to lay it out there and have you comment on it.

Mr. LACK. I have heard the rumor and it's untrue.

Mr. WAXMAN. Well, I would hope the allegation is untrue. If it were, it would be absolutely inappropriate. But I've been told that Mr. Welch's actions were observed by others and in fact were even captured on tape, filmed by NBC's advertising and promotions department. It's difficult for me to believe it's true, but it seems there is a simple way to either verify or debunk this allegation. I would

like to have you, if you would assure us that we would get that tape and, Mr. Chairman, I would like to ask you if you would to make sure that we have any subpoena that might be necessary so that if there is such a tape that we have it available to us.

Chairman TAUZIN. Pursuant to our rules, we will take that under advisement.

Mr. WAXMAN. Mr. Lack.

Mr. LACK. You're certainly welcome to the tape. I know that advertising and promotion was around there. I don't know if there is a tape for you to look at. I was aware that Mr. Welch was there. I observed him. He was in the building to attend a political party, network party, and he was invited down to observe on a very historic night and a very exciting election night how we were doing and what we were doing, and that's precisely the manner in which he was there. I think it's unfortunate that some rumors would get started that because he observed our election night process at that point that that would somehow like in a Rashoman-like tale turn out to be that he intervened in the election process, which is untrue and rather foolish, but that's rumor.

Mr. WAXMAN. And you yourself were there at the time?

Mr. LACK. Yes, I saw him. I can state categorically that it's just a dopey rumor, truly dopey.

Mr. WAXMAN. Thank you very much. Thank you, Mr. Chairman.

Chairman TAUZIN. Very good. Mr. Stearns I believe is next. He's not here. Mr. Burr.

Mr. BURR. Mr. Chairman, thank you. And since I was not here when this panel was seated let me take this opportunity to welcome all of you. I am not sure if the chairman asked but I would like to get a response from each of you as to whether your representative medias plan to use exit polling in the future.

Mr. LACK. I'm sorry, could you ask that again?

Mr. BURR. If in fact your company plans to use exit polling in the future.

Mr. LACK. We do.

Mr. BURR. You do.

Mr. AILES. We will also do it. It's under review what we will tell the audience about exit polling. We believe there was not enough disclosure and definition to some of the terms used, light projection and exit polling and so on, and so the answer is we will use the information as long as we believe it is not misleading to the audience in some way.

Mr. JOHNSON. CNN will use exits polls provided we are convinced of the reliability of the exit poll process, the exit poll methodology.

Mr. BURR. Could I stop you there and just ask you what would it take to convince you of the accuracy of the exit polling given that the person who is being polled has the ability to tell you the truth or an untruth?

Mr. JOHNSON. We would need to determine statistically, if possible, to what extent we were getting misrepresentation. I do not believe there is a good answer to an outright lie.

Mr. BURR. There is certainly not a perfect answer, but you raised exactly the point I wanted to get at, that at this point in this process the statistical accuracy was important. I would like for the rest

to answer the question and then I would like to go back to the importance of statistical accuracy.

Mr. HEYWARD. Yes, Congressman, we intend to use them as well judiciously in a larger context. I think it's important to remember that exit polls are just one of many tools even in making a projection. Every single projection that was made solely of the basis of exit polls was correct. I think there's a danger of demonizing them a little bit. But having said that, they have to be improved. I think that the statistical sample and the population habits and voting habits have changed. We have to try to adjust for that. But they are one of many tools even to go into a decision but, yes, we intend to continue using them and we'll do our best to get them judiciously obviously. The penalty for error is very severe.

Mr. WESTIN. ABC News will continue to use exit polls as long as we believe it will increase the accuracy and timeliness of our reporting. At this point I believe, particularly with the improvements that we've specified and have been discussed, I believe that it increases the accuracy and timeliness of the reporting, which is not to say they're perfect. I haven't found a perfect system yet.

Mr. BURR. Nor have we.

Mr. BOCCARDI. We will continue to use them in the same way we have used them before. We will be looking very carefully at how they are done at VNS and what needs to be done to make them even more reliable than they have been. I repeat a point that I said at the outset in my opening statement, and I don't think you were here, we made one mistake election night and that was on the early call for Gore in Florida. And exit polls were integral to what we did that night.

Mr. BURR. Let me go, if I could, to the question of the accuracy of the statistical data, the statistical model. How many of the companies expressed concern about the model that VNS was using? I'll either let the companies address that——

Mr. WESTIN. Prior?

Mr. BURR. Before election night.

Mr. WESTIN. There's ongoing discussion through the board members at VNS about statistical models and they're changed fairly regularly in a somewhat minor regard. As I said earlier, to some extent we were the victim of our own success, if you will forgive me. This had been a system that had allowed us to project many, many elections over a long period of time accurately and it led to hubris on our part. I will only speak for ABC News in that regard. But we came to believe that we really could do this with a very, very high level of accuracy, and it also let us as we went on the air overstate the certainty with which it was done. I think that the experience of November will discourage some of the hubris.

Mr. BURR. If I could, let me go to the comment that was said earlier of the caveat to your statement by using exit polling, which was as long as we have the confidence and the statistical model of its accuracy, and given that I think most of you would agree with that caveat, were you assured prior to this election that you thought your news entities thought that the statistical model was sufficient?

Mr. HEYWARD. I think we had a lot of confidence in our models. As David says, obviously we've taken a very hard look and we will

continue to do so to make sure these mistakes are never repeated. We had a collision between a system that worked very, very well for many years and over a couple of thousand of races with an extraordinary election that was so close that it took the Nation 5 weeks to figure out what happened and the Supreme Court to intervene, and that certainly exposed flaws we hadn't seen before. But we certainly went in with a great deal of confidence, yes, and to the degree that we have to readjust our perception I think we have and will.

Mr. BURR. Is it safe to say that nobody at the table questioned the statistical model prior to the election?

Mr. HEYWARD. Except for the ongoing process of calibration and evaluation that David talked about.

Chairman TAUZIN. The gentleman's time has expired. The Chair recognizes the gentleman from Massachusetts, Mr. Markey.

Mr. MARKEY. Thank you, Mr. Chairman. There's three matters which I would like to get the witnesses on the record so that we can use it perhaps to understand what we can anticipate 2 or 4 years from now if it be the case. Can I start with you, Mr. Boccardi? Each of you may have referred to one or another of these subjects in the course of your testimony, but I don't think any of you have referred to all of them. Do you support Congress enacting a uniform poll closing bill?

Mr. BOCCARDI. My personal view, and the AP does not take positions on public issues, but my personal view is that it would be a good idea.

Mr. WESTIN. Wholeheartedly.

Mr. HEYWARD. Yes.

Mr. JOHNSON. Yes.

Mr. AILES. Yes.

Mr. LACK. Yes.

Mr. MARKEY. Second, will each of you, beginning with Mr. Boccardi, reaffirm your commitment not to close—not to call any State before all of the polls within that State have closed?

Mr. BOCCARDI. Unequivocally.

Mr. WESTIN. Yes, as I said earlier.

Mr. HEYWARD. Yes.

Mr. JOHNSON. Yes.

Mr. AILES. Yes.

Mr. LACK. Yes.

Mr. MARKEY. Third, do you believe that the solution to this VNS problem in the year 2000 is to collectively throw more resources at VNS so that the problem is not repeated in subsequent years or is it in introducing more competition to VNS so that each of you or groups of you have your own separate polling system so that in and of itself serves as the check on the others jumping the gun too quickly for fear then that the other is available to accurately call the case?

Mr. BOCCARDI. My view at this point, Congressman, is to see if we can fix VNS.

Mr. MARKEY. Fix VNS.

Mr. BOCCARDI. That's our view.

Mr. WESTIN. If I can answer both a little bit. I believe that devoting more resources and fixing VNS in the way we've discussed is

the best way to ensure the accuracy and timeliness of your reporting. Having said that, ABC News is open to a second source if we believe it is as accurate or more accurate and will work. We don't foreclose that possibility in addition to it, but right now our attention is devoted to fixing VNS.

Mr. MARKEY. Mr. Heyward.

Mr. HEYWARD. We've opened both options in our report, Congressman Markey, one to fix VNS or to go a separate way. But realistically, I think it's important to acknowledge that VNS extends our reach even, as Joan Konner acknowledged, far beyond what any of us would be able to do individually. However, I think we are going to try to develop additional sources, especially in close races, our own unilateral polling, additional forces on the ground to give us more checks and balances so that we are not solely reliant on VNS. But I think that consortium—there are great advantages in economies of scale that really if used properly and if the recommendations that have been made by the outside report and by others are valid, I think VNS will be stronger and there is a good chance it could serve the public even better than it has. But we do agree that even more sources in close races are useful.

Mr. MARKEY. Mr. Johnson.

Mr. JOHNSON. At CNN our intention, and I underline intention rather than decision, our intention is to stay with VNS provided the changes can be made. A news leader is in place already at VNS. We expected that there will be new technology. There will be improved methodology. So provided we are assured that that set of changes, that those sets of changes and others that have been suggested are made. In addition to that, CNN will have a second source. We intend to have an entirely independent research or polling firm which will do research in close election States. It will examine actual vote returns in key precincts and then compare that with VNS data. So it's a double checking system for us and we welcome joiners in the expense of that undertaking.

Mr. MARKEY. If I could follow up with that. The Election Day polling.

Mr. JOHNSON. Yes—no. First of all, we would determine prior to Election Day what were the close States, where there is likely to be a very close race, and then we would choose precincts within those States to do on Election Day.

Mr. MARKEY. On Election Day. Is that the same process you would be looking at, Mr. Heyward?

Mr. HEYWARD. Yes, but there would also be the option of telephone polls to identify potential absentees in States where that's likely to be a factor. That would happen beforehand.

Mr. JOHNSON. And that would also be our allocation.

Mr. MARKEY. Thank you. Mr. Ailes.

Mr. AILES. We're the new kids on the block and we are the smallest in terms of distribution of the networks and the newest, and therefore this was our first experience with VNS. Smallest in terms of distribution. We are doing quite well in the ratings. But the answer is that, sure, competition is great but this is an enormously expensive process. We've heard much made today of the commercial pressures on news. Those commercial pressures sometimes are good. If you don't make any money, you can't buy cameras and you

can't put extra crews out and you can't pay for polls and you can't do some other things that you would like to do. Is it best to stay with VNS? If you reinvent a new model now and put it out in the field 3 years from now, are we all going to wake up on election night and say, gee, the new one didn't work as well as we thought it was going to, or should we try to fix the one we have? I think all of those questions are on the table. I think all of us lean to fixing VNS and perhaps setting up some sort of checking system against that so that we can take a sample of the sample and try to determine whether or not we can build in a redundancy there that will keep us from falling on our faces again. But I think the bias right now is toward staying with VNS, although other options are being looked at.

Chairman TAUZIN. The gentleman's time has expired, but Mr. Lack.

Mr. LACK. Yes, I would just quickly add that we would like to see more resources put into VNS. We support that. We believe that VNS can be improved, fixed if you will. The emphasis for NBC News, which I referenced in my opening remarks, is to do some original reporting on our own. It may support the data collection that we're seeing during the course of an election night. And we will explore, if we feel that we can't get the satisfactory resources supporting VNS, an alternative system. But for the moment we believe that we can get there. We are going to explore whether they need another system of checks and balances, and we're focused more on our own internal original reporting for election night.

Chairman TAUZIN. The gentleman's time has expired. The gentleman from Florida, Mr. Stearns, is recognized.

Mr. STEARNS. Mr. Savaglio, has VNS attempted in recent years to get more money from the networks to update its model computer system? If so, has this met with resistance? I think if you could give us a little history. In the first panel we talked to them about the problem being not just of recent vintage but has been in existence for some time. And you might comment about your discussions with the networks and has there been any attempt internally on you folks to try and do remodeling?

Mr. SAVAGLIO. Well, the answer to the specific question about asking for money, that's by implication been denied. The answer to that is no. The budgets have been adequate to do the job and have increased over the election cycles. In 1993, the members invested a considerable amount of money in upgrading the computer systems and that resulted in a new unified data base, which would be a part of any new system. In addition to which, in every election cycle, and this has to be done in the periods between the elections, because so much of the energy is devoted to covering those elections during the cycles, a considerable amount of updating is done, reprogramming, segments of the systems have been rewritten and redesigned. The fact of the matter is that it's been pointed out that there are some very glaring errors in November, but by and large our computer system did function quite well, handled the stress and the load of a very complicated system and did pretty well.

Just to this, one more point on that. There has been discussions about updating, of integrating the system, and one of our recommendations is that we plan to work to do that.

Mr. STEARNS. What about the absentee ballots? You've known about that absentee ballot problem for some time. Why didn't you correct that earlier?

Mr. SAVAGLIO. Well, the absentee ballot situation is a more difficult situation. Simply put, it's not just the matter of updating the system to accommodate it, because the absentee ballots sort of by definition are it's information that is not known. So you have to find alternative ways of getting it. The fact is in the States where the largest amount of absentee voting occurs on the West Coast, California Oregon and Washington, we have implemented steps to take those into account. We did telephone polls in those three States and our information was pretty reliable. We do a lot of work outside of the computer system itself in terms of assessing the absentee votes, recording it, and the issues that have been raised here just mean that, as we've said in our recommendations, that we need to do further work and because absentee balloting is spreading and growing in so many other States that it's going to have to become a larger part of what we do.

Mr. STEARNS. Now, I have here that the VNS system has been under development and you've had an analysis since 1993, and it says here because of budget limitations the project has not moved beyond the creation of a partially unified data base. And so even in your discussion, why didn't you make it part of the computer system early on? I don't understand why the delay, and why not doing it proper when it has such significance.

Mr. SAVAGLIO. Well——

Mr. STEARNS. Isn't it true since 1993 you've been working on this problem?

Mr. SAVAGLIO. I wouldn't say that. There was a project in 1993 where the members spent several million dollars on updating the system and that did result in the unified data base. What took place in terms of working on it between then and now I'm really not aware of.

Mr. STEARNS. It says partially unified data base. Why did not we complete it?

Mr. SAVAGLIO. Again, it's a very complex system and there are portions of the projection system that are accounted for on the election night that are not in the unified data base.

Mr. STEARNS. They're mapping the genome here during the last several years. Certainly you could map here the parts of the unified data base, couldn't you?

Mr. SAVAGLIO. Well, again as I said, the system, the projection system, which are the two basic systems, there are a number of systems, but the projection system operates on an election night file that is generated from the unified data base, but does operate separately.

Mr. STEARNS. I yield back.

Chairman TAUZIN. The gentlemen's time is expired. The Chair recognizes the gentleman from Florida, Mr. Deutsch, for a round of questions.

Mr. DEUTSCH. Thank you very much, Mr. Chairman. In previous questioning I mentioned some statistical analysis that the Miami Herald has done on the election. I just want to briefly quote and submit it for the record.

[The material referred to appears at pg. 225.]

Mr. DEUTSCH. The ballots in majority black precincts were discarded at a rate three times higher than those in nonblack precincts. Nearly one in every 10 ballots in the majority black precincts went unrecorded. In the majority white precincts the discard rate was less than one ballot in 38. In fact, 19 of the 20 precincts with the highest spoilage rate in the State were heavily black neighborhoods in Duval. The analysis found all had at least a fifth of their ballots tossed out. A fifth of their ballots tossed out, 20 percent. And I guess I bring this again to raise the issue and actually ask Dr. Edelman just to respond to it. I don't think there's any question that you can make an analysis to compensate for the fact that African Americans' votes were not counted. You could do a statistical analysis and say because of literacy issues and because of the fact that black votes were not counted as much, we can make our analysis more accurate.

That's one thing you can do. And I don't think that we should ask you to do that as the U.S. Congress. I think what we ought to be talking about, Mr. Chairman, is what I keep bringing back. We can correct for the reality of what happened in this election, an election that when, as I mentioned, if this was a foreign country and we had American election observers, we would—no one would consider this a legitimate process. If I can ask Mr. Edelman to directly respond to that.

Chairman TAUZIN. Would the gentleman yield for a second? I think we had an understanding that he would not testify today. Is that correct?

Mr. EDELMAN. Nobody told me.

Chairman TAUZIN. I don't think he was sworn in. That's the problem. Is that it?

Mr. DEUTSCH. He's on the witness list, Mr. Chairman.

Chairman TAUZIN. I see. We have to go through that process if you want to direct questions to him.

Mr. DEUTSCH. I would be happy to because he's the only statistician and I would like to ask him a very simple question. The fact that black——

Chairman TAUZIN. If the gentleman will suspend for a second, let me do the formalities. Sir, do you realize that under our practices the process of taking our testimony under oath is our practice. Do you have any objection to testifying under oath?

Mr. EDELMAN. No, sir.

Chairman TAUZIN. The Chair then advises you under the rules of the House and the rules of the committee you are entitled to be advised by counsel. Do you wish to be advised by counsel during your testimony here today?

Mr. EDELMAN. Yes.

Chairman TAUZIN. But your counsel will not testify today, is that correct?

Mr. EDELMAN. Yes.

Chairman TAUZIN. Raise your right hand.

[Witness sworn.]

Chairman TAUZIN. Sir, you are properly sworn and you can answer the questions.

Mr. DEUTSCH. As you and I spoke, I guess it was yesterday, if you can just respond to the issues that I've raised. The fact that black voters votes were not counted, could that have an effect on them misjudging the results?

Mr. EDELMAN. The exit poll measures people who believe they voted. We interview people as they leave the polling place and they fill out the questionnaires. We do not know if their vote was counted. That's a whole new development that I think all of us are becoming much more aware of. So the exit poll in Florida was overstating the Democrat. So we don't know yet just where the under and over vote is. It is still being counted and it is still being looked at, but it certainly could be a factor in the error to the exit poll.

Mr. DEUTSCH. Could you respond to the quote, the facts that I just mentioned, that for instance in 19 of 20 precincts 20 percent of the votes were uncounted, where statewide it was in the neighborhood of 2 percent? What kind of statistical significance could that have in actually determining the outcome of the election? I guess the premise of what happened in Florida is that it wasn't 500 votes of people who thought they were voting for Al Gore. It wasn't 5,000 votes. It really was 50 or 75,000 people left the polling place net who thought they were voting for Al Gore whose votes didn't count. How would that affect your results or your exit polling results?

Mr. EDELMAN. Well, if I knew that—the contribution error of the error in the exit poll was 2.6 percent. So it's conceivable since the remaining percent was 3 percent that that could account for that. But that's a fairly big assumption. But we would never give that as a reason for the wrong call in Florida. I mean it would be one factor in the exit poll being off.

Mr. DEUTSCH. Right, and again I guess I know you're not giving it as a reason, but you're also saying statistically it could be. Can I just ask why haven't we investigated that? Why aren't we focusing on that issue?

I'm just asking. Maybe your results weren't as bad as you think they were. Maybe you did a good job or a lot better than this committee is alleging. Maybe you did what you were supposed to do because it would seem that the statistics and the numbers that I'm pointing out really get back to the point that the exit polls were a truer reflection of what people's intentions were than the actual vote count that occurred in the State of Florida.

Mr. EDELMAN. It's certainly possible what you're saying. I've been waiting to see the results of the counting before I can make any kind of judgment like that, and I frankly have had my hands busy with a lot of the reports and analyses and everything else that's been going on.

Mr. DEUTSCH. Can I just follow up a little bit, and again because I don't think we want to do this, but you clearly could make a statistical analysis that in black precincts discount for the fact that people's votes don't count so you can make your results more accurate through that type of adjustment?

Mr. EDELMAN. That's very risky, from what we've known about this possible error in the exit poll for a good while. But just how much do you adjust for it? We don't know. If it were a very simple number that I could just come up with and put in the computer,

I certainly would do it. I don't know. I don't know how many people were affected.

Mr. DEUTSCH. Let me mention there is no reason to believe that—again Florida is the center of the post-election analysis, but I don't believe there is any reason to believe that this phenomenon of African Americans being discriminated against in terms of voting is any different in any other location in the United States of America. And I think when we talk about that 34 States with a bias being Democratic, I think the phenomenon that we are really looking at is a socioeconomic phenomenon of illiteracy in America, of functional illiteracy in America, of issues of discrimination that basically come back to exactly where we see—I don't see any statistical basis to say that African Americans in Florida are any worse off than African Americans in any other State. Is that not possible that the phenomenon you see in the other States is exactly due to this phenomenon as reported in Florida?

Mr. STEARNS. Would the gentleman yield?

Mr. DEUTSCH. I will be happy to.

Chairman TAUZIN. I would ask that you ask an additional minute.

Does the gentleman ask the gentleman be extended an additional minute?

Mr. DEUTSCH. Yes.

Chairman TAUZIN. Without objection, so ordered. The gentleman will yield.

Mr. STEARNS. There are two things. The committee has analyzed this and they have a graph that shows that 34 States plus the District of Columbia overestimated for Vice President Gore. If that's true, then how does what you're talking about affect—I mean what difference would that make because it's already been overestimated?

Mr. DEUTSCH. Right. Taking back my time, the whole point of what I'm saying is if the overestimation is due to the phenomenon I'm talking about, and which you have a statistician saying absolutely it could be, then is our concern saying to the statistician you're not doing a good job or should our concern as Congress be, hey, we've got this incredibly awful situation in the United States of America where hundreds of thousands of people's votes are not being counted because of a societal bias against African Americans?

Mr. STEARNS. Would the gentleman yield? The point is you're not providing any evidence to show that's true. You're speculating.

Mr. DEUTSCH. That's not——

Mr. STEARNS. There is no evidence to show what you're talking about.

Mr. DEUTSCH. You're absolutely incorrect.

Mr. STEARNS. Give me the documentation.

Mr. DEUTSCH. I'm giving you the documentation again, and I will provide more to the committee, and I wish we spent as much time from the committee staff and from the Congress' staff looking at these kind of numbers than what we are at this committee. But I just read some statistics from our own State, Mr. Stearns, that 19 out of 20 precincts with the highest spoilage rate, that the ballots in black precincts, the rate that they were spoiled, not counted, was

1 in 10. In white precincts it was one in 38, almost a 400 percent larger number in the African American precincts.

Mr. STEARNS. We are talking about exit polls.

Mr. DEUTSCH. Right, but the exit polls——

Mr. STEARNS. We're not talking about what you're talking about.

Mr. DEUTSCH. I am going to try one last time to try to explain a little bit of statistics on this.

Chairman TAUZIN. The gentleman's time has expired, so if you will respond very quickly.

Mr. DEUTSCH. I will. What the exit poll accurately counts is what people say who they supported, who they thought they voted for. But in African American precincts the percentage of people who said they thought they voted for a person, Al Gore, and that vote did not count is much higher than in non-African American precincts, and because of that there is a statistical bias. If you don't adjust for that phenomenon, there is a statistical bias that would say Al Gore did better in terms of the actual count, and that is exactly what we are talking about here. That's the phenomenon.

Chairman TAUZIN. The gentleman has made his point. His time has expired. The gentleman, Mr. Greenwood, is recognized for 5 minutes.

Mr. GREENWOOD. Thank you, Mr. Chairman. As I said in my opening remarks, as uncomfortable as you folks in the media make us when you grill us incessantly, we're probably—at least this member is—more uncomfortable grilling you than being grilled. And some of you have expressed your concerns about the propriety of this hearing, but I hope as this process winds down you come to realize that nobody in this committee or this Congress has any intentions of legislating with regard to your ability to project elections. You can project the elections the day before the election if you want. It's none of our business, frankly, whether you do or you don't. But we do in the Congress have a decision to make as to whether to try to respond to what you do, and of course we've all been talking about unifying the closing of the polls in an effort to do that. And you've come here to tell the American people today that you're going to use exit polls and you're going to continue to project elections. And since we have some concern about whether that impacts the election process itself, this will educate our decision as we decide whether to make the people in California get up earlier in the morning to go to the polls or not. They may not welcome that without information we've gleaned today.

On that subject I know that Mr. Johnson has been quoted sa saying, Johnson expressed concerns that calls of States in the Eastern part of the country affect voter turnout in the West where polls are still open. He questioned surveys that claim no such effect. Quote, from my days in California I had so many friends who did not go out and vote when they heard that the election was over. I believe it's an influence, a big influence.

I believe at the end of the day it's a central question for us as to whether that is a phenomenon that happens or not. I think each of you relatively heartily endorsed this legislation to close the polls at the same time, and I would assume the reason you endorsed that is because you have some concerns about this phenomenon.

Can I ask each of you to let the committee know do you believe or do you at least worry about whether or not folks who have not yet voted and hear projections from the East are affected by that call, those projections?

Mr. LACK. I don't believe there is, as has been discussed earlier today, any solid evidence that would indicate that there is a voter suppression as a result of projections in the East, but the reason I support your point of the uniform poll closing is any perception that there might be should be avoided and should be eliminated and to the extent this legislation can put an end to it, put a rest to the whole subject, I'm fully supportive of it for that reason.

Mr. BOCCARDI. I think we think if you pass this law we will have to stop to answer the question.

Mr. JOHNSON. Mr. Greenwood, as the person who you quoted, I spent 13 years in Los Angeles either as president of the Los Angeles Times or publisher of the Los Angeles Times. There were many different surveys that I saw during those 13 years which indicated to me a wide array of results. But it was my personal view based on those 13 years, having met with many Members of Congress, many city officials and others, the university communities, that there is a definite effect on voters as it relates to the Presidential election. In the local races many people still seem to go out on the local issues, on sheriff and many of the State propositions, for example. But it is a personal belief of mine, and yet I feel it so strongly that it is a part of the reason why I strongly recommend the uniform poll closing act.

Mr. GREENWOOD. Mr. Ailes.

Mr. AILES. Yeah. I think it's impossible to determine exactly what affects—I don't think that will ever be determined—information affects people and if it's a blowout election there is no question about it. If it's not a blowout election, then it might affect some people to go out and other people to say home. There's no way to determine how it affects people. But in the end I think Ms. Konner who was on the—if I've got her name right, said people have to vote. In the end people have to take responsibility to vote. Our job is to gather and distribute, report information, and we will do that, and we should make it clear to people that what we're doing on the screens should not affect their vote.

Perhaps we maybe even need to say that. Please go vote. That's fine, I think, the more information the public has and the more responsibility the public takes to go vote, because we learned in this election every vote counts and it may be too close to call. So I support the legislation. I think it's simplifies things for everybody. It eliminates some of the problem, but we are never going to know the extent or in what direction it swings people.

Chairman TAUZIN. The gentleman's time has expired, but I see some of you want to respond. You're welcome to respond, Mr. Heyward.

Mr. HEYWARD. Very briefly. I think voting is about a matter of personal responsibility. I think we're speaking here as citizens as much as journalists. I think of the different solutions, Congressman Greenwood, this may be the simplest. The others seem to raise not only journalistic issues of withholding information that is easily available but also States rights issues, as one of your colleagues

mentioned earlier. To ask States not to report results of an election that's completed in their State seems problematic from your perspective.

So I think we're trying to be good citizens, even though as Mr. Boccardi said we don't normally take positions on political issues, but that's really behind the endorsement.

Chairman TAUZIN. Mr. Westin.

Mr. WESTIN. I don't know the answer to the question of the effect. I've read some of these studies, in fact, and from what I've read, they generally conclude there isn't enough data and we don't know. It would be somewhat ironic for me to sit here today before this committee and say when we report something such as the projecting a race, that no one is paying attention to it. I would hope that some of our audience is paying attention.

Now, what they do with that information I don't know. I don't know whether it encourages them to go to the polls or discourages them to go to the polls. I don't think this committee or our audience would want a world in which ABC News or some of my colleagues believe that they knew who the next President of the United States was, but they sat on the information for a few hours. Given the way the world works, that would be dangerous, I think.

Therefore, I support this legislation wholeheartedly because I think once and for all put this behind us, and we wouldn't have to talk about it in 4 years or 8 years or 12 years.

Mr. HEYWARD. I would add that Mr. Johnson is a person of extraordinary integrity. If I have to explain to him why I hadn't voted, I would definitely blame the networks rather than say I was too lazy, just felt like going home.

Mr. BOCCARDI. If I might make one short point, Mr. Chairman. You know, you start down a road here that I think can get pretty dangerous and pretty difficult. If you go to accept some of the theses now on the table, what about the preelection polling? If there is a poll that says this candidate is 20 points ahead, as been known to happen in a congressional district in Louisiana, even more, is that keeping people from the poll? Well then maybe we shouldn't do those. You see where the trail goes. I don't think that's a trail we or you would want to start down.

Mr. GREENWOOD. Worse yet, if the predictions come in too early, people stop contributing to our campaigns, and that would be a disaster.

Chairman TAUZIN. Thank the gentleman.

The gentleman Mr. Stupak I think is next for 5 minutes.

Mr. STUPAK. Thank you, Mr. Chairman.

It's been alleged throughout this hearing that there's some bias, network bias, probable bias, political bias by the networks. So do you believe your networks lean either way, Democrat, Republican? Mr. Lack, let's start with you.

Mr. LACK. No. We've testified to that fact. We vigorously believe that there is no evidence of any bias in our reporting.

Mr. STUPAK. Mr. Ailes.

Mr. AILES. I agree with that, and I say the same thing for Fox.

Mr. STUPAK. Mr. Johnson.

Mr. JOHNSON. No bias whatever, sir.

Mr. HEYWARD. Categorically no bias. Emphatically not.

Mr. STUPAK. Let me ask you this question: Hopefully you all saw the video that we had at the beginning of the hearing. Do you believe the video you saw accurately depicted your coverage on election night?

Mr. HEYWARD. Let me jump in on that, because I think—I certainly hesitate to accuse Congress of misleading editing and distorting what had happened. That would be a dramatic role reversal. I do think that the video, while it was effectively done, did not actually convey the viewer's experience of election night. We actually looked at our transcript very carefully, Congressman. And I think the sense the video gave that Vice President Gore was on an unstoppable roll I don't think was reflective of the reality. In fact, if anything, our outside expert, Kathleen Hall Jamieson, who I mentioned before, concluded that we might have overstated the degree to which President Bush was on a roll. But certainly we displayed the popular vote graphic 15 times between 7 and 11. President Bush was ahead every single time; on the electoral count, 75 out of 100 times.

Mr. STUPAK. So you don't think the video then reflects——

Mr. HEYWARD. The video that gave the impression that the networks were saying Gore's got it in the bag I believe was misleading, yes.

Mr. STUPAK. Anyone else care to comment now?

Mr. WESTIN. I would be first to admire a good editing job, and that was a good editing job, no way about it. I don't think it fairly and fully reflected all the statements made. I mean, I could even read you into the record statements were making around 8:15 in the evening saying this was a very close race. In fact, we said at 8:18 a candidate could win the big three States and still be in danger of not winning the electoral college, as one example out of several.

As I say, I respect the job that was done, but I don't think it fully reflects the experience of the viewer, which was a much more balanced, much closer race throughout the night.

Mr. STUPAK. Let me ask this question. Instead of going all the way down the line, maybe we want to go down—do you believe we here today in Congress, this hearing, do you believe we have accurately reflected on your coverage in the 2000 Presidential election? All of us up here, do you think we've accurately reflected how you handled the 2000 Presidential election?

Mr. WESTIN. You know, with respect, I don't think that's my position to judge. I'm here as a member of the Fourth Estate. We made some serious mistakes that we have to adjust for. The way—as I refer to my remarks, the way it works in this country, which I firmly believe in, is we don't look to the government to correct the press. We look to the people and the people's representatives as represented by this body. We take criticism. We don't necessarily enjoy it, but we're open to it. We should take it into account, we should listen to it, and we should then take it upon ourselves to decide what we should adjust to and what we should do in the best interests of our audience. And if we fail, the audience will judge us, and they'll move somewhere else.

Mr. STUPAK. Anyone else care to comment on that?

Mr. JOHNSON. Congressman, I would only say in a way it related to interviews we had with Members here. You will have many accomplishments as a part of your record during the year and will perhaps make one bad vote or one mistake, and you accuse us, of course, of focusing on that.

Clearly I think we had an excellent year of coverage of—all the networks, I think, dedicated an enormous amount of time and effort, too, and I would say that despite what Andy Lack has said, I agree with what Andy said, I believe we did a very good job in a campaign year. We did make a mistake that night. You got us. And I think we are here not only to assure you that we will fix it, but it won't happen again.

Mr. STUPAK. No different for any of us up here. We make one vote our opponent don't like, and that's the whole campaign. So, I mean, just wanted to see how you felt on being on that side.

Let me ask you this question. Mr. Boccardi hit it a little bit. I wanted to ask it. There's been a lot of focus on exit polling, but what about those preelection polls? You believe they influenced voters; when you do an exit poll on the east coast, it influences the west coast? What about the preelection stuff where you have Gore up by 5 points going into the election, and all of your networks that we watched, you had wild swings in your polling throughout this campaign season. Should that be tightened up? Should that give a more accurate depiction? Because I don't know how could you have such wide swings from network to network.

Mr. BOCCARDI. If you're squabbling about whether exit polls on Election Day affect outcome, we'll be here for 2 weeks talking about the other polls.

Mr. STUPAK. I don't think you can make that determination, so that's why I asked about preelection polls.

Mr. BOCCARDI. I know of no evidence that people go to the poll or don't go to the poll because—to vote because there was a poll.

Chairman TAUZIN. The gentleman's time has expired.

Mr. STUPAK. Thank you, Mr. Chairman.

Chairman TAUZIN. But I want to take the opportunity to declare unequivocally there was no intentional bias in the editing of that tape.

Mr. AILES. Mr. Chairman, we felt Fox News was underrepresented in that tape and that, therefore, it was biased.

Chairman TAUZIN. Could have been. Who knows? We'll never know because there's no empirical evidence, I swear. You won't find it like we didn't find it.

I also want to tell you, by the way, and this is from the heart, I don't think any of us would have hired an outside consultant to be as critical of the CNN job, to criticize our votes. That was an act of extraordinary, I think, contribution to this effort. I want to thank you for doing that. And thank you all for the kind of self-evaluation you did. I think America has something to be grateful for today. I really mean that. I thank you for that.

The Chair now yields to—who's next? Mr. Ehrlich.

Mr. EHRLICH. Thank you, Mr. Chairman.

This issue of early eastern projections impacting close races in the West is interesting. Mr. Johnson, I heard your previous com-

ment, and I think intuitively it makes sense to me. It make sense to most people.

Mr. Heyward, I think your earlier testimony—in your earlier testimony you took a different view. Florida was called by ABC at 8, CBS at 7:50, and NBC at 7:49. We had real close races in Iowa, Minnesota, New Mexico, Washington and Wisconsin, as you all know, within a percentage point to one another.

So, it seems to me an Iron Triangle State, we all know the conventional wisdom was those three States were vitally important to the candidates. They spent their time there, they spent their money there. I think it makes sense that those early calls do impact Western States.

With regard to Michigan—and I'll let you answer, by the way, I just want to make another point—I guess what really bothers me is VNS makes its call at 9:23, and ABC makes its call at 8:06. CBS makes its call at 8. NBC makes its call at 8:02. Fox makes its call at 8:05, and CNN makes its call at 8, maybe the critical State in the election, and I understand you're not necessarily following precisely of VNS, but that concerns me.

So I would like you to respond to one or both points I just made, one with regard to VNS. I think you have in your earlier testimony. But clearly intuitive, I think for most people it makes sense if you have close races in the West, early projections in critical States in the East may impact the bottom line of a Presidential election.

Mr. HEYWARD. As has been said before and a lot, I don't believe there's conclusive evidence, but I don't think we have. And there's a network solution to the issue of effects in the West. I think the solution, as we've said, is the uniform poll closing, because we've all said we're going to withhold the call at any given State until all the polls are closed there. So that would take care of the Florida problem going forward.

In other words, whatever we agree or disagree or be able to figure out what happened in the Panhandle, but that's not going to be an issue next time because everybody is going to wait until those polls are closed. So that, I think, is as far as we have all said we're going to go.

In terms of the West, I don't see what the networks could do. I don't think it's realistic to ask us to hold back the news of an election that's complete, Secretary of State is reporting the results, because of this perceived effect. I think this other solution, as I said earlier to Congressman Greenwood, is much simpler.

I didn't quite understand your question on Michigan. Forgive me.

Mr. EHRLICH. You all quite appropriately point out Pennsylvania, Florida, Michigan, the Iron Triangle. It's interesting to me that you all look to VNS and use VNS, and not necessarily in lockstep, but certainly very relevant. Yet you make—all of you made your calls almost 1½ hours before they made their call in such a critical State. Pennsylvania, Eastern State, very important State, VNS made their call at 9:24, yet CBS made their call at 8:47, and CNN made their call at 8:48. These are really critical States that people are looking to.

As I said here again with regard to impacts on the West, I think it's relevant.

Mr. HEYWARD. I think what this really illustrates, we're in the curious position here of facing the suggestion that we're both not competitive enough and too competitive in the situation. I think each decision desk is honestly trying to evaluate the data as best as it can in sifting many ingredients. We, coincidentally, given the chairman and the ranking minority member, happened to call both Michigan and Louisiana right at poll closing, which VNS did not. That's because our decision desk conscientiously trying to be accurate believed that we had enough information to make the call, and it turned out in both cases to be correct.

There is—there is a journalistic imperative to be accurate and to be timely. I think being accurate, as we've heard here, is much more important than being timely. But to some degree those imperatives have collided, but not in those two States and not in Pennsylvania where we made calls that were accurate. I don't see what the problem is if we call a State at poll closing based on the data that our decision desk has and it's right.

Mr. EHRLICH. It's interesting given the relevance of VNS, I guess—and you all have appropriately, I guess, criticized the exit polling earlier with regard to Michigan. I'm getting information that only 29 of 45 exit poll precincts were reporting when the call was made. That's—that's not real good science, I guess.

Mr. HEYWARD. Our decision desk was very confident of the call. In fact, Michigan has a large exit poll sample, and the other indicators that were used, as I mentioned earlier—the exit poll is just one of many tools that these analysts used—were in sync, and the feeling was that this network, and obviously some of the others that made early calls there, that we could go ahead. We're not entirely dependent on VNS. We also have this independent decision-making body, and in this case the call was correct, as was the call to Louisiana.

Chairman TAUZIN. The gentleman's time has expired. If anyone wants to respond.

Mr. Ailes.

Mr. AILES. I would just like to comment, two quick comments, the first one a personal comment. It was my personal view after looking at the coverage that we all made so much out of Michigan, Pennsylvania and Florida without going on to say there are other mathematical models for people to win. That there was a perception created on election night that focused on three States, and once those States went down, people walked away. I think I was with a group of people, and, frankly, when Florida went, 40 percent of the room emptied out and said, well, it's over, we're going home.

So I think there was some—it's just a personal view, and I've told our journalists that we ought to be careful about telling people that this is how the election—you're going to be able to know who won, because we all hire outside contributors and consultants and political people to tell us these things, and they all came to that conclusion. It was certainly true they were all important, but I think that we probably overstated and oversimplified it.

The other thing I would say is that, having watched the decision desk this time and watched in other cases, these are incredibly dedicated people, Republicans and Democrats. We happen to have three Democrats, one Republican on our decision desk. These are

not partisans. These—at that night, these are people who are trying to get it right. They are desperate to try to get information and look at those screens and check facts, and they are professionals, and they feel the worst about screwing up, which is what happened on election night. It was a monumental screw-up. Everybody did it. But these are individuals who are hard-working, dedicated, and really not trying to do anything weird. They're trying to get something right.

Mr. EHRLICH. Mr. Ailes, I am out of time. I appreciate your forthright answer; both of you, in fact. I had a similar near-death experience in Timonium, Maryland, at 7:52 p.m. that evening. So I appreciate it.

Chairman TAUZIN. The gentleman's time has expired.

The gentleman from Texas Mr. Green is recognized.

Mr. GREEN. Thank you, Mr. Chairman.

I know it's been a long day, and I appreciate these folks being here.

It's interesting, Mr. Ailes, you said you have three Democrats and one Republican on your decision desk. That isn't the one Republican who kept calling Austin, was it, that we heard earlier from one of my colleagues?

Mr. AILES. You want an answer to that, or was that rhetorical?

Mr. GREEN. You can answer it. I thought it was interesting, though, because of the publicity.

Mr. AILES. It's incorrect. We didn't keep calling Austin. But go ahead.

Mr. GREEN. The exit polls versus before election polls, I think, is correct. I think each of the networks have realized the problem we have. But, again, if we back it up, if we remember, the before election poll showed George Bush winning the popular vote and Al Gore squeaking by on electoral victory. So I don't know if that impacted the election any because it was actually the reverse when—after the U.S. Supreme Court got through.

I guess I feel frustrated like you do because blaming the election process, not just election night, now that was you all's responsibility, but the next weeks were literally a nightmare for those of us getting up every morning. I felt like I was in Groundhog, the movie, because every morning I would get up and see Tallahassee or see Palm Beach. I didn't go to Florida. Coming from Texas I wouldn't go, Mr. Buyer, unless they'd let me count the votes, but because of the problems that we were seeing literally played out for our Nation.

And so that was—I think that's what our focus ought to be. You've agreed the things that need to be done, and I think each network independently and by the CNN analysis report talked about what needs to be done.

Now, the question I have, though, is we realize that you're going to correct what was done on an election night and be more assured of what's happening. But the voter education, it frustrates me when I see the number of ballots that are discarded of people that said they came out and voted for Al Gore or George Bush, but their vote didn't count. What can the networks do to help that prior to the election to say, look, we have five different ways, or how many ways we count votes in our country or how we ballot.

I know in my own area in Houston, we have two local affiliates, CBS and NBC, who for the last 2 years have been providing time for candidates to go in. We appreciate that, although, I always said we really don't need 5 minutes; you can do everything in 2 minutes. But can the networks do something to help on voter education to make sure that those folks can—well, they know how to vote?

Mr. BOCCARDI. I think it goes without saying that next time before the election there's going to be a raft of stories illustrated with graphics and almost step-by-step instruction about how to vote. I think you can count on that. Whether that's going to make any difference, I haven't the slightest idea.

Mr. AILES. Unless we can put that in the middle of Temptation Island, I don't know if the people are going to watch it. So I think that trying to do voter education is—in the middle of commercial television is not the easiest thing to do.

Mr. GREEN. I love the setting on Temptation Island.

Any other responses?

Let me just say a little personal note, because I notice in one of the points that one of my colleagues made with—the exit polling was really the story, and oftentimes it became in—today it became the story, the exit poll. One of the things I noticed, and it happens on network news and even our local news, is oftentimes Temptation Island may be promoted, or whatever is going on on Temptation Island gets more coverage on the news than sometimes other hard news items.

Has anybody ever talked—since you're all here today, it's interesting, because I like—all of us are news junkies. I will see things that come up that are reporting on what is maybe happening that night on a sitcom or something in the news segment. Has that ever been discussed in some of the—I know it has nothing to do with today, but it's interesting.

Mr. WESTIN. I guess I'll speak for ABC News. In our news programs we exercise our own independent editorial judgment about what is newsworthy or of interest to our viewers or what isn't, frankly sometimes to the chagrin of the company that surrounds us because they would either not like us to report on someone else's program or do so on ours. But we're entirely independent. There's a church and State issue there. If you see it on a newscast on ABC News—and I'm sure this is true for my colleagues—if you see it on an ABC newscast, it's because ABC News has made an independent editorial judgment that we think this is newsworthy and something that our audience is interested in.

Chairman TAUZIN. Thank the gentleman.

The Chair recognizes Mr. Shimkus for a round of questions.

Mr. SHIMKUS. I'm sorry. I've been in and out the whole day, but I appreciate the testimony.

A simple question that is posed by the charts, if you will. Based upon the research done by committee staff, Michigan and Pennsylvania were aggressively called when they had similar high crit numbers. The question I want to ask is why wasn't—why weren't—especially with all these literary and broadcast types and English majors, why weren't Ohio, Georgia and Virginia not called as aggressively as Michigan and Pennsylvania?

Mr. WESTIN. Just speaking for ABC News, Virginia was called 28 minutes after poll closing, which was much faster than Michigan or Pennsylvania. Pennsylvania for us was 79 minutes after poll closing.

Mr. SHIMKUS. Michigan was called at poll closing; is that correct?

Mr. WESTIN. No. For ABC News it was actually 6 minutes after; but very close, that's right.

Mr. SHIMKUS. And Virginia was 28 minutes after poll closing.

Mr. WESTIN. Yes, sir.

Mr. SHIMKUS. When the numbers are—would justify as quick of a calling as Michigan and Pennsylvania——

Mr. WESTIN. Well, you have to forgive me because I can't read that chart.

Mr. SHIMKUS. We can fix that for you. We'll just put it right up.

Mr. WESTIN. So I don't know what you're looking at. But let me explain something to you. There's been some talk about this legendary crit.

Mr. SHIMKUS. Let me get to—my question was based on the research of the staff. Let me just give you the numbers, and you can make a determination of how you can respond to the question. If you look at Michigan and Pennsylvania, the crit needed to win was 2.6. The crit was 2.4. Likewise Pennsylvania crit needed to win was 2.6. Crit was 2.2. Here the crit in Ohio, Georgia and Virginia was in excess of the crit needed to win, but they were called much later than Michigan and Pennsylvania.

Chairman TAUZIN. I think for clarity—would the gentleman yield? I think for clarity we ought to again explain to those who are watching and listen the crit, that number that Mr. Shimkus is citing is that critical statistical number that is a minimum requirement before a State under VNS analysis can safely be called for a candidate. And the question, as I understand this question, is that in two States, Pennsylvania and Michigan, it appears as though those States were called before the crit numbers were achieved, and yet a number of other States achieved their critical numbers and were not called for a significant length of time.

Thank you, Mr. Shimkus.

Mr. WESTIN. If I could respond, and I apologize if this is a little detailed. First of all, there's not just one crit number on the decision screen that appears that our decision team looks at. There's a separate crit number for each one of the models of which there are several, and those different models have different sorts of information put into them. So it depends—it's hard for me on the basis of this to respond because often the crit number you may be looking at is actually the composite.

Mr. SHIMKUS. Actually the ones that we're looking for are the best numbers.

Mr. WESTIN. Right, but sometimes in the model, the best model that kicks out on this decision screen is the composite, which is heavily weighted by prepolling, preelection polls, sort of a weighted average of preelection polls, which is not as valuable. So it depends.

The main point I wanted to make——

Mr. SHIMKUS. But all the other models will show lower crits. This is the highest one.

Mr. WESTIN. No, but that—with respect, that is not exactly the point. But the point I'm trying to make is this.

Mr. SHIMKUS. But that's my point.

Mr. WESTIN. There is no magic to crit numbers. A crit number simply is a comparison of the margin that is being shown in a given statistical model either from the exit poll or from the actual vote tally, a comparison of that with the margin of error, which could be big or could be little. There is no magic crit number. For VNS they have a limit. That's right. We do not. That is one of the factors we take into account. There are a number of other factors. That's why we employ all the people we do on the decision desk to exercise their judgment based on past experience and their knowledge of the models and things.

Mr. SHIMKUS. So what's your tolerance for risk?

Mr. WESTIN. I want to make sure it's accurate.

Chairman TAUZIN. Would the gentleman yield a second?

Would you just answer this Mr. Westin: Was Michigan an aggressive call?

Mr. WESTIN. I believe that Michigan was reasonable, but, yes, it was aggressive. Yes. There were other aggressive calls made as well. Alabama, in my judgment, looking at the decisions reached today, was an aggressive call the other way, but it was a reasonable call based on the data in the decisions reached as they're replicated now.

Mr. SHIMKUS. Mr. Edelman, you agree there was too aggressive of calling; am I not correct?

And as you answer that, are some of these statistics in line with that evaluation?

Mr. EDELMAN. Well, let me say a couple of things about the screens. There's some problems in the ways that you all are reading the screens, and I think that's leading to some of the confusion. So if could have a minute, I'd like to explain that.

First of all, the screen is only one piece of information that we use when I make a call. There's other additional information that goes into it. There's—we have research on absentee voting, and we have that available to us when we're making the projection. So even though that number is not on the screen, it's available to a person making a decision.

The other information we have is we have the history of that State in terms of any kind of errors in the exit polling in the State. So we have that information as well. So we have that kind of information as well as we have information about what's been going on that night, and that is also affecting how we do that.

So to just take a number from the screen is not a very—it's not a sufficient way of commenting on our process, or on commenting on the risk.

There's another problem as well, and that is like in Michigan you say there are 29 out of 45 exit poll precincts that I believe that—I would have to check your screen, but the screen—and we overlay exit poll precincts when we get real vote, so it may look like there's less exit poll precincts, and it is because we have real vote in for those precincts. With all those in mind, it's much more a judgment. The decision is something where the person making a decision has to take all these kinds of factors into mind.

Mr. SHIMKUS. You can understand us laymen trying to figure out these formulas and variables and stuff.

Mr. EDELMAN. Oh, yeah. I have been working with your staff.

Chairman TAUZIN. Thank you. The gentleman's time has expired. Thank the gentleman.

The gentlelady Ms. DeGette is recognized.

Ms. DEGETTE. Thank you, Mr. Chairman.

Now, all of you gentlemen in your opening statements talked about the reason why there's this push for early calling and exit polling is competitive—competitiveness among your networks, right? I would say that would be accurate. All of you came in here, in response to Mr. Greenwood's question, some are more enthusiastic than others about a uniform poll closing time. But all of you said you don't really think that the current lack of a consistent poll closing time is changing elections. Right? Would that be accurate? Do you think that because we have disparity in poll closing times that's changing elections? Do any of you think that?

Mr. AILES. We think we haven't been able to determine empirical data to determine that.

Mr. JOHNSON. I personally do think.

Ms. DEGETTE. You think so.

Here's my question: Let's say we adopt a uniform national poll closing time, which, in my mind, being a westerner, will raise some issues. You're closing the polls at 9 in the East. You're kind of fudging with daylight savings time in California and other places. Don't you think networks will find some other way to then make this election interesting? Mr. Boccardi talked about it a little bit when he said, I mean, after all, we do pre-Election Day polling. What about—I mean, exit polling right now doesn't happen at 7 p.m. when the polls close. What are the networks going to do earlier in the day now that they can't start projecting New York and some of the other Eastern States well before California and the other Western States?

Mr. HEYWARD. We already for a long time have refrained from characterizing races, and we're very careful what kind of language we use. As you know, Congresswoman DeGette, this information starts coming in very early afternoon. In fact, a lot of Members of Congress call us for it even though we don't release it to the public. But—so I think we, you know, it's sort of our problem. And I don't say that to be flip at all. It's not Congress's job to make our life easier, make the election interesting. We will report.

Ms. DEGETTE. But that's my point. I think you will report. And I think, you know, you come in here and you testify, look we won't—we won't report on—we won't call a race until a State is closed. If you have a national time, then all States will theoretically close at once. So don't——

Mr. HEYWARD. What I'm saying is——

Ms. DEGETTE. So don't you think that a practice will develop earlier in the day where you may not call a State, but you don't have to call a State?

Mr. HEYWARD. I don't think so, because we have good evidence that that's not the case. We've already—and actually in some of the halcyon days that the chairman was referring to with those quotes earlier, there was characterization before some of the agreements

that were made with Congress in the mid-'80's where races were characterized right and left. The exact kind of the effect that you're worried about happened, kind of a wink and a nod and here's what's really happening.

But we've exercised enormous restraint, and we have—I think you would be—I hope you would be impressed by the intensity of the debate at 6:30 when the evening news goes on in the East exactly what we can and cannot say to comply with what we said.

Ms. DEGETTE. I understand that.

Mr. Lack, do you feel that way as well?

Mr. LACK. I don't believe it's going to be an issue for us. We will report it when we get it, and we'll report it in a way that it ought to be reported, but we're not going to be sitting around, gee, because we can't report it earlier, we have nothing to do.

Ms. DEGETTE. No, no. It's like what Mr. Heyward saying the wink and the nudge, you know, you're not calling it, but you're saying it's looking pretty good for——

Mr. HEYWARD. My point is that we don't do that, and we won't.

Ms. DEGETTE. My question is will you slip into that because now you don't have——

Mr. HEYWARD. I don't think so.

Ms. DEGETTE. [continuing] the horse race?

Mr. LACK. No.

Mr. BOCCARDI. I think one thing, that an assumption that's sort of built into the questioning here is that uniform poll closing is a magic bullet that is going to solve everything. All the polls will close at the same time.

The reporting processes in all the States are not uniform now from the current closing. Some States come in more quickly, some States come in more slowly. This morning there was a reference to Pittsburgh and Philadelphia. So there's going to be a race after the poll closing that will engage us all in trying to understand what's happening. What we're taking off the table is the poll close.

Ms. DEGETTE. Thank you.

Mr. Ailes.

Mr. AILES. When Walter Cronkite first went on the air with his evening newscast at CBS, it was 15 minutes in length. The biggest concern at CBS was of everybody running around in the halls trying to figure out is there enough news in the world to fill 15 minutes. Now that you have these endless news channels, we are very creative. I think what it will do is force the creativity level down the ticket to more referendums that are going on around the country, other interesting side-bar stories related to the election.

Ms. DEGETTE. Thank you.

Mr. Boccardi just made my point exactly. It's not—the magic bullet here is not a uniform poll closing. I think that anybody who thinks that that will solve the problem, I think it helps, but I think that there may be other problems we need to look at as well, and I think that's part of it.

Another issue, and perhaps some of our experts from VNS can answer this——

Chairman TAUZIN. The gentlelady's time has expired, but she'll be allowed to go ahead and finish that question.

Ms. DEGETTE. Thank you, Mr. Chairman.

With increased absentee voting, particularly in some of the Western States, I understand you factor in some absentee voting. In Colorado in the last cycle, 40 percent of the ballots were absentee. This doesn't even compare to places like Washington and Oregon. Now, places like Colorado are going to mail-in voting, and we are beginning to see some thought of Internet voting nationwide. How on Earth are you going to be able to do projections of that when it happens on such a widescale level?

Thank you, Mr. Chairman.

Mr. EDELMAN. Well, we've been doing that—telephone polls in Washington and California and Oregon, and we've done it in Texas in previous elections, and it appears to be pretty accurate. And I think I—we'll have to see how it goes. We did very well in Oregon this year, and that was all mail ballot.

Chairman TAUZIN. Thank the gentlelady.

I have a quote I might tell the gentlelady from Tim Worth in a 1984 hearing. It's rather interesting. He asks the question, why should someone bother to go to a poll and cast a vote when the conclusions have already been announced? Here's his own recollection: I vividly remember voters in west Denver precincts leaving the polling places in lines in which they were standing without exercising their franchise as soon as they heard the results were announced. So it may not be a magic bullet, but it is certainly worth consideration.

Ms. DEGETTE. If the gentleman will yield. There's a lot of issues in urban areas like Denver. Part of it is early announcement of results; part of it is people having to wait in line for 2 hours or more to vote, which is part of what we saw in Florida this last election.

Chairman TAUZIN. Thank the gentlelady.

The Chair recognizes Mr. Buyer for a round of questions.

Mr. BUYER. Thank you. Gentlemen, I noted that you didn't particularly agree with the comments that I made earlier since most of you referred to them, that we shouldn't look at this and say the networks made early aggressive calls for Gore calls, and that there is no evidence that there was bias at the decision desks. In my home State of Indiana, it's not even debated whether there's bias among some of the news. We come to this debate and say, well, we recognize that Fox is more conservative than some of the others and that jokes are made about CNN over the last 8 years.

So when I look at the events of election night 2000, and I've pored through all the testimony and evidence you've provided, it seems you have an editorial problem. The analysis by Dr. Edelman is pretty tough on the decision desk. This whole question about what is an acceptable level of risk when the decision desk makes the call is a key aspect.

I want to compliment Fox for being very open with the committee investigators about who were the individuals that were on its decision desk. Fox revealed their political affiliations. Others weren't as free with this information. I can understand why. You say, that's your prerogative, those are your decisions and stay out of your business, but you invite this scrutiny. You invite this when such huge mistakes are made.

I really don't think Congress should be micromanaging in your business. I welcome your thoughts on it, but I really don't think we

should be. And I really believe that you want to get it right, because if you don't get it right, you pay a price to the public.

Let me do two things before I ask a question. There are two articles that I would like, to be placed in the record. One is an article by Alicia C. Shepard on How They Blew It, authored from the American Journalism Review. It's on what happened at ABC. The other is an article titled A Hard Day's Night, by John Ellis, a firsthand account on election night in Insight Magazine. I would offer these both to be introduced.

Chairman TAUZIN. Without objection, they're both accepted into the record.

[The information referred to follows:]

[January 2001/February 2001]

HOW THEY BLEW IT

By Alicia C. Shepard, Senior Writer, American Journalism Review

A BEHIND-THE-SCENES LOOK AT THE TELEVISION NETWORKS, DISMAL PERFORMANCE ON ELECTION NIGHT.

As votes began streaming into Voter News Service's headquarters after Florida's 7 p.m. poll closing, it seemed clear to many network prognosticators that Al Gore was going to clobber George W. Bush in the Sunshine State. What a story. Florida's governor could not deliver the votes for his older brother.

But not all experts hired to help the TV networks on election night thought Florida was a done deal for the vice president 50 minutes after the polls closed. Some didn't trust the accuracy of Voter News Service projection models, models which ABC, CBS, NBC and CNN have relied on for 10 years and which only once had incorrectly projected a major race.

In the end, the doubters were right. At least three ABC analysts warned against calling Florida for Gore, but their advice went unheeded.

It didn't match the VNS models. Besides, raw votes from 120 key sample precincts and votes trickling in from counties were tracking with exit poll data collected that day at 45 sample precincts. Exit poll data and sample precinct votes churned through models that analyzed past voting patterns, factored in exit poll biases, and correlated how candidates stacked up against previous contenders. Around 7:45 p.m., exit poll data, which began coming in at lunchtime, showed a 6.6 percent lead for Gore over Bush. But election analysts knew only a fool would call Florida for Gore based on exit poll information alone.

As votes arrived from sample precincts carefully chosen to represent voters across the state, the model predicted a 5.4 percent lead for Gore. It indicated Gore needed a "critical value" a statistical degree of certainty of 2.6 or higher before any network could comfortably hand the vice president Florida. At 7:50 p.m., the "critical value" showed 3.2 for Gore. The Voter News Service model was more than 99.5 percent sure Gore would carry the state.

Under "status," at 7:50 p.m. the VNS screen said: "Call."

In the race to be first, NBC "won," jumping even before VNS at 7:49 p.m.

CBS waited one minute. Warren Mitofsky, who invented exit polls in 1967, has been in the race-calling business for 33 years. He ran CBS' election unit from 1972 until 1990 and is known for his caution. Mitofsky, working for CBS and CNN, had vote totals from 12 of 120 sample precincts and data from 38 exit poll precincts. Gore was doing so well that he concluded exit polls had been overstating Bush's numbers. "The real votes were telling us Gore was ahead," says Mitofsky. "The exit poll data gave us a slight lead for Gore, and the overlap of the two was telling us that the exit poll data should have given Gore more support."

There are three sources of data that VNS uses for its projections. Exit poll results, the least accurate of the three, come in three times during the day. They are only used to project winners. Once the polls close, raw votes from sample precincts are phoned in and measured against exit poll data. The tally that counts the actual vote total comes in throughout the evening.

At 7:50 p.m., Mitofsky and his partner, Joe Lenski, confidently instructed CBS and CNN to call Florida for Gore. Fox News Channel, in the presidential projection business for only the second time, followed suit at 7:52, joined by the Associated Press at 7:53 and CNN at 7:55.

"The sad fact is that was a straightforward call," says Jonathan P. Wolman, AP's executive editor. "VNS' projection material provides a guidepost that warns you statistically if there's a bias in the material that might skew the results. In this case, that bias indicator said it might be underestimating Gore's advantage."

But not everyone saw things that way.

At VNS' temporary quarters on the 93rd floor of Manhattan's World Trade Center, two political scientists working for ABC, each with a strong statistical background, didn't think the Florida result was clear-cut. Nor did they completely trust the VNS model. When the decision desk telephoned the two analysts asking, "Can we make the call?" both men advised against awarding Florida to Gore.

Polling places in Florida's Panhandle in the Central Time Zone wouldn't close for 10 more minutes. Only 237,115 actual votes had been tabulated in a state with 8.8 million registered voters. But other factors involving statistical probabilities and VNS models troubled Kenneth Goldstein, of the University of Wisconsin, and Christopher Achen, of the University of Michigan, where election surveys were pioneered in the 1940s.

Achen had flown to New York City six days before the election to prepare for the big night. He spent four days studying VNS models, trying to pinpoint why they had screwed up in picking the winner of the 1996 New Hampshire Senate race.

The networks ABC, CBS, CNN and NBC and the AP created VNS in 1993. The idea was to save money by pooling resources and receiving data amassed by a single source. Fox joined the consortium in 1996.

For the most part, the setup has worked well. VNS projections have largely been accurate, to the point that they have virtually been treated as facts, a state called for one candidate moments after polls close is seen as decided. But four years ago, the system failed: Each network, relying on exit polls, prematurely called New Hampshire for Democratic Senate challenger Dick Swett. When the votes were counted, it turned out Republican Sen. Robert C. Smith had been re-elected.

"I dug in and went over that as extensively as 30 years of experience would allow me," says Achen. "I worked out a rule of thumb to protect myself on election night from it happening again." Achen was so determined to prevent a similar error that ABC colleagues began referring to him as "Mr. New Hampshire."

Looking at the Florida data around 7:30 p.m., Achen noticed the Gore exit poll numbers were higher than VNS had predicted. This bothered him because exit polls tend to have a Democratic bias. Plus, not all exit poll data was in before 8 p.m. And what about absentee votes? Analysts expected 10 percent of Florida votes to be absentee. With about 6 million people expected to vote, that's 600,000 votes that exit polls know nothing about.

"But first and foremost," says Achen, "when I applied my rule of thumb to protect ABC against mistakes, it indicated it was too soon to call."

And so, while other networks were falling all over one another to declare Gore the victor in Florida, Achen held back. While the VNS model indicated more than 99 percent certainty for Gore, Achen saw it as more like 85 percent.

Neither he nor Goldstein advocated making the call. There was too much at stake to move precipitously. "It wasn't like we were calling an off-year dog catcher race in North Dakota," Goldstein says. "Besides, what's the hurry?"

At ABC headquarters on Manhattan's West Side, Paul Freedman was part of the six-person decision team formed to call the Senate, gubernatorial and presidential races. Freedman, a University of Virginia political scientist, also thought it was too early. "It's fair to say the three of us wanted to be more confident before making a call, because we thought there was too much uncertainty in the estimate," says Freedman. Others, he says, were also endorsing caution.

But they weren't advising in a vacuum.

By 8 p.m., the other networks were flashing Florida for Gore. Pundits were proclaiming that a Gore win there just might put him in the White House before the 11 o'clock news. Despite the misgivings of its experts, ABC's team couldn't resist the competitive pressure, and ABC decision desk chief Carolyn Smith made the call.

None of the advisers claims to be a white knight. They could have argued their case more forcefully, but they didn't. They are academics hired to share their wisdom, not adrenaline-charged journalists impatient to make a decision.

So, at 8:02 p.m., anchor Peter Jennings joined the pack. "ABC News projects that Al Gore wins the state of Florida and its 25 electoral votes," said Jennings. "Give him the first big state momentum of the evening. This is the biggest state where the race has been close, the fourth biggest electoral prize.

As Jennings spoke, Goldstein turned to Achen. "I think they may have fallen into the New Hampshire trap," he said.

Gore's lead began to shrink within 10 minutes of ABC's call.

"Think how we would have felt if we had really had the courage of our convictions and if ABC hadn't called it," Achen says. "But we didn't. The team was wrong, and I'm part of the team. I don't want to say it wasn't my fault."

Election night is showtime for the networks. The story is huge and fast-unfolding, and competition is fierce. With so much on the line, each network prepares extensively, beginning years before the presidential vote. They hire experts, spend lavishly on dazzling graphics, design eye-catching sets, and do more research than a Ph.D. requires.

The mission is simple: Get it right. During a November rehearsal, Smith lectured ABC election night personnel for 15 minutes, stressing that "we weren't in a race to be first," recalls Craig Ammerman, a former executive editor of the old Philadelphia Bulletin who has worked every national election for ABC since 1982. "We were there to get it right. Especially since the presidential race was so close."

But the drive to be first is powerful. This is a tricky dance when all of the networks are getting the same information at the same time and in the same way. It's particularly dicey in the case of an exceptionally tight election.

Sharing election data among networks began in 1964. That's when ABC, NBC and CBS banded together to form News Election Service to collect poll data and enter it into computers. While they shared vote counts, each news division ran its own election unit and made its own calls. Exit polls were used in the 1970s, but only to flesh out voting patterns and trends. That is, until NBC scooped everyone in 1980 by calling 11 states based on exit polls. That enabled the network to declare Ronald Reagan president at 8:15 p.m., while ABC and CBS waited for more votes to be counted.

"ABC didn't call the election until 10 minutes to 10, right before Jimmy Carter made his concession speech," says Mitofsky, who was then running CBS' election shop. "CBS didn't call it until 10:20 p.m., after Carter made his concession speech. That was my doing. Yeah, it was hard. I didn't need any lessons in exit polling from NBC. It bothered me that they were using them and we weren't."

After 1980, each network conducted its own exit polls on a massive scale. But costs mounted and network news executives, far more focused on the bottom line than in the past, scrambled to save money. In 1990 they created Voter Research Surveys to conduct exit polls, offer analysis and make projections for all networks. Mitofsky was named to head the new operation. By joining forces, each network would save $9 million over a four-year period, according to a report cited in David W. Moore's book, "The Superpollsters." It also made VRS research affordable for CNN.

Philip Meyer, a pioneer in what is sometimes called "precision journalism," spoke out against a network consortium at a 1991 meeting of the American Association for Public Opinion Research, calling it "a bad idea." If VRS makes a mistake, Meyer said then, there could be "terrible consequences" because there would be no other exit polls to serve as a counterweight. If VRS was wrong, he reasoned, everyone would be wrong.

"My concern then and now is when you share responsibility like that across news organizations that normally compete, if everybody's responsible, then nobody's responsible," says Meyer, who teaches journalism at the University of North Carolina. "When they were competing organizations in 1988, they gave different answers, and that was embarrassing to the networks. The visible conflict is good because it reminds everybody how delicate these instruments are. Competition produces better results."

In 1993, VRS and NES merged to create Voter News Service, an effort to save even more money. Mitofsky left and Murray Edelman became editorial director. The terrain shifted that November when ABC broke from the pack and surprised everyone by making its own calls ahead of VNS, albeit using VNS data.

Thus began the age where networks artificially compete, using identical information supplied simultaneously but reaching their own conclusions on their own timetable.

On Election Day, VNS, payroll, which includes about 30 permanent employees, swells to about 45,000, including election year staff, data input operators in the Cincinnati area and New York City, exit poll interviewers and people who collect county and precinct votes in each state and the District of Columbia.

In Florida, VNS-trained interviewers conducted scientific exit polls in 45 precincts with 4,356 people after they voted and staffed 120 sample precincts and 67 county election offices.

VNS "reporters" collect vote totals and phone them in to operators. Statisticians at the World Trade Center crunch the numbers through a variety of statistical models based on historical and geographical voting patterns. Then the computer comes up with a probability that statisticians use to project a winner.

Some critics say VNS models are outdated and not statistically sound. "I do think we need a software update on giving estimates of probability that takes into account changes in the country, especially on absentees," says ABC analyst Achen. "What we saw this year is a sign that there's work to do." CBS analyst Lenski agrees VNS models "need to be adjusted to fully account for the intricacies of absentees and early voters."

"I'm one of the people who understands statistical models," says analyst Achen. "On election night, I can sit there as could other people on the team, and say, 'The computer is saying this, but the way the model works, that's not very trustworthy,' and that's what they hired us to do. The model makes certain assumptions that are true most of the time, but not always. The machine can say it's 99 percent likely and it really is, or it says it's 99 percent likely and that's not true. That's what happened at 8 with the Gore call."

Once a race is called, network election analysts put it aside and turn to other contests. Too much is happening to double-check a called race. Yet that's just what Goldstein did 15 minutes after ABC awarded Florida to Gore. Raw votes from Florida's 67 counties were pushing Bush ahead.

Goldstein happened to be watching the Florida Senate race screen when results from Duval County in the Jacksonville area came in. The data was odd. It showed Republican Rep. Bill McCollum gaining on Democrat Bill Nelson in the race for the Senate. Goldstein switched to the presidential screen. Gore was surging.

"That didn't make sense," says Goldstein. "A Republican closed the gap in the Senate and a Democrat widens in the presidential race. That tells you there's a serious problem. People don't vote like that."

CBS and CNN analysts Mitofsky and Lenski lost confidence in their Florida projection at about 9:15 p.m. "After we made the call, I was fine with it for the next hour," recalls Mitofsky. "Then it started getting suspicious."

Their decision screens showed numbers that didn't jibe for the northern Florida region. "We looked at all the counties in north Florida and saw Gore was getting 98 percent in Duval and Bush only getting 2 percent," says Lenski, executive vice president of Edison Media Research. "We called Murray."

At 9:07 p.m., a VNS operator had accidentally added an extra digit, pushing Gore's total in Duval County to 43,023 instead of the actual number, 4,302. The mistake was corrected by 9:38 p.m.

At 9:54 p.m., after watching the suspicious numbers for almost 45 minutes, CBS stripped Gore of his win and sent the race into the undecided column.

At 10:16 p.m., VNS sent a message to its members and 100 TV, radio and newspaper subscribers: "WE'RE RETRACTING OUR CALL IN FL BECAUSE WE DON'T HAVE OUR PREVIOUS CONFIDENCE." By then, everyone but NBC had already pulled Florida back.

"After VNS deleted the bad data," says Lenski, who's worked every election for CBS or VNS since 1988, "we realized it was dead even." They advised CBS polling chief Kathleen A. Frankovic to take Florida from Gore.

Word traveled from CBS News Executive Producer Al Ortiz into Dan Rather's earpiece. "Bulletin," sputtered Rather. "Florida pulled back into the undecided column. Computer and data problem. One of the CBS News election night headlines of the hour. This knock-down-drag-out battle drags on into the night, and turn the lights down, the party just got wilder."

Mitofsky hasn't made many wrong calls in 33 years. "They are embarrassing," he admits. "I'm chagrined by them. But if you're wrong, you're wrong."

But he had company: Everyone using VNS data had jumped the gun. It may have been a tad more embarrassing, though, for Mitofsky, since Rather had earlier assured viewers that they had settled on the reliable channel.

"Let's get one thing straight right from the get-go," said Rather at 7 p.m. "We would rather be last in reporting a return than to be wrong. And again, our record demonstrates that to be true. If you hear someplace else that somebody's carried a state and if you are off, as you shouldn't be, watching them, then come back here because if we say somebody's carried a state, you can pretty much take it to the bank, book it, that that's true."

Fifty minutes later, the promise wasn't worth much.

So what, exactly, had gone wrong?

The bad Gore call was not because of flaws in the exit polls or a data entry error, despite dozens of inaccurate media reports to that effect. Experts agree there was no bias in the exit polls, as there had been in New Hampshire. And the Duval County mistake, made an hour after the Gore call, played no part in the blunder, VNS Editorial Director Murray Edelman explained in a confidential November 14 memo to members.

Nor were other errors to blame, such as one made by a VNS staffer who inaccurately recorded figures for Lake County at 9:01 p.m. and again at 10:47 p.m., coming up with totals larger than was possible. By 11:59 p.m., the errors were corrected.

Nor was it due to a VNS operator shortchanging Gore by 4,000 votes in Brevard County, punching in 93,318 instead of 97,318 at 10:13 p.m., though that error may have played a role later in the evening since it wasn't corrected until 3:51 a.m, according to a VNS memo.

"I still believe the biggest problem in the model is that we did not correctly anticipate the impact of the absentee vote," Edelman wrote in the memo.

Edelman declined to be interviewed by AJR for this article. The network consortium will not allow any VNS employees to speak to the media about what happened on election night. And network officials also will not discuss the situation, beyond saying that they are investigating what went wrong.

University of Wisconsin political scientist Ken Goldstein is not surprised that absentee ballots played a key role in a bum call. Exit polls, while painting a portrait of Florida voters who cast ballots at precincts, tell analysts nothing about absentee voters. "One of the things you are looking for in a close race is you want to be sure you know what's been going on with the absentee ballots and that you are counting them properly," says ABC election analyst Paul Freedman.

But Goldstein and others say Edelman was cognizant of the absentee factor going in.

"If you don't include absentee votes in your model, you are going to be off," says Goldstein. "Everyone knew that Florida is 10 percent absentee and has always been. We got memos ahead of time that said, 'Don't forget about absentee.' Murray produced a lot of paper before the election on absentee voters. We had Excel spreadsheets on absentees, plus we had reports for each state on absentee history. Yeah, the absentees could be the explanation, but you knew about that."

Academics, statisticians and news people working election night know uncertainty goes hand-in-hand with predictions. They expect and try to compensate for bad data or human error. Making projections is a science. But it is not foolproof.

What does ABC do when everyone else has picked a winner and ABC hasn't? "There's got to be social pressure," says the University of North Carolina's Meyer. "Who wants to watch an anchor who doesn't know who won when everybody else says they know?"

Says Freedman, "As long as the context is calling the winner first, you are going to see built-in incentives to be a little risky." Given the intensely competitive environment, it's reasonable "to expect that people will make decisions with competition in mind and not simply with the data in mind," he adds. "It's inevitable. It's built into the way the networks structure election night."

But why are the networks in the projection business at all? who cares which network is first? Most people merely want accurate results. many critics among them election expert Curtis Gans argue the networks do democracy a disservice by declaring a winner before the final results are in. "In almost every election there's this rush to judgment," says Gans, vice president and director of the Committee for the Study of the American Electorate, "and there's something inaccurate reported. Networks are creating the news by projecting winners, not reporting it. No data is as accurate as tabulated results."

A poll by the Pew Research Center For The People & The Press reported nine days after the election that 87 percent of the American people want the networks to stop predicting winners before the votes have been tallied. "There are a lot of people out there who are fed up with the networks," Gans says.

What happened in the wee hours of the morning after changed perhaps forever, but certainly for many years to come how much Americans trust television networks. What will they believe in 2004 when a network projects a winner in Florida?

"What everybody is going to remember is not the campaign coverage but the election night coverage," says S. Robert Lichter, president of the Center for Media and Public Affairs. "So even if we could give [the networks] a brilliant grade, I think it would be a little like saying that the Titanic was doing just fine except for the iceberg."

Almost 41 million households were tuned to the four major broadcast networks and three cable news channels on election night, according to Nielsen Media Research. No waiting for tomorrow's paper. No competing to get on a crowded Web site. And TV graphics beat radio. Turn on the TV and Jennings and Rather and Tom Brokaw and the cable guys are there for reliable updates,

Reliable?

By 1 a.m., it was clear that whoever carried Florida would move into the White House in January 2001. As predicted, election night 2000 had been a wild ride.

Now, all that had to happen was for someone to win Florida. Then all of those viewers struggling to keep their eyes open could finally go to bed.

At 1:30 a.m., everyone staring at election data screens at the networks, at the AP, at VNS was jumpy. Ninety-five percent of Florida's precincts had been tabulated, according to VNS, and there was still no clear winner. At 1:30 a.m., Bush had about a 60,000-vote lead, says AP Florida Bureau Chief Kevin Walsh. But how many votes were out? Where were they concentrated?

At 1:52 a.m., Walsh's figures showed the lead shrinking to 56,000 Bush. "It was very intense," recalls Walsh. "We were getting calls here and in Tallahassee from editors all over the country wondering if we were going to call the race, or looking for guidance."

At 2:10 a.m. in Fox's New York studio, election analyst John Ellis, George W. Bush's first cousin, saw the same VNS data as those at the other networks. It indicated Bush held a 51,433-vote edge. Only 179,713 votes were outstanding, according to VNS. (It would turn out that VNS had grossly underestimated that number. Instead, twice as many votes remained uncounted, according to a VNS post-election memo.) To close the gap, Gore needed to win 63 percent of them. It seemed an impossible task. Ellis advised the network to call the state for his relative.

NBC decision desk head Sheldon Gawiser was worried, too. On the phone with Edelman, Gawiser repeatedly asked why NBC couldn't make the call. "When he couldn't give me any reason not to call the election," says Gawiser, "then I told him I was going to go ahead and take a look at it myself. And we then broke the connection."

Fox anchor Brit Hume declared George W. Bush winner of Florida's 25 electoral votes and crowned him the next president at 2:16 a.m. One after the other, the networks tumbled, like so many dominoes, CBS and NBC at 2:17 a.m., CNN at 2:18 a.m.

Before 2:00 a.m., the ABC decision desk asked Achen about making the call. Again, he said it was too soon. The VNS model couldn't assure him the absentee votes had been counted, and he knew that at the end of a long night, errors in totals were likely. But Achen says he didn't lobby strenuously against the decision.

At 2:20 a.m. again last, ABC gave Florida and the election to Bush.

Ironically, VNS itself did not award the state. But CBS, and CNN's Mitofsky says with 97 percent of the vote reported, Bush leading by 50,000 and about 180,000 votes not yet tallied, he thought it was an easy call.

But the AP hesitated. At 2:16 a.m., with 99 percent of the state's 5,884 precincts in, Walsh's count showed the Bush margin narrowing to 30,000 votes. "We didn't feel there was any way we could make that call," says Sandy Johnson, AP's Washington bureau chief and the one making final decisions on all of the races. "It just wasn't there."

As CNN anchor Bernard Shaw declared Bush the winner at 2:18 a.m., Republican operatives projected Shaw on a drive-in movie-size screen outside of the Texas State Capitol. The Republican crowd in Austin erupted in cheers. In Nashville, Gore supporters standing in the rain had another reason to feel glum. Soon, they were told, their man would arrive to give a concession speech.

CBS' Rather was awash in Ratherisms. "Let's give a tip of the Stetson to the loser, Vice President Al Gore, and at the same time, a big tip and a hip, hip, hurrah and a great big Texas howdy to the new president of the United States. Sip it. Savor it. Cup it. Photostat it. Underline it in red. Press it in a book. Put it in an album. Hang it on the wall. George Bush is the next president of the United States."

CBS' screen flashed: "Bush elected president."

Rather and CBS stars Ed Bradley, Lesley Stahl and Bob Schieffer began speculating on why Gore lost, what he would do next, whether he could have run a better race.

Still the AP remained silent.

Across the country, newspapers were bumping up against their final deadlines. Editors were edgy. Dozens of the AP's 1,500 daily newspaper members began calling New York, Washington, Miami. Why hasn't the AP called the race? In New York City, the AP's president and CEO, Louis D. Boccardi, called his D.C. team at 2:30 a.m. He, too, wanted to know what was going on. So did Executive Editor Wolman, who was in D.C., although Bureau Chief Johnson was honchoing election coverage. "I had to wonder if there was an overabundance of caution because of the bad Gore call," Wolman says.

Yes, the AP team was wary. It couldn't afford to blow it, not with all of those newspapers depending on it. But Johnson had confidence in an invaluable tool the AP had that the networks didn't: a backup system. Long before the AP joined VNS in 1990, it had cobbled together its own network for gathering election results.

"We count the vote in every state," says Tom Jory, the AP's liaison to VNS. "We count the same national races VNS counts as an independent backup to VNS and use VNS to edit-check our report. We often use VNS as a primary source, but we weren't using VNS in Florida."

Like VNS, the AP hires freelancers to gather vote counts. The freelancers are strongly encouraged during dress rehearsals the weekend before election night to call bureaus early and often. "As a result," says Walsh, "we were consistently out front of VNS and out front of the Florida secretary of state's Web site."

When VNS models showed Bush's lead jump from 29,386 at 2:05 a.m. to 51,433 five minutes later, network analysts thought the race was over. But AP's count was radically different. It showed that Bush's lead at 1:47 a.m. was 56,486. By 2:16, it had plummeted to 30,513.

The AP decided it wasn't ready to call the race. At about 2:30 a.m., seeking reassurance, AP decision editors in D.C. summoned Will Lester, who for 11 years had participated in the wire service's coverage of Florida elections as a writer and an editor.

"You didn't have to sit down and do fancy math to figure out that if Gore could win a substantial share of the outstanding votes, it was clear that the margin Bush had could evaporate," says Lester, the AP's poll writer. "Broward and Palm Beach are big metropolitan counties. Those counties coming in late definitely could wipe out a Republican lead."

"Can we call it?" Johnson asked Lester. "We need to know when we can call it." Lester eyed the data again. "You can't do it," he responded. At 2:30 a.m., as Rather deconstructed Gore's downfall, the AP's numbers showed Bush's edge dropping to 19,000.

Wolman was feeling enormous pressure. "After the celebration started in Austin," says the AP executive, "we spent all our time crashing numbers on calculators, trying to understand whether the race was over or was it possible for the Democrats to catch up?"

At 2:37 a.m., Johnson and others concluded Gore could pull it out. The wire service issued an urgent update, cautioning that while the networks were calling the race, there was "the narrowest of margins" between the candidates with votes still being tallied.

But everyone at the AP's Washington bureau was extremely nervous. "You have the weight of the other VNS members making the call," says Wolman. "By that time newspaper Web sites were printing 'Bush Wins.' Gore had conceded to Bush. There was doom and gloom in Nashville. We felt extremely lonely. We were thinking, 'Florida's the whole ball game. Don't blow it.'"

Many were thinking the same thing. "That would be something if the networks blow it twice in one night," said NBC's Tom Brokaw less than an hour before the network took Florida away from Bush at 4:00 a.m.

They did.

Could the debacle have been avoided if the networks had subscribed to the AP's special election-night wire, which flashed vote totals up to 12 times an hour, as much as four times as frequently as the main wire? None of them did.

"I wish we had," Lenski says. "At 3 a.m., we went into Yahoo! to find AP vote totals."

Some network analysts explain the second blunder by blaming a computer glitch in one machine in one tiny precinct in Volusia County, which includes Daytona Beach.

In precinct 216 in DeLand, election workers began having trouble with one voting machine shortly before the polls closed. After 7 p.m., a poll worker drove the malfunctioning laptop-size machine to the Department of Elections to see if someone could get it to work.

"We would have had to remove the memory card and upload it ourselves, which is what we did at 10:02 p.m.," recalls Denise Hansen, the department's assistant supervisor.

Within 15 minutes, she says, the county attorney called. He'd been watching results stream in on a screen in the county's council chambers. Gore's vote was going backwards!

By 10:30 p.m., the county knew there was an error. But where? Officials tried for hours to track down the AccuVote machine vendor in Texas. After running a precinct-by-precinct printout at 1:24 a.m., the error jumped out. "You don't see a negative 16,000 votes for anybody," says Hansen. Not to mention a five-digit vote in a precinct with 585 registered voters only 219 of whom had voted.

When VNS entered the Volusia glitch at 2:08 a.m., Gore's count in the county dropped from 82,619 to 72,152. The problem should have been caught by a VNS op-

erator. Its computers flag anomalies, alerting operators to potential data problems that need to be checked.

"When there's a big decrease in a candidate's vote of 10,000, it has to be approved by a manager at VNS," says Lenski. He adds that if they'd received "weird data" from Volusia, they would have taken a close look at the county's totals.

Says the AP's Walsh, "I think everyone was affected by that erroneous data. However, our vote totals in all the counties were far ahead enough of VNS, that it affected us less. We were recording votes so fast in the Miami bureau that the Volusia problem did not have as dramatic an impact on the overall Bush margin for us as it did for VNS."

AP didn't notify VNS because while it could tell something was wrong in Volusia, "we had no idea what the specific vote drop was," Walsh says.

What looked like a 56,000-vote Bush lead according to VNS was probably more like 30,000, says CBS' Mitofsky. "Now we always expected his lead to close up somewhat, because the missing votes were in Democratic areas. We certainly didn't think there were more than 180,000 votes out. If we had known that there were as many as 360,000 votes out, as we do now, we never would have made a projection." It's not clear what caused that miscalculation.

At 2:30 a.m., the AP's count gave Bush a 19,000-vote margin while VNS, margin was almost twice that. To the AP, with votes in Democratic strongholds outstanding, it appeared Gore could pull ahead. To those eyeing VNS data, Gore didn't stand a chance.

At 3:11 a.m., the AP sent out a cautionary advisory. Bush's lead had dwindled to 6,000.

On CBS, Ed Bradley was holding up the AP report. Rather turned and Bradley said slowly, "The Associated Press believes that the uncounted votes in Broward and Palm Beach counties could allow a change of the lead in the Florida vote." There was laughter, groaning, amazement on the set. "Hello, 911? Cardiac arrest unit please," said Rather, pretending to make a phone call. Bob Schieffer covered his face in disbelief.

Rather recovered. "Let's not joke about it folks," he advised. "You have known all night long and we've said to you all night long that these estimates of who wins and who loses are based on the best available information we have. CBS News has the best track record in the business, over a half century plus, for accuracy on election night. But nobody's perfect."

Congress is holding hearings on the election night fiasco. Networks are hiring outside consultants to study the VNS system. Already, ABC, NBC and Fox have promised they won't call a state until all of its polls have closed. The networks are once again lobbying for a uniform poll-closing time. ABC has announced it will no longer allow television sets in decision desk rooms. Critics are beseeching the networks to stop projecting winners based on exit polls or sample precincts.

After all of the investigations are over, and Congress has studied the misfire into oblivion, and network executives have pounded their chests with mea culpas, and anchors have promised to never, ever project winners in tight races, and television sets are forever banned from election night decision rooms, the best solution may be simply to force everyone involved to repeat this mantra 100 times:

"It's not an off-year dog catcher race in North Dakota."

Mr. BUYER. I would like to ask each of the networks about this issue of acceptable levels of risk, and whether you agree with Dr. Edelman's comments on that; and second, as you are doing your review, whether you're going to keep the present setup that you have about the decision desk and how you make those decisions.

I can almost see it. All these people at the different decision desks at the networks know each other, right? Some are friends, some are colleagues, some aren't friends, but they know each other, and they're all competitive, and they've been that way for decades. I can almost see the camaraderie. I can't believe so and so made that call. He's going to fall on his face. I'll bet you 10 bucks. I can see that stuff going back and forth through the night. Everyone wants to get ahead of the other. And they lay the networks credibility on the line in something that is a big game to them. But they also want to be right because they want to be hired back.

But I'm curious about whether you're doing internal reviews on whether you restructure that desk or not. So the two questions are do you agree with the doctor's assessment about that level of risk; and second, are you going to be restructuring the decisionmaking desk to be more accurate?

Thank you.

Mr. JOHNSON. Congressman, I'd like to say first that I take strong exception to your comments, to your jokes about CNN. I see we live in a word where jokes are made, Members of Congress, even the President, and I think both the Pew study and the NBC/Wall Street Journal study showing CNN to be the most trusted network is something that we take great pride in.

Mr. BUYER. Was that a paid advertisement? That was for free, wasn't it?

Mr. JOHNSON. I think everybody has said today that we are determined to make certain that we take the steps that are necessary to assure that our future conduct on election night is as solid, as credible as we know how to make it. That cuts across no matter what area here we may represent in terms of where all the networks stand on a political spectrum.

Mr. BUYER. You will continue to team with CBS on how you do your decisions at the desk?

Mr. JOHNSON. We may, or we may not. We have not made that decision. We have tremendous respect for CBS. We also have great respect for the other news organizations here. I think you'll find that each of us does our job in the way we think best serves the public.

Mr. BUYER. Did you agree with Dr. Edelman's assessments on the issues on risk?

Mr. JOHNSON. I think that we want to take no risk that that risks our credibility.

Mr. BUYER. That's fair.

Chairman, would you permit each of them to answer the question?

Chairman TAUZIN. The gentleman's time has expired, but our rule is if you would like to answer, you certainly can.

Mr. LACK. There is no acceptable risk to be wrong. You don't want to go out there and report something that just might be wrong.

I think it's important to point out it hasn't been mentioned in this discussion today that 75 percent of the races are not close at all, and there isn't any risk involved. Then you get down to that last 25 percent, you're starting to ask yourself, what's the risk here?

I think the answer is we don't want to take any risk calling a State where we're wrong.

I guess the gentleman representing VNS today Mr. Savaglio pointed out that they have been right 99.8 percent of the time, but they blew a doozy, and that's not acceptable to any of us. We're not going to take the risk that that is going to happen again.

With respect to the way NBC News is going to look at its decision desk, we are going to take a look at it. I don't know what or how it's going to reconfigure itself between 2000 and 2004, but we're not going to play with a pat hand. We're going to tear it

apart and tear up the rug and start all over again and see if we've got the right people in the right places doing the right things.

Mr. BUYER. Thank you.

Mr. Lack.

Mr. AILES. I think as far as the desk at Fox is concerned, I am certain that we will review that between now and when we have another election. What we will keep, however, is that we had a situation where every single person on that desk had to give a yes vote before it went to air, and then it when through a vice president, senior vice president for the network, who recanvassed the floor and said, are you sure of this, should we make this decision. So we had a unanimous desk. The last thing I said to the people at 5:30 that evening after a briefing was nobody will get fired here for being late. I don't care if you call every single race last. I want you to be fair, and I want you to be as accurate as you can be. That was my instruction at 5:30 to 35 of our journalists who were meeting in a conference room.

And I think that there is this competition and so on, but I do think the idea of having everybody in the room agree it's time to go is helpful.

Mr. BUYER. Thank you.

Chairman TAUZIN. Mr. Heyward.

Mr. HEYWARD. Very briefly. We already said in our report that we're going to toughen up the oversight of the decision desk. We have already announced some change. We're going to have a new executive who over sees it and will serve as a potential check or balance on decisions that might be premature, let's say. But, you know, in terms of the risk, again, I think one of things we haven't really said much at this hearing, the penalty for us for a mistake is extremely severe. I think that also speaks to some of the concerns about perceived bias, or, you know, I think one of the themes of election night is just waiting until you can be sure to get it right. And clearly we have to rely on some better models than the ones we've had.

The—our decisions are there for the world to see, and the penalty when we're wrong, in addition to having the spend the day here, which is fine, is that our credibility with our public is impaired, and ultimately our very business would be threatened. If people couldn't count on us to be accurate, we would be out of business. So we have a tremendous incentive independent of any of the issues that's being raised by you, Congressman Buyer, or any of the other Members, tremendous incentive not to let this ever happen again, tremendous, built into the marketplace.

Mr. BUYER. Mr. Westin?

Mr. WESTIN. Yes, sir. On the two questions, first acceptable level of risk, I said in my opening statement, and I've tried to reiterate, that we at ABC News, as my colleagues do, do everything possible to ensure the accuracy and the timeliness of what we report.

Now, I want to be honest with the committee, out of respect to the committee. To manage for zero risk in journalism is not to be a journalist; it is to be a historian. The only way to manage for zero risk, as we learned in this last election, the Presidential election, is wait until after the electoral college has finally voted. So we are going to do everything we can.

The problem we had here was there were risks in this system we were not aware of. We thought we were managing for closer tolerance and risk than, in fact, we were, and that's what we have to fix and get rid of.

On restructuring the desk, we said 2 weeks after the election, we want to remove as much as is feasible our decision desk from some of the pressures of watching monitors and see other people who can do it other ways, but it is human nature that when you are seeing everyone else with graphics up announcing the 43rd President of the United States, that you start to think maybe you should get moving.

That's a fundamental change that we are going to make. But I also have to just come back on the end on the allegation of bias, of political bias. You don't know the political affiliation of anybody working on a decision desk because I don't know, and if I did know, they wouldn't be working on my decision desk.

It is a policy at ABC News, you do not take a political position. Now, you may have it in the privacy of your home, you may vote it, but you better not express it in any way that I know about it. And that's why you don't see it.

It is, frankly, unfair to the men and women that I work with to suggest that they come into the office every day and bandy about their political views, because it is simply not the way it works. We may get it wrong, and we do, and we get called to task for it, as we should, but these are hard-working, dedicated men and women who are trying to get it right the best they can.

Mr. BOCCARDI. I would like to make the same point about the people who work for me. I don't know their politics, and I don't care about it, but on this question of risk, philosophically David is right, we don't work in a zero risk business. But there are none of us who would say, well, let's make that call; there is a risk it's wrong, but let's do it. We just don't do that. When we make a mistake, we make a mistake, as in the Florida early Gore call in Florida by us. We felt that it was true.

Chairman TAUZIN. The gentleman's time has expired. The Chair will now recognize a gentleman who, believe it or not, has sat in this chair and held longer hearings than I have, the gentleman from Michigan Mr. Dingell.

Mr. DINGELL. Mr. Chairman, I thank you.

Gentlemen, you have been here a long time. I would note that most everything that can be said has been said, but not everybody has said it.

I would observe that the last few minutes of the hearing, I think, have been very helpful.

Mr. Chairman, I do want to commend you for the way this hearing has been conducted.

I would note that CNN, Mr. Ailes has come forward with some rather scathing criticism of their own performance, and they have suggested a number of changes that they think they should make. I note that others here have come forward with similar statements about needs for changes.

First of all, what then, gentlemen, do we do so that we don't have another situation like this? It was, I think, pretty important that we have fair, accurate reporting, reporting here that didn't af-

fect or impact one of the great and important elections in the history of this country.

Starting with you, Mr. Lack, what do we do about these matters?

Mr. LACK. Well, I think we have all generally agreed that we need to reevaluate how VNS goes about collecting their data and providing it for us on election night. So we need to retool, fix, use whatever verb you like, to get VNS up to speed so that the mistakes that they did encounter on election night won't occur again in 2004.

In addition to that, we need all of us individually be satisfied that our own organizations have backup systems and enough original reporting to help them evaluate the course of events as election night unfolds.

Mr. DINGELL. Does that include the contract that you have with your contractor to do certain work for all of the networks? Does that need any work, additional expenditures?

Mr. LACK. I believe it will take additional expenditures, and NBC and many of my distinguished colleagues here have also spoken straightforwardly about that. It is going to take more money, and we are going to pony up.

Mr. DINGELL. Mr. Ailes, what do you have to say to the question?

Mr. AILES. I think everybody on this panel is probably going to pay very close attention to this personally. I think it will cost more money. We all know that. I think we will be involved in frequent meetings to try to solve this problem.

I think that beyond that we have an obligation to inform the public a little better about the election; put disclaimers on the screen about what they are seeing. If they are seeing something and they could think it is something else, an exit poll is an exit poll. It may or may not be accurate. You should never base your vote on it.

I think we have to be careful about oversimplification of how to win the race or not win the race. I think it has caused a real review of our process internally about information that we give to the public to make their judgments.

Beyond that, I think there are a lot of things, a review of the desks and so on and many of the suggestions, which I won't go back through here. We all came to pretty much the same conclusions, but it is clear we are all going to have to rebudget.

Mr. DINGELL. Mr. Johnson, what do you suggest? We have talked about software and modeling and things of that kind. What are your comments?

Mr. JOHNSON. First, that we fix VNS. Second, at least in our organization, that we get a second source of data to make projections. Third, that we be very careful about the use of exit polls in the close races. As we have suggested, I really believe that we will withhold calls when the vote margin is extremely close, make it clear we cannot make that call, and also, as we have recommended, a uniform poll closing act.

Congressman, I also believe, though, as we have said earlier today, that there is almost an equally important need for us to upgrade the technology throughout the United States. I mean, in an era where we all can go to an ATM machine and reliably dial in

a code and take out money, we should all be able to go and reliably be able to make sure that our votes count.

Mr. DINGELL. Sure can't count on those punch card machines, can you, or the butterfly ballots, either one?

Mr. JOHNSON. We need to change those soon.

Mr. DINGELL. Mr. Heyward.

Mr. HEYWARD. Congressman Dingell, rather than just restate our list of recommendations, they are very similar to what my colleagues have said, I would just add that maybe as an overall theme one benefit that the public will get out of this, in addition to, I think, more reliable data and perhaps some commendable caution when the races are close, is that the process will be demystified a little bit. I think that the notion that there is something mysterious about it is not a good thing, and I think the degree to which we report on why we make calls, why we don't make calls, the nature of exit polling, the nature of our projections, how votes are going in particular States and not try to have this air of omniscience will be a good thing. I think that's one of the lessons that comes out of 2000 is that accuracy, clarity, directness with the viewers are very important to us, and I think that the citizens will benefit from that next time around.

Mr. DINGELL. Mr. Westin.

Mr. WESTIN. Four things. We need to redo VNS and put more money and more resources into it, correct some of the errors that we didn't fully appreciate and know that were in there.

Second, we have to be open to other alternatives to VNS if they will make our reporting more accurate and more timely. If those are available, we should take advantage of them.

Third, uniform poll closing we have said we are in favor of, and I wholeheartedly endorse what Mr. Heyward said. As I said earlier, I personally look forward to a day when the technology is such that we get an instantaneous and perfectly accurate count of the actual vote, and we don't have to make projections at all anymore. That would be best for the country and ultimately best for the news divisions.

And finally, and I think as important as anything else, I think that we as news divisions, and certainly speaking for ABC News, need to have a bit more humility in our reporting. Now, that doesn't mean that we are less vigorous. I don't think any of us want a less vigorous press, but in our vigor we have to be explaining to our audience what we know and what we don't know so that they can then incorporate that and make use of that information in a more constructive way.

Mr. DINGELL. Mr. Boccardi, you have expressed some distaste for the hearing and some questions of pride of this kind of event. Why don't you tell us what you folks in the media need to do.

Mr. BOCCARDI. Well, I think a lot of good things have been said in the last couple of minutes, and it may sound like an odd thing for me to say at the end of a long day devoted to the problem of the 2000 election, but we don't think AP had a broken election. We had one problem. It was the early Gore call, and it was made because of some faulty data we received from VNS, of which we are one of the owners. So fixing VNS is an important part of what we think needs to be done.

Mr. DINGELL. That includes software and money and modeling and all that sort of thing; does it not?

Mr. BOCCARDI. Yes. It needs some or all of the above.

Mr. DINGELL. Mr. Edelman, do you have some comment?

Mr. BOCCARDI. Just say yes.

Mr. EDELMAN. Well, I agree with everything they have said, and I look forward to having a much larger budget.

I would like to make a couple of comments, that the models that you were evaluating in the earlier part, you were taking one number off of the screen and didn't take into account that there was a lot of other information available.

The issues of absentees and bias and stuff we have been studying very seriously for these very many years. There was just not one number fixed to put into the system, so I chose to give the information and make that available. So when you used that number and then talked about the systematic bias and all of that, I think it is quite misleading. That doesn't mean we don't have a lot of problems, and it doesn't mean that we don't have a lot of things to make much better.

Mr. DINGELL. Mr. Chairman, I am over the time, but may I ask Mr. Savaglio to comment on this?

Chairman TAUZIN. Of course, Mr. Dingell.

Proceed.

Mr. SAVAGLIO. Thank you, Congressman.

As we outlined in our statement, we have identified a series of improvements in the system that include reworking the models, using larger sample sizes and working to improve the accuracy of the exit poll with regard to the response rate, and also the issue of absentees. So I think that the process has given us a number of things that we need to do that we know will make it better, particularly the things that were in the Research Triangle Institute report, which will help us have greater accuracy in the future.

Mr. DINGELL. Mr. Chairman, thank you.

Gentleman, thank you. I hope we don't see you here after the next Presidential election.

Chairman TAUZIN. Thank you, Mr. Dingell.

The gentleman, Mr. Walden is recognized.

Mr. WALDEN. Thank you very much, Mr. Chairman.

First I want to thank our panelists for their internal analyses and external as conducted. I thought they were very thorough, very complete, had excellent recommendations.

Your decisions to withhold the numbers until all the polls have closed in the State is appreciated, especially for somebody from the West.

I am sorry and disappointed that some of you seem to be offended at having to come here today and testify on these issues. Mr. Boccardi, maybe you won't take offense to this, but I have been a dues-paying AP co-op member for 15 years in my business, so maybe you can look at me in that respect.

Mr. BOCCARDI. That would never offend me.

Mr. WALDEN. Good. I will keep paying the dues.

But I think the issue for me is that at the end of the day we have the closest election in decades. The outcome exposed serious flaws in the election process as elections are conducted, we have heard

a lot of different issues today, and how those elections get covered through the VNS formula model and the problems there.

The States don't like us prying into how they run elections, as they are guaranteed the opportunity under the Constitution, any more than you like us prying into how you cover those elections. But not once today have I heard of any legislative intent to influence VNS through legislation or to undermine in any way your first amendment rights to conduct the election.

Gentlemen, what we run into, as we go home to our district, are constituents who never have access to people like you to ask the questions we are asking today. So, please, don't take offense to being here and sharing the answers, because I think, frankly, the answers you have shared are very valuable to your own credibility as well as our own. So I think that it is important to have these oversight hearings to get to the bottom of the issue. I think in the end it will strengthen the first amendment, frankly.

I do have a question, Dr. Edelman, referring to your testimony, your report, with all members—if I could read from it, Mr. Chairman—with all members using the same data, one would expect that all members would call a given race fairly close to the same time, say within a few minutes of each other. However, an analysis of the calls in this election reveals gaps of as much as an hour between the times the same race was called.

It is very unlikely that a difference of that amount of time could exist between calls unless some members are assuming a much larger level of risk than others. If the first member who calls a race makes the call with some insight into the data, that insight becomes immediately transparent to the other members as soon as the call is made, and if the level of risk is acceptable, the other members would quickly follow suit. It would appear that calls are being made at the minimum acceptable tolerances for risk, with very little allowance for error.

Can you explain further what you meant by that statement, Dr. Edelman?

Mr. EDELMAN. Yes, sure. If a member calls a race at 8, and another one calls it at 9, the one at 9 has a lot more information than the one at 8. So that member at 9 is taking less of a risk when they are doing it.

However, a member at 8 is making their determination based on all of the information that they have at that time, and they could easily perceive this as a very safe thing. So I made that statement—so that doesn't necessarily mean that that person, that member at 8, is taking a bigger—not aware that they are taking a bigger risk. It is only in retrospect that they might be. And I made that statement to point out that we should look at those gaps in time to see if it is based on more information that someone has or a different interpretation of the data.

Mr. WALDEN. And as you analyzed the various calls that were made and the times they were made, I am assuming you did that, is that correct, a postelection analysis; did you look at when the different networks made the different calls?

Mr. EDELMAN. No, I didn't really do that. I had my hands full, as you may have noticed.

Mr. WALDEN. Okay. Haven't we all. Thank you.

I have one other question for VNS. It seemed to me, going into this Election Day, there was this agreement not to—among the networks not to reveal the results of the data prior to polls closing. But wasn't there an Internet company that—it may be a subscriber to VNS—that said, we are going to ignore that agreement?

Mr. SAVAGLIO. No. There had been some issues with Internet organizations through the primaries where some of the early—what were reported to be early numbers were published on the Internet, but there was no source available on the Internet of the VNS data.

Mr. WALDEN. Okay. So nobody in general got access, no member—could a member have—do members have access to the initial wave data?

Mr. SAVAGLIO. The system goes up to the members in the afternoon, yes.

Mr. WALDEN. And while you have agreement among the networks here not to release the data ahead of any poll—well, before the polls have all closed in a given State, do you have that same agreement with the other recipients of the data?

Mr. SAVAGLIO. Yes. It is in the subscriber contract that they have to abide by the same regulations.

Mr. WALDEN. And what is the penalty if they do not?

Mr. SAVAGLIO. Well, there are penalties, I believe, in the contracts, financial penalties.

Mr. WALDEN. Thank you. All right.

Chairman TAUZIN. The gentleman's time has expired.

Just for the record, are the two political parties subscribers to VNS? I think they are.

Mr. SAVAGLIO. Not during the day. There is a—I am told here that the Republican Party buys the tabulated vote once the tabulated vote starts coming in.

Chairman TAUZIN. Once the tabs come out?

Mr. SAVAGLIO. Yes.

Chairman TAUZIN. They are not subscribers to the exit polls?

Mr. SAVAGLIO. No.

Chairman TAUZIN. The gentlemen Mr. Bass is recognized.

Mr. BASS. No questions.

Chairman TAUZIN. Mr. Shadegg.

Mr. SHADEGG. Thank you, Mr. Chairman. I will be brief, or at least I will try to be brief.

First of all, I thank you for your time here today. I also want to thank you for the reviews you have each done. I think they do reflect a desire on your part to be responsive to the concerns of the American people, and I would echo my colleague Mr. Walden's comments about the fact that we do have an obligation to our constituents who don't get to talk to you and perhaps but for this hearing wouldn't know of the efforts you have made to examine what went wrong.

This is a very troubling issue for me. I am—for a number of years in my life, I was an election law attorney. I specialized in the Voting Rights Act. I advised the Arizona Secretary of State on election law matters, handled automatic recounts and other recounts in a State which was using punch card balloting. So I have been fascinated with this whole issue.

I am, however, a rabid proponent of the first amendment and have never thought there was an easy solution to this problem, and I still don't think there is an easy solution to this problem. A part of me is concerned about the efforts you make to make an early call, in fact affecting elections. And since I report Arizona, a west coast State, there is a part of me that is deeply concerned about that, and I think, in fact, there is evidence that it does affect voting.

Indeed, you received a letter, I believe, signed by all 50 Secretaries of State back in 1998 reflecting their requests that you not report or that you not call elections in advance of the closing of the polls on the west coast. While I sympathize with that request on their part, there is a part of me that says it is unreasonable to ask you to do that. I think the only solution to that problem is a uniform closing time, and I commend the chairman for his efforts in that regard.

I simply think you cannot ask people to voluntarily restrain when you are in the business you are in and people have a different expectation, but I think the uniform closing time will do a great deal of good, and I commend those of you, and I guess it is almost everybody, if not everybody, who has said here today that you support that effort.

I do have a serious problem with calling an election before the polls close in a State; for example, what happened in Florida this year. And it kind of mystifies me why networks would call Florida 8, 10, 11 minutes before the Florida polls closed, because that truly, I think, can affect the results, and I, quite frankly—if we cannot accomplish a uniformed poll closing statute, I would favor a statute that at least prohibits you from calling a State before the polls in that State close, because I do see that as a serious problem.

In this election I think that it is certainly possible that voters in the Panhandle of Florida, many of whom are military personnel, many of whom are solely interested in the national election, the Presidential election, could have been en route to the polls, heard that multiple networks had called the race in Florida and said to themselves, there is no need for me to go. And while I tend not to sympathize with voters who choose not to go for whatever reason, I think that it still creates a disincentive, which is a problem for democracy. As you know, we don't have enough Americans, a large enough proportion of our population, voting in our elections to begin with, and so disincentives, I think, are a serious problem.

I was here much earlier in the day when I heard my colleague Mr. Stupak say that, and this is a direct quote because I wrote it down at the time, nothing the networks do influenced the outcome of this election. I disagree with that. I don't think he can prove that proposition. Indeed, I think that it is pretty clear that—it certainly is possible that some of the things that were done in this election did influence the outcome of the election, and I certainly don't believe you can prove Mr. Stupak's claim. But hopefully we get to the point with a uniform poll closing time where that's not an issue.

What I do want to express a little bit of concern about is that in my State of Arizona now almost one-third of all voters early vote. I have heard just now in the last few minutes several references to absentee voting. On election night, as I was being inter-

viewed in Arizona about what was going on, I said, and I believe, that exit polling is a fatally flawed practice which can no longer be justified because of early voting. I am skeptical of your ability to adjust the formulas and to take into consideration the reality not of absentee voting—under Arizona law, you used to have to have a reason for absentee voting. Today you simply say it is more convenient to me to vote absentee, and you vote by absentee, and Arizona is 30 percent. Other States, I think, are even higher, and I think those numbers are going to grow.

I am interested in how it is that you propose to, in a fair fashion, continue to use exit polling when a third or more of the population, at least of my State, is going to cast an early ballot. And I would appreciate your comments, any of you that have them, on that topic.

Chairman TAUZIN. The gentleman's time has expired, but you are free to comment anyway.

Mr. BOCCARDI. VNS may want to say something about the question on polling, but I would like to pick up on one of the many points you made. As an example of the concern I expressed in my remarks about the first amendment, as you skipped through some of your perspective here, one of the things I think you said was that you support legislation that would ban us from reporting before a poll closed, and that's an example to me where your legislative mandate and our first amendment rights would conflict pretty directly.

Mr. LACK. I think we have already quite clearly volunteered that we are not going to do that, and I think all of us collectively came, if not in minutes, hours, and if not hours, days, that we were going to do that.

It was wrong, even though there was an agreement in place which I think the chairman has referred to that the networks were going to limit themselves from calling—or projecting a winner in a State before most of or the majority of the polls had closed, but that, it seems to me, is a fig leaf. We ought to get rid of it and just said no, no more projections before the polls have closed. So you don't—I mean, I agree with Lou's point about the legislative aspect of it, but you don't need to.

I think your skepticism with respect to the use of exit polling and the early voting and how that's going to impact exit polling is a very good one, and we are going to be looking at that very carefully, and VNS has got a very long bridge to cross with us to assure us that we have dealt with that issue correctly as we face 2004.

Mr. SAVAGLIO. The only thing I wanted to say about early voting is that the way the early votes are counted vary from State to State, and there are some aspects of it that allow you to get information about it, how many people have returned their ballots; the counties count them, and prepare them for tabulation, and release them right at poll closing. So they are not as unknowable, and obviously as it becomes—as it grows, hopefully those kinds of things that are helpful will continue.

Mr. SHADEGG. If I could make a very quick comment. It seems to me there are two issues there. One is at least in Arizona you can find out on Election Day who has early voted or at least who

got an early ballot to vote, and you could perhaps contact them to adjust your sample to reflect their views.

The other thing you could do, and this is an issue where Congress might step in, is that Congress might say if a State is going to allow early voting, it has got to dump in the results or announce the results of the early voting at a specific time. Either it has got to be the first result announced, or it has got to be the last result announced, but it has got to be announced in a fashion where you can look at the returns that come in and factor in what happened in the early voting to combine that with what your exit polling showed to give you an accurate projection of what actually happened.

Right now the States do that differently. In Arizona most early ballots are dumped in right at the outset. They are the first votes in. If you knew that, and you could look at those results, you might be able to perfect your projection by saying, okay, the first—we could even say States have to report, must report, their early ballots as the first thing they report and identify that that is what they are. Then you could look at how those results came out, factor them into your exit polling, and have an accurate projection. But it means to me it is a problem you have to deal with, and I appreciate the comments made here today.

Chairman TAUZIN. Thank you. The gentleman's time has expired, and all time has expired.

Happy Valentine's Day, for real this time.

Let me again thank you, and just a comment, and then we will get out of here.

First of all, I hope you did not think this was a penalty because you know Election Day was a mess. This was not about penalty. It wasn't about punishing or piling on or criticizing. Your own self-criticism was more than, believe me, anyone else in the country probably would have leveled here today.

Second, you know, I don't have to tell you, we make errors on this side of the estate. Generally, when we make them, it is because we have bad information, too, and we have to be big enough to say that when we do. I will never forget a vote I cast on a bill called SALVO which had to do with reporting emissions, and I thought the information we had was that it was overbureaucratic, overburdensome, wouldn't do the job. I have to tell you, it was a bad vote, but it has been a good act. It has cleaned up more emissions in my State than any other single tool we have ever used in the petrochemical industry, and I am proud to tell you that I admit I was wrong, and we all do that. You did that today, and I think the American people appreciate that, frankly.

More importantly, I hope you have not felt you were here under duress. You came here voluntarily. You know that. I asked you to come. You came. I appreciate it, and I will give you one commitment in return. I will fight to the death to protect your right to keep doing this wrong if you really want to do it wrong. That's the truth. I will not—no longer not support, I will fight vigorously any attempt to legislate in the area of your content. That is wrong for us to even talk about doing. We won't do it.

On the other hand, I know you know our responsibility was to make an inquiry about how we could make this system work bet-

ter; what we might do and what you were willing to do voluntarily, and I appreciate not only the self-inquiry that you literally undertook, but the fact that you were willing to come all day and spend this time with us so that Americans could learn that we are all interested in doing a better job.

I know your anchors appreciate this. I have talked to them. They didn't like having egg and omelet all over their face that night. Their credibility was at stake that night. They don't like to report garbage out because they got garbage in. They would like to know when they make calls and when they make announcements or pronouncements about what the facts are that they are really the facts and not some speculation that didn't prove to be right. I am telling you, they appreciate the fact that we are all trying, you on your side of the aisle and we on ours, to try to get it right next time instead of getting it done faster.

Thank you very much. This hearing stands adjourned.

[Whereupon, at 6:55 p.m., the committee was adjourned.]

[Additional material submitted for the record follows:]

VOTER NEWS SERVICE
NEW YORK, NEW YORK 10122
April 13, 2001

The Honorable JOHN D. DINGELL
Ranking Member, Committee on Energy and Commerce
U.S. House of Representatives
Room 2125, Rayburn House Office Building
Washington, DC 20515

DEAR REPRESENTATIVE DINGELL: This responds to your letter of March 26, 2001, which contained twenty-two questions following up on the Committee's hearing on the network coverage of the 2000 presidential election. Attached are our responses to those questions.

We appreciate that during the hearing the Committee recognized the significant First Amendment issues implicated by its review of the media's reporting on election results. Our attached responses reflect our endeavor to be responsive to your inquiries while respecting the strictures of the First Amendment and the need to maintain the vital independence of the news-gathering and reporting process.

Sincerely,

TED SAVAGLIO

cc: The Honorable W.J. "Billy" Tauzin, Chairman
Committee on Energy and Commerce

QUESTIONS FOR VOTER NEWS SERVICE

Question 1. It has been stated in Voter News Service (VNS) documents that VNS has made only six errors in projecting over 2,800 races. Please describe the dates and circumstances of those errors and comparisons with the erroneous Florida calls.

Response 1. The statistical models employed by VNS have been utilized in projecting over 2,800 races over the past 32 years. Since its inception in 1993, VNS has utilized these models to project winners in approximately 545 races. Prior to the 2000 presidential election, VNS made only a single error in issuing a projection. In 1996, VNS projected the wrong candidate as winner of the New Hampshire senatorial election.

Question 2. If VNS has done additional analysis of the New Mexico and Washington calls, please summarize the conclusions and submit the analysis for the record.

Response 2. Since the February 14, 2001 hearing, VNS has not reached any conclusions concerning the New Mexico or Washington calls.

Question 3. It was originally alleged that VNS and the networks delayed calling the following states for George W. Bush, which President Bush ultimately won by a margin of 6 percentage points or more: Alabama, Arizona, Arkansas, Colorado, Georgia, Louisiana, North Carolina, Virginia, and West Virginia.

Would you describe the reasons that these states were not called at poll closing? If any of these races were "too close to call" at poll closing, please list those.

Response 3. VNS has no first-hand knowledge of when or why the networks made particular calls. VNS itself called Alabama at poll closing. A decision by VNS as to when any given state is ready to be called is based on numerous complex factors, including an evaluation of the various analytical models presented by the VNS system.

Question 4. Should the error made in the New Hampshire senatorial race in 1996 have given you a warning that the VNS models might not be reliable in very close races?

Response 4. VNS works very hard to ensure that its statistical models produce reliable results. Since the 1996 New Hampshire senatorial election, and up to the presidential election that was the subject of the Committee's hearing, VNS was correct in all of the projections it issued, including projections made in close races.

Question 5. During the Committee's hearing, there was an allegation of bias in the call of Ohio for George W. Bush. Please describe the basis for the Ohio call and whether or not there was bias against President Bush in this call.

Response 5. VNS categorically denies that there was political bias against President Bush in its Ohio call, or in any other call made by VNS.

Question 6. Dr. Edelman has conducted research on the impact of the non-response rates on exit poll. Please list all of his publications and papers and summarize their conclusions.

Has any other researcher looked at the impact of non-response rates? Please list all of his/her publications and papers and summarize their conclusions.

Response 6. Dr. Edelman's publications relating to non-response rates on exit polls are listed (on page 70) as references to the Research Triangle Institute's Report to the VNS Members dated January 22, 2001 (the "RTI Report"), copies of which previously have been provided to the Committee. In addition, copies of Dr. Edelman's publications previously were provided both to majority and minority counsel to the Committee.

Question 7. Mr. Biemer of Research Triangle Institute testified that if VNS had communicated all of the deficiencies and uncertainties on the decision screens to the networks, they would not have made either of the incorrect Florida calls. Since VNS itself made the first Florida call, do you agree with that statement? Why or why not?

What uncertainties did VNS itself ignore in the first Florida call?

Response 7. VNS believes it inappropriate to speculate about hypothetical situations involving VNS members. VNS' own actions relating to its call of Florida for Vice President Gore already have been described in VNS' Submission to the Members, dated December 8, 2000 and the RTI Report, both of which previously were provided to the Committee, and in testimony before the Committee given by Ted Savaglio and Dr. Murray Edelman.

Question 8. One of the witnesses at the hearing stated that when the networks combined to form VNS, they were able to expand the number of precincts used for exit polling. Elsewhere, it has been stated that both CBS and NBC, which were polling independently, had over 2,000 precincts in their polling sample, while VNS had only 1,400. Please clarify the number of sample precincts used for polling by CBS/NBC and VNS. If the total number was reduced under VNS, please give the date of that reduction and the reasons for it.

Response 8. Since its inception in 1993, VNS has used at least 1399 sample precincts in connection with presidential elections.

Question 9. What is an acceptable precinct sample size for exit polls?

Response 9. The size of an acceptable precinct sample for an exit poll may vary based upon myriad factors. There is no absolute sample size which, in any and all circumstances, is required for a reliable exit poll.

Question 10. Please provide a state-by-state comparison of the breakdown of the vote for Al Gore and George W. Bush as projected by VNS from exit polls and actual vote.

Response 10. VNS uses its exit poll data in a series of projection models, and these different models accordingly reflect a series of different projections at the time a call is made in a given state. Therefore, there is no single basis for comparing actual vote with a VNS projection. VNS previously provided to the Committee a disk containing all of the projections made by VNS for all of the states.

Question 11. For the 2000 elections, please describe the training and/or information provided by VNS to the networks' decision desk personnel.

Question 12. Did VNS have reason to believe that the network decision desks understood the limitations of the end-of-night outstanding vote model? Why or why not?

Question 13. Please describe the methods of communication between the VNS decision desk and the networks' decision desks. In particular, describe the capability to send messages out on the decision screen.

Question 14. If VNS wanted to send an instantaneous message to its members during election night, was it technically possible to do so? If so, why was a message not sent to warn the members against calling the race for George W. Bush shortly after 2 a.m.?

Response 11.-14. VNS believes that Congressional inquiries into communications between VNS and its member news organizations that relate to the editorial process are inconsistent with First Amendment guarantees of a free and independent press, and respectfully declines to respond to these questions.

Question 15. Last year, VNS received a report from Batelle Institute which made recommendations for a new computer system. Please summarize Batelle's recommendations. Have they been implemented? If not, why not? When will they be completed?

Response 15. Review of input from Battelle Institute is ongoing.

Question 16. Was there any way VNS could have avoided the New Mexico situation, which resulted from an error by New Mexico election officials?

Response 16. VNS employs stringent quality control systems, and is reviewing and implementing additional quality control measures. Irrespective of one's field of endeavor, no matter how stringent the quality control processes one may adopt, one simply may not catch every conceivable error.

Question 17. Is it accurate to say that the VNS model produces state-by-state statistical biases that always favor Democrats? Please explain your answer with examples.

Response 17. It absolutely is not accurate to say that the VNS model produces state-by-state statistical biases that always favor Democrats. Statistical biases present in exit polling tend to vary from state to state, year to year and election to election. In the 2000 presidential election, VNS exit polling reflected a statistical bias towards the Republican candidate in numerous states including Iowa, Missouri and West Virginia, among others. Similarly, in the 1996 presidential election, VNS exit polling reflected a statistical bias towards the Republican candidate in a number of states including Connecticut, Louisiana and Oklahoma, among others. For Arkansas, like some other states, VNS' exit poll reflected a statistical bias toward the Democratic presidential candidate in one election (2000) but toward the Republican in another (1996). In elections other than for president, VNS' exit polling often has reflected a statistical bias in favor of the Republican candidate, such as the 2000 Indiana and Utah gubernatorial races, and the 2000 Montana senatorial race, for example.

Question 18. Is it accurate to state that exit polling today is less scientific than it was in the past, and that "garbage" is going into the exit poll model?

Response 18. It is absolutely false to state that exit polling today is less scientific than it was in the past, and that "garbage" is going into the exit poll model.

Question 19. Is the VNS modeling approach basically sound, or will it be completely scrapped and recreated in the next two years?

Response 19. The VNS modeling approach is sound and has produced accurate projections 99.8% of the time since 1990, when the first joint polling and projection effort began. Nevertheless, as VNS indicated during the hearing, VNS is analyzing and implementing methods by which to improve its approach.

Question 20. Will you be able to eliminate all of the statistical biases in the models? Why or why not?

Response 20. VNS is committed to identifying, reducing and taking into account all statistical biases reflected in its exit polling. Statistical biases cannot completely be eliminated as some statistical bias is inherent in all polling.

Question 21. In the 2000 election, was VNS limited by its budget on the number of state absentee polls it could take?

Response 21. VNS, like all entities, must operate in accordance with a budget. In the 2000 election, VNS conducted absentee polls in the states where absentee voting traditionally has been high.

Question 22. The Research Triangle Institute suggested that VNS consider hiring an outside polling firm. What is your response to that recommendation? Have you ever used outside polling firms in the past? Is there any reason that VNS should have its own exit polling operation?

Response 22. VNS itself has used outside polling firms to conduct telephone polls of absentee voters.

ASSOCIATED PRESS
February 5, 2001

Honorable JOHN D. DINGELL, *Ranking Member*
Honorable EDWARD J. MARKEY, *Member*
Committee on Energy and Commerce
U.S. House of Representatives
Rayburn House Office Building, Room 2125
Washington, DC 20515

DEAR REP. DINGELL AND REP. MARKEY: Lou Boccardi has asked me to prepare this response to your letter of January 30 requesting certain information about AP's coverage of vote tabulation on election night last November.

Your four questions and AP's answers follow below and in the attached spreadsheets.

Question 1. The exact time at which The Associated Press called each state for Governor Bush or Vice President Gore. All calls for Florida should be included in this tabulation.

Response. Attachment A provides a table containing the time at which AP transmitted to its members a projected winner in each state, and the projected winner's name. The table includes as well the AP's advisories to its members concerning the Florida results.

Question 2. The person or persons in charge of receiving election night information from the Voter News Service and recommending to Associated Press officials that a state be called for one of the candidates.

Response. AP's election night operations encompass bureaus in every state, and the decision process is widely distributed. The principal persons whose assessments and judgment are relied upon include the AP chiefs of bureau, news editors and chief political writers in all of the states, along with political editors in Washington, D.C., and New York. In addition to data from Voter News Service, these individuals monitor returns from AP's independent vote tabulation system, which is described in the response to Question 4 below. No single AP person precisely fits the role you describe, but the individual with widest familiarity with AP operations and the decisions made on election night is Sandra K. Johnson, chief of AP's Washington bureau.

Question 3. If the Associated Press conducted exit polls during the November 7 election, please describe those polls and the purpose for which they are conducted.

Response. AP did not conduct exit polls during the November 7 election and has never conducted exit polling on its own.

Question 4. Please describe the process by which The Associated Press collected presidential vote tallies for the November 7 election and provide copies of all vote tallies for the state of Florida from 7 p.m. EST on November 7 through 8 a.m.

Response. In addition to monitoring the VNS tabulation, AP gathers tabulated vote returns nationwide on its own. To do this, AP retains election data reporters in every county of each state. On election night these reporters position themselves at county election offices where election officials assemble precinct totals. At frequent intervals, as the precinct reports come in and official county totals in each election race are updated and made public, the AP reporter calls the state AP data center, where the fresh numbers are received and keypunched into the AP election database. The database continuously generates a variety of running reports for AP and its members, always based on the latest available figures.

Attachment B is a table which shows Florida presidential totals for each candidate as AP reported them throughout election night based upon official county-by-county figures, and the margin separating the candidates at each interval.

Please consider these responses as supplementing Mr. Boccardi's letter to Congressman Tauzin dated November 16, 2000, another copy of which is enclosed.

I believe these answers are complete, but if anything about them is unclear, please feel free to contact me at (212) 621-1796.

Sincerely,

DAVID TOMLIN
Assistant to the President

c: Honorable W.J. "Billy" Tauzin (with enclosures)
Enclosures: Attachment A, Attachment B, Letter from Mr. Boccardi to Congressman Tauzin

Schedule A

AP WIN FORECASTS

State	Time	Candidate
Kentucky	600 pm	Bush
Indiana	600 pm	Bush
South Carolina	700 pm	Bush
Vermont	700 pm	Gore
Virginia	720 pm	Bush
Georgia	742 pm	Bush
Florida	753 pm	Gore*
Connectcut	800 pm	Gore
Delaware	800 pm	Gore
District of Columbia	800 pm	Gore
Illinois	800 pm	Gore
Kansas	800 pm	Bush
Maryland	800 pm	Gore
Massachusetts	800 pm	Gore
Mississippi	800 pm	Bush
New Jersey	800 pm	Gore
Oklahoma	800 pm	Bush
Texas	800 pm	Bush
North Carolina	808 pm	Bush
Alabama	825 pm	Bush
Nebraska	900 pm	Bush
New York	900 pm	Gore
North Dakota	900 pm	Bush
Rhode Island	900 pm	Gore
South Dakota	900 pm	Bush
Wyoming	900 pm	Bush
Michigan	923 pm	Gore
Louisiana	928 pm	Bush
Pennsylvania	930 pm	Gore
Idaho	1000 pm	Bush
Montana	1000 pm	Bush
Utah	1000 pm	Bush
Tennessee	1003 pm	Bush
Minnesota	1025 pm	Gore
West Virginia	1049 pm	Bush
Missouri	1052 pm	Bush
Ohio	1058 pm	Bush
California	1100 pm	Gore
Hawaii	1100 pm	Gore
Maine	1110 pm	Gore
Colorado	1140 pm	Bush
Arizona	1150 pm	Bush
Alaska	1200 am, Nov. 8	Bush
New Hampshire	1205 am, Nov. 8	Bush
Arkansas	1217 am, Nov. 8	Bush
Nevada	130 am, Nov. 8	Bush
Washington	130 am, Nov. 8	Gore
Florida	311 am, Nov. 8	**
Iowa	355 am, Nov. 8	Gore
Wisconsin	608 am, Nov. 8	Gore
Oregon	712 pm, Nov. 10	Gore
New Mexico	Nov. 17	Gore

*At 9:59 p.m. AP transmitted an advisory to its members rescinding its earlier projection.

**At 3:11 a.m. AP transmitted the following advisory to its members:

EDITORS:

The lead in Florida for George W. Bush has dwindled to about 6,000 in the vote count. A small percentage of the vote has yet to be reported in several counties, including two predominantly Democratic counties.

AP believes the uncounted votes in Broward and Palm Beach counties could allow a change of the lead in the Florida vote. We are watching the resolution of the actual vote count to assure if there is a change in the Florida results, which could yet have an impact on the outcome of the presidential election.

The AP

Schedule B

AP FLORIDA RESULTS

Time	Bush	Gore	Bush Lead
19:22	13641	12437	1204
19:27	41123	34245	6878
19:42	52098	47647	4451
19:47	118324	112966	5358
19:52	118605	113106	5499
19:53	124883	116278	8605
20:02	181379	185435	-4056
20:17	274695	287878	-13183
20:22	638895	631331	7564
20:27	644233	635895	8338
20:32	658367	650284	8083
20:42	712380	699609	12771
20:47	738680	729491	9189
20:52	777562	748165	29397
20:53	779409	749198	30211
21:02	910052	829501	80551
21:12	979145	884020	95125
21:17	1052295	932082	120213
21:22	1085828	965030	120798
21:27	1129137	1005241	123896
21:32	1161106	1037804	123302
21:42	1298213	1191676	106537
21:47	1332881	1216992	115889
21:52	1416422	1280948	135474
21:53	1418504	1282503	136001
22:02	1487890	1352114	135776
22:12	1611442	1447603	163839
22:17	1650392	1490767	159625
22:22	1697049	1549320	147729
22:27	1741816	1597744	144072
22:32	1781530	1632164	149366
22:42	1850659	1703923	146736
22:47	1939188	1788296	150892
22:52	2015897	1870672	145225
22:58	2051892	1905072	146820
23:02	2059462	1914107	145355
23:12	2142726	2008164	134562
23:17	2168931	2021991	146940
23:20	2193550	2040857	152693
23:21	2198973	2049265	149708
23:22	2199593	2049699	149894
23:27	2199593	2049699	149894
23:32	2261404	2120834	140570
23:42	2364342	2229006	135336
23:47	2364342	2229006	135336
23:47	2387413	2251637	135776
23:52	2408540	2280202	128338
23:53	2408540	2280202	128338
0:02	2427272	2293101	134171
0:12	2501890	2366565	135325
0:17	2502581	2366905	135676
0:22	2521902	2383009	138893
0:27	2549937	2423468	126469
0:32	2549937	2423468	126469
0:42	2564441	2435897	128544
0:47	2609768	2497657	112111
0:47	2609768	2497657	112111
0:53	2609768	2497657	112111
1:02	2610984	2498403	112581
1:12	2709650	2627317	82333
1:17	2709753	2627347	82406
1:22	2736318	2672793	63525
1:27	2736318	2672793	63525

Schedule B—Continued

AP FLORIDA RESULTS

Time	Bush	Gore	Bush Lead
1:31	2736318	2676793	59525
1:42	2749894	2685533	64361
1:47	2763925	2701035	62890
1:47	2799648	2743162	56486
1:52	2799648	2743162	56486
2:02	2799648	2743162	56486
2:12	2822029	2774175	47854
2:16	2825865	2795352	30513
2:22	2850199	2834840	15359
2:27	2873834	2854829	19005
2:32	2873834	2854829	19005
2:42	2884625	2870618	14007
2:47	2884845	2870911	13934
2:47	2885417	2871463	13954
2:52	2890277	2879187	11090
3:02	2899999	2893634	6365
3:12	2903251	2901571	1680
3:17	2903251	2901571	1680
3:22	2903251	2901571	1680
3:27	2906997	2904519	2478
3:32	2906997	2904519	2478
3:42	2906997	2904519	2478
3:47	2906997	2904519	2478
3:47	2906997	2904519	2478
3:52	2906997	2904519	2478
4:02	2906997	2904519	2478
4:12	2906997	2904519	2478
4:17	2906997	2904519	2478
4:22	2906997	2904519	2478
4:27	2906997	2904519	2478
4:32	2906997	2904519	2478
4:42	2907600	2905712	1888
4:47	2907600	2905712	1888
4:52	2907600	2905712	1888

ASSOCIATED PRESS
November 16, 2000

Congressman BILLY TAUZIN
House of Representatives
2183 Rayburn House Office Building
Washington, D.C. 20515

DEAR CONGRESSMAN TAUZIN: I write in response to your letter of November 9 concerning reporting of the presidential election results last week, particularly the use of exit polling and the projection of final results.

As you may know, the media partners in the Voter News Service have long agreed that no winner should be declared in any state before the great majority of polls are closed in that state. That consensus originated in 1985 as an understanding between the broadcast networks and Congress. Although AP was not a party to it, we have abided by it, and we signed on to it expressly when VNS was formed in 1993.

If the agreement among those with access to exit polling and early vote tabulations were modified so that winners within a state are not projected until *every* precinct in that state—not just a majority—has reported, AP would be in agreement.

A few sentences of background about AP might be useful.

AP is a not-for-profit industry-owned news cooperative governed by a board (mostly elected but with some appointed seats) made up of owners and senior managers of the U.S. media companies we serve, approximately 1,700 newspapers and 5,000 radio and television stations. We serve thousands more subscribers overseas, along with a growing base of Internet and other specialty news distributors. We have bureaus in every state (two, I might say, in Louisiana) and in more than 100 nations around the world.

We do not operate at what you might call the "retail" level. Our mission is to serve other news organizations with the most accurate, complete and balanced reporting possible. We express no editorial opinions. On election night, as always, editors here are aware that not only AP's reputation but those of thousands of other news distributors depend on the quality of our work—its accuracy, its timeliness and its fairness.

As a VNS member, AP has access to the results of VNS exit polls on election day, and VNS vote counts on election night for federal and statewide offices.

As you know, AP and the network partners have instructed VNS management to conduct a detailed internal review of its systems for processing poll data and tabulated votes to ensure against a recurrence of last week's problems.

AP also operates a backup vote tabulating system of its own for federal and statewide races. We also tabulate votes for state legislative elections and ballot issues, a total of roughly 6,000 contests in all. By contrast, VNS reports votes from about 550 races.

AP decisions to project a winner in major elections represent our own editorial judgment by reporters and editors with specialized knowledge of each state's electoral demographics. Debates, conflicting interpretations, discrepancies are all dealt with as integral pieces of our editorial process for handling returns. Those processes do not vary by state.

You ask if a projection on the presidential outcome was made in any state other than Florida and Kentucky when any polls remained open. There are 13 states with more than one time zone. We declared Bush the winner in Kansas while polls remained open to 1 percent of the voting age population, and in Indiana, where 18 percent still had time to vote if they hadn't already. As you know, neither state was a close call.

Finally, I would add only that the core here is the editorial process, human judgment bolstered by sophisticated but not infallible tools. I have tried to be responsive to your inquiry without compromising the necessary independence of the news-gathering and reporting process.

Sincerely yours,

LOUIS D. BOCCARDI
President and Chief Executive Officer

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ENERGY AND COMMERCE
March 26, 2001

Mr. ANDREW HEYWARD
President
CBS News
524 West 57th Street
New York, New York 10019

DEAR MR. HEYWARD: I have attached questions as a follow-up to the Committee's hearing on the network coverage of the 2000 presidential election. I request that you provide answers to these questions for the record.

Please submit your response by close of business on Monday, April 9, 2001. If your staff has any questions or needs additional information, please have them contact Edith Holleman, Minority Counsel, at (202) 226-3400.

Thank you for your cooperation in this matter.

Sincerely,

JOHN D. DINGELL
Ranking Member

Attachment

cc: The Honorable W.J. "Billy" Tauzin, Chairman
Committee on Energy and Commerce

QUESTIONS FOR ANDREW HEYWARD, CBS NEWS

Question 1. In 1980, the networks called the election for Ronald Reagan before the polls had closed in the Central, Mountain, and Pacific time zones. The 2000 presidential election appears to have presented a quite different fact pattern. Did CBS call the 2000 presidential election for Al Gore before the polls closed in the Central, Mountain, and Pacific time zones? Did CBS ever imply that because Florida was called for Al Gore, the race was over?

Question 2. The attached excerpt from a transcript of a press conference held on November 14, 2000, by Chairman Tauzin and other members of the Committee chal-

lenged the networks to prove that their coverage was not intentionally biased. Is it your position that you have met this burden of proof?

Question 3. Your report states that the CBS decision team made an assumption that half of the votes were counted in Washington State at the time CBS called that race. What was the basis for that assumption?

Question 4. What was the "outer limit of sampling error" that CBS accepted in the exit and pre-election absentee polls? Why did CBS accept this outer limit?

Question 5. Did CBS' own investigation find evidence of biased modeling? Please explain.

Question 6. In the ten years that Voter News Service and its predecessor have existed as a consortium, have any of the networks asked for a "bottoms up" review of the operation? If not, why?

CBS NEWS
NEW YORK, NEW YORK
April 9, 2001

The Honorable JOHN D. DINGELL
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C.

DEAR CONGRESSMAN DINGELL: I am responding to your inquiry of March 26, 2001. Here is the additional information you requested about our coverage of Election Night 2000.

CBS News **never** called the presidential race for Al Gore. In fact, when CBS News did call the presidential election at 2:17 a.m., there were no polls still open anywhere in the U.S. CBS News never implied that the early call for Al Gore in Florida meant the race was over. In fact, our independent expert, Dr. Kathleen Hall Jamieson, Dean of the Annenberg School for Communication, noted in the CBS report on Election Night coverage that Dan Rather explicitly made the point that "The Florida [Gore] call does not make a Gore victory inevitable, but it makes Gore viable." (p.46)

Chairman W.J. "Billy" Tauzin said at the hearing on February 14, 2001, that "as an initial matter, I want to take something quickly off the table . . . [our investigators] found no evidence of intentional misleading or biased reporting." As I wrote in my December 11, 2000, letter to you, "We unequivocally reject the notion that bias played any part in the way that we reported the events of November 7."

Washington State cast ballots on Election Day in two ways: by absentee voting, which comprised 50 percent of the votes, and by voters going to the polls on Election Day, which made up the other half. When CBS News called the Washington State Senate race at 12:54 a.m. Election Night, 26 percent of the precinct vote had been counted, and the Decision Desk assumed that half the absentee votes had been counted as well. Regrettably, that was not the case.

In Washington State, pre-Election Day polls were used to project the expected votes from the absentee ballots, while Election Day exit polls were used to project the outcome of the in-person voting. The "outer limit of sampling error" phrase meant the following: in the Gorton/Cantwell race, the sampling error of the exit polls was plus or minus 4 percentage points for each candidate's percentage, which could mean a maximum 8 percentage points on the margin between the candidates. When CBS News called Cantwell, the polls showed her ahead by 13 points wrong all Election Day polling place voters. In fact, we believe she carried those voters by only 5 or 6 points. The Voter News Service pre-election absentee voter poll suggested that absentee voters would be evenly split between Cantwell and Gorton. However, it appears the absentee voters favored Gorton by about 6 points.

These differences are still within the sampling error of three to four percentage points on each candidate's percentage, but they are at the "outer limit" of the sampling error. It is very rare for two separate surveys (one a phone survey, the other an in-person exit poll) to be at that extreme and to be off in the same direction. This is a case where one reform we have adopted for future Election Nights—toughening the criteria for making calls in the closest races—might have prevented the premature call.

As for your question of biased modeling, the models themselves are neutral. They are not "biased" in any political sense. In its independent review of VNS exit polls, RTI reported that Democratic strength is more often overstated than Republican, but RTI did not attribute that to the model itself. RTI suggested it might be the result of non-response by Republicans. We will continue to improve the accuracy of the models' predictions.

Finally, there has never been a "bottoms up" review of VNS, as there was never a reason for one. Until this year the system had made more than 2000 calls with only 6 errors since the 1960s. VRS, the predecessor to VNS, emerged from the CBS election system. CBS News was comfortable with the system, one that had performed excellently in the VRS and then the VNS configuration (with only one error between 1990 and 1998). We assume other members investigated the system when they joined the consortium and were also comfortable with it. As far as I know, no "bottoms up" review was ever requested by any member after it joined the consortium.

Thank you for the opportunity to clarify these matters.

Sincerely,

ANDREW HEYWARD
President

ABC NEWS
NEW YORK, NEW YORK
April 9, 2001

The Honorable JOHN D. DINGELL
Ranking Member
Committee on Energy and Commerce
United States House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515-6115

DEAR CONGRESSMAN DINGELL: Thank you for your letter of March 26, 2001, I enclose the responses of ABC News to your questions.

Sincerely,

DAVID A. WESTIN
President

ABC TELEVISION NETWORK RESPONSE TO INQUIRY FROM THE COMMITTEE ON ENERGY AND COMMERCE

Question 1. In 1980, the networks called the election for Ronald Reagan before the polls had closed in the Central, Mountain, and Pacific Time zones. The 2000 presidential election appears to have presented a quite different fact pattern. Did ABC call the 2000 presidential election for Al Gore before the polls closed in the Central, Mountain, and Pacific Time zones? Did ABC ever imply that because Florida was called for Al Gore, the race was over?

Answer: ABC News did not ever project that Mr. Gore won the 2000 presidential election. Nor did ABC News state during its election broadcast that the former Vice President's apparent early victory in Florida decided the election. To the contrary, until the 2:10 AM projection. for Mr. Bush, ABC News reported throughout the evening that the 2000 election was extraordinarily close and could be won by either candidate. This was the case even during the 40 minute period in which ABC News had projected that Mr. Gore would prevail in Michigan, Florida and Pennsylvania. During that time, ABC News stressed that Mr. Bush could lose these three states and still ultimately win the presidency, depending on the outcome of a number of hotly contested races in western states.

Question 2. The attached excerpt from a transcript of a press conference held on November 14, 2000, by Chairman Tauzin and other members of the Committee challenged the networks to prove that their coverage was not intentionally biased, Is it your position that you have met this burden of proof?

Answer: ABC News has demonstrated through evidence and testimony submitted to the Congress that there was no intentional political bias in its coverage of the 2000 election. At a subsequent press conference in February, and at the February 14, 2001, hearing Chairman Tauzin acknowledged that no such bias was found.

Question 3. In 1990, the networks did not have their own decision desks independent of Voter News Service's (VNS) predecessor, so there was no competition among them to call states. In 1994, ABC surprised all of the other VNS members by setting up its own decision desk to name winners.

Why did ABC start the competition? Do you think it is reasonable to expect that competing networks will eliminate their own decision desks again?

Answer: ABC News consistently strives to provide thorough, timely, and accurate reporting to its audience. The decision desk is part of ABC News' comprehensive election unit, and the decision to use an independent decision desk in 1994 was part of a journalistic judgment that the audience would be well served by the addition.

ABC News has no information concerning the plans of other networks in covering future elections.

Question 4. In 2000, ABC hired two statistical experts to look at the VNS models to make sure that they did not make the same mistake made in New Hampshire in 1996 and call the race wrong. According to an article in *American Journalism Review,* these experts spent four days familiarizing themselves with the VNS models.

Did they reassure you that a mistake like New Hampshire could not be made again?

Answer: For the 2000 election, ABC News retained two outside experts for assistance on various matters, including the mistaken projection in the New Hampshire Senate race in 1996. These experts suggested ways to reduce the chances of such a problem recurring, but obviously could not guarantee that similar problems could not arise in other elections.

Question 5. Your experts stated that they did not believe the first Florida call should have been made because of the limited exit poll data and the lack of knowledge about absentee voting. They did not believe the second Florida call should have been made because the absentee vote was not all in, and that there could be errors in the vote tallies. But these experts were overridden by the journalist running your decision desk. Please explain why.

Answer: While we will not comment on the precise deliberations of the journalists who staffed the desk on election night, the decision team assigned to make the Florida projection took all available information into account. As shown on the decision screens made available to the Committee, the data and the statistical models fully supported the projection of ABC News for Vice President Gore in Florida at the time it was made. In reviewing the data after the fact, it appeared that these data and models were mistaken in three respects, First, the exit poll data included in the models overstated Vice President Gore's advantage. The check on this possible error in the system failed because, by coincidence, the first few precincts reporting actual vote tallies indicated (erroneously) that Vice President Gore's lead was being underpredicted (rather than over-predicted) by the exit poll results. Second, the absentee ballots were more numerous and more favorable to Governor Bush than anticipated. Finally, the statistical models used the 1998 governor's race as the past comparison race. This provided a poor comparison that resulted in an overstatement of Vice President Gore's lead. At the time ABC News made its first projection in Florida, we knew about the possibility of these errors. We believed they had been adequately accounted for in the statistical models. We were wrong.

Question 6. If your decision desk knew that the outstanding votes at 2:10 a.m. were in the very heavily Democratic counties of Palm Beach and Brevard, why did they not know that the vote totals for each candidate could radically change?

Answer: The data available at 2:10 a.m. adequately supported the projection for Mr. Bush. Specifically, the information available suggested that even taking into consideration the estimated outstanding vote, Mr. Gore could not overtake Mr. Bush's lead. As we are now aware, there were two problems with the data: 1) the model severely underestimated the number of votes that were outstanding; and 2) a tabulation error in Volusia county overstated Bush's lead by 20,000 votes. If even one of these had not occurred, a projection would not have been made.

Question 7. In the ten years that VNS and its predecessor have existed as a consortium, have any of the networks asked for a "bottoms up" review of the operation? If not, why not?

Answer: All of the networks are and were actively involved in the operation of VNS. Together, we comprise its governing board. The VNS statistical models are dynamic, with changes put into place following each election. Nothing in the prior, exemplary record of VNS suggested a "bottoms up" review was required. Indeed, before the election of 2000, those most closely involved with VNS can remember only one instance in which a VNS projection ultimately proved wrong (the 1996 New Hampshire Senate race). In that case, VNS retained outside experts to examine what happened in the race, The experts were unable to recommend any definitive steps to guard against a similar problem. Finally, the board members are currently engaged in a thorough review of the VNS operation as the 2000 election revealed a number of deficiencies that VNS must immediately address.

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ENERGY AND COMMERCE
March 26, 2001

MS. JOAN KONNER
Professor of Journalism and Dean Emerita
Graduate School of Journalism
Columbia University
200 Central Park South, #33B
New York, New York 10019

DEAR MS. KONNER: I have attached questions as a follow-up to the Committee's hearing on the network coverage of the 2000 presidential election. I request that you provide answers to these questions for the record.

Please submit your response by close of business on Monday, April 9, 2001. If your staff has any questions or needs additional information, please have them contact Edith Holleman, Minority Counsel, at (202) 226-3400.

Thank you for your cooperation in this matter.

Sincerely,

JOHN D. DINGELL
Ranking Member

Attachments
cc: The Honorable W.J. "Billy" Tauzin, Chairman
Committee on Energy and Commerce

QUESTIONS FOR JOAN KONNER

Question 1. When Representative Sherrod Brown asked at the Committee's hearing on network coverage of elections if there should be a policy that close relatives of candidates, such as brothers, sisters, cousins, etc., should not be allowed to be on the networks' decision desk on election night, you responded by stating that if there was a "perceived conflict of interest" there should be "some layers of insulation between that individual and the person who is going to make the announcement on the air."

John Ellis, a first cousin of George W. Bush, was hired by Fox in 1998 to—in Mr. Ellis' words—"professionalize the poll desk." (Mr. Ellis had worked on election coverage for NBC from 1980-89.) However, in a July 3, 1999, column in the Boston Globe, Mr. Ellis stated that he would no longer write about the 2000 campaign because, "I am loyal to my cousin, Governor George Bush of Texas. I put that loyalty ahead of my loyalty to anyone else outside my immediate family . . . there is no way for you to know if I am telling you the truth about George W. Bush's presidential campaign because in his case, my loyalty goes to him and not to you." (Copy attached.) In the fall of 2000, Mr. Ellis was interviewed on a Frontline show called "The Choice 2000" as a family member about his knowledge of George W. Bush and the Bush family. (Copy attached.)

Despite this, John Ellis was selected again to head the Fox decision desk in 2000. He then made the first call of Florida—and the entire election—for George W. Bush. In your opinion, would these circumstances as described above establish a "perceived conflict of interest" on Mr. Ellis' part?

Question 2. When Mr. Ellis worked at NBC, and his uncle was a candidate for President in 1988, he did not work on the decision desk, but wrote the daily political news summary. He told our staff in an interview that even then his loyalty "was to my uncle, not to NBC News." How should a network handle such a perceived conflict of interest?

Question 3. There has been an allegation in the press that the network anchors talked so much about "Gore's winning ways" on the East Coast that Slade Gorton lost the Senatorial election in Washington State. Washington is a state with a 50 percent absentee vote. Did your panel reach this conclusion about Washington or any other state in its review of CNN's election night coverage?

Question 4. In your opinion, was it complacency or the time crunch caused by competition that kept the networks from checking the Associated Press' vote totals before calling the election for George W. Bush shortly after 2 a.m.?

Question 5. Please describe the relationship between the CNN/CBS decision desk and the VNS decision desk in terms of pre-election training and discussion of the model and the communications on election night. How would you improve it?

COLUMBIA UNIVERSITY
GRADUATE SCHOOL OF JOURNALISM
March 30, 2001

EDITH HOLLEMAN
Minority Counsel
US House of Representatives
Committee on Energy and Commerce
Room 2125
Rayburn House Office Building
Washington, DC 20515-6115

DEAR EDITH, attached find the answers to the questions sent to me by Rep. John Dingell:

Sincerely,

JOAN KONNER

RESPONSES

Response 1. The answer to your question is "yes." If John Ellis had, indeed, made comments stating that his loyalties to the Bush family superceded any commitment he has to his profession or his employer, then I would judge that to be not only a perceived conflict-of-interest but a real conflict-of-interest for a journalist. (I did not know at the time of the hearing that he had made any such statement.) While that does not disqualify an individual from any position as a journalist, it would, in my judgement, disqualify that person for any decision-making role involving reporting on his relatives during an election. Often friends and relatives are hired by journalism organizations because of their connections to the newsmakers. Their access to sources makes them valuable to the organization. However, the news organization should take every precaution against placing such an individual in an assignment that could result in bias in reporting.

Response 2. As you are well aware, many of those who appear as pundits on the air, and also in print, have worked for political parties and/or political candidates and officeholders. Their political background and bias are known facts of their fife. Some individuals leave politics behind them and become very good objective reporters and commentators. Many others remain party or candidate apologists. Personally, I deplore casting someone in the role of a journalist, reporter or commentator, who clearly is in politics, not journalism. However, the practice is so widespread that to recommend removing those people from the air or from print, would be to remove what passes today as political commentary. I wouldn't object to that, but I know it is unrealistic to expect that that will happen.

Response 3. I do not think there is any evidence that network reporting affected the outcome of any election. I am not aware that CNN or any other network favored the campaign of Al Gore. In fact, most of the coverage of both Al Gore and his campaign was highly critical.

Response 4. It was not complacency or a time crunch. Our report stated that hyper-competition, over reliance on polls, and speed accounted for the errors. There is no deadline for getting it right. The urge to beat the competition and to demonstrate that you can interpret the numbers better than any of your competitors were the driving forces behind the decision-making on election night. Call it arrogance or hubris, if you want. We did not.

Response 5. We did not examine the relationship between the CNN and CBS decision desks that night. Our information indicated that the election coverage as a whole at CNN was planned and operated independently. We did not examine or report directly on the pre-election training at VNS, although there were studies by other organizations that did. One report, in particular, was both complimentary as well as critical. The documents we examined indicated that the communication between VNS and its members was not what it should have been. VNS failed to notify its members of known errors in a timely fashion and VNS was unable to correct errors promptly. There were other unacceptable errors and failures—human and technological—in both the tabulation and communication systems. The report recommended that every effort be made to examine and analyze the weaknesses and breakdown in the system and that every effort be made to fix it or to develop a new system.

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ENERGY AND COMMERCE
March 26, 2001

Mr. JAMES V. RISSER
Retired Director
Knight Fellowship Program
Stanford University
394 Diamond Street
San Francisco, California 94114

DEAR MR. RISSER: I have attached questions as a follow-up to the Committee's hearing on the network coverage of the 2000 presidential election. I request that you provide answers to these questions for the record.

Please submit your response by close of business on Monday, April 9, 2001. If your staff has any questions or needs additional information, please have them contact Edith Holleman, Minority Counsel, at (202) 226-3400.

Thank you for your cooperation in this matter.

Sincerely,

JOHN D. DINGELL
Ranking Member

Attachments

cc: The Honorable W.J. "Billy" Tauzin, Chairman
Committee on Energy and Commerce

QUESTIONS FOR JAMES RISSER

1. When Representative Sherrod Brown asked you at the Committee's hearing on network coverage of elections if there should be a policy that close relatives of candidates, such as brothers, sisters, cousins, etc., should not be allowed to be on the networks' decision desk on election night, you responded by stating that if there was a "perceived conflict of interest" there should be "some layers of insulation between that individual and the person who is going to make the announcement on the air."

John Ellis, a first cousin of George W. Bush, was hired by Fox in 1998 to—in Mr. Ellis' words—"professionalize the poll desk." (Mr. Ellis had worked on election coverage for NBC from 1980-89.) However, in a July 3, 1999, column in the *Boston Globe,* Mr. Ellis stated that he would no longer write about the 2000 campaign because, "I am loyal to my cousin, Governor George Bush of Texas. I put that loyalty ahead of my loyalty to anyone else outside my immediate family . . . there is no way for you to know if I am telling you the truth about George W. Bush's presidential campaign because in his case, my loyalty goes to him and not to you." (Copy attached.) In the fall of 2000, Mr. Ellis was interviewed on a Frontline show called "The Choice 2000" as a family member about his knowledge of George W. Bush and the Bush family. (Copy attached.)

Despite this, John Ellis was selected again to head the Fox decision desk in 2000. He then made the first call of Florida—and the entire election—for George W. Bush. In your opinion, would these circumstances as described above establish a "perceived conflict of interest" on Mr. Ellis' part?

2. When Mr. Ellis worked at NBC, and his uncle was a candidate for President in 1988, he did not work on the decision desk, but wrote the daily political news summary. He told our staff in an interview that even then his loyalty "was to my uncle, not to NBC News." How should a network handle such a perceived conflict of interest?

3. There has been an allegation in the press that the network anchors talked so much about "Gore's winning ways" on the East Coast that Slade Gorton lost the Senatorial election in Washington State. Washington is a state with a 50 percent absentee vote. Did your panel reach this conclusion about Washington or any other state in its review of CNN's election night coverage?

4. In your opinion, was it complacency or the time crunch caused by competition that kept the networks from checking the Associated Press' vote totals before calling the election for George W. Bush shortly after 2 a.m.?

5. Please describe the relationship between the CNN/CBS decision desk and the VNS decision desk in terms of pre-election training and discussion of the model and the communications on election night. How would you improve it?

April 2, 2001

The Honorable JOHN D. DINGELL
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515-6115

DEAR CONGRESSMAN DINGELL: In answer to the five questions that you sent me on March 26, as a follow-up to the hearing on network coverage of the 2000 presidential election, I would answer as follows:

(1) If the circumstances surrounding John Ellis are as described in your first question, then I would agree that a "perceived conflict of interest" existed on Mr. Ellis' part.

(2) Assuming the circumstances involving Mr. Ellis and NBC News back in 1988 were as described in your second question, and also assuming that NBC News knew that Mr. Ellis was a nephew of presidential candidate George H.W. Bush, the network should not have employed him to write the daily political news summary. I believe this is true, whether or not the network knew of Mr. Ellis' attitude of owing loyalty to his uncle and not to NBC News.

(3) The panel on which I served did not investigate nor reach any conclusion about the impact on Washington State or other states of Vice President Gore's supposed "winning ways" in the East.

(4) I believe that both complacency and the time crunch were factors in the networks not checking Associated Press vote totals before calling Florida and the election for George W. Bush. The networks were under self-imposed time pressures to make a call, and in addition they were too complacent about the accuracy of information received from Voter News Service.

(5) I don't have enough knowledge of the pre-election training, the discussion of computer models, and the election night communications to answer this question about the relationship between the CNN/CBS decision desk and VNS.

Sincerely,

JAMES V. RISSER

REPORT

OF THE

TASK FORCE ON ELECTIONS

TO THE

COMMITTEE ON HOUSE ADMINISTRATION

RELATING

TO THE JOINT HEARINGS HELD BY THE

TASK FORCE ON ELECTIONS

AND

THE SUBCOMMITTEE ON TELECOMMUNICATIONS, FINANCE & CONSUMER PROTECTION

OF THE

COMMITTEE ON ENERGY AND COMMERCE

ON THE SUBJECT OF

EARLY ELECTION PROJECTIONS AND THEIR

IMPACT ON THE ELECTORAL PROCESS

September 22, 1982

183

INTRODUCTION

The Joint Hearings on Early Election Returns and Projections Affecting the Electoral Process were held in response to the media's coverage of the 1980 Presidential Election. The election which was supposed to have been "too close to call" was in fact a landslide. The networks, relying on exit polls, (which will be discussed in some detail later) knew as early as 12:00 p.m. eastern time that Ronald Reagan was going to win and win big. At 5:15 p.m. pacific time, nearly three hours before the polls on the West Coast were to close, NBC announced that the election was over and that Ronald Reagan had won.[1] If there was any doubt as to the validity of NBC's projection it was quickly dispelled when President Carter went on national TV to concede the election.[2]

These announcements, particularly NBC's, provoked a public outcry. There were stories of people on their way to vote turning around and going home, of polling lines melting away and there were accusations by losers in close local elections that their defeats had been caused by the late drop off in voter turnout that followed the projections. A national poll taken two months after the election showed that 71% of the people surveyed felt that the networks had overstepped the bounds of good journalism by predicting Reagan's victory before all the polls had closed.[3]

Public dismay resulting from early election projections is not a new phenomenon. In 1964 and again in 1972 [both electoral landslides] at least one of the major networks declared a "winner" in the Presidential race prior to the close of all the polls, making the 1980 election the third election in the last five Presidential years to be called before the close of the polls.[4] After both previous elections, congressional hearings were held, but no laws were enacted.

The hearing investigated five areas:

1) The effects of early projections on voter turnout.
2) The impact of early projections both on individual elections and on the electoral system as a whole.
3) Why are early projections possible and what is the influence of technological changes on their use?
4) The First Amendment implications of early projections.
5) Proposed legislation.

Throughout the hearings the Committee expressed concern about maintaining the delicate balance between two fundamental, yet competing principles - the right to vote and the need for a free press. These findings reflect this concern.

EFFECT OF EARLY PROJECTIONS ON VOTER TURNOUT

Before moving on to the findings concerning early election projections it is necessary to discuss, if only briefly, a related topic - President Jimmy Carter's concession speech. The Committee found that although Carter's speech

probably did have an impact similar to that of the early projections and, as such, was unfortunate, it was felt to be beyond the control of Congress. If a President wishes to go national television to concede an election, it is an important news event and as William Small of NBC said, "We would not keep the President from, in the words of Mr. Burton, going "belly-up on television."[5] And while the negative response to Carter's early concession speech may prevent others from conceding early, such early concessions are beyond legislative control.

However, while no one faults the networks for broadcasting President Carter's early concession, there was a great deal of dissatisfaction expressed concerning the networks use of early projections. That is why early projections and their implications became the primary focus of the hearings and the reason the following findings deal primarily with early election projections.

As was mentioned above, much of the uproar caused by the early projections stemmed from stories marked decreases in voter turnout after NBC's announcement. Given the possible impact that reduced voter turnout can have on close elections, it was important for the Committee to determine whether or not voter turnout was affected and to what extent. Quantification became particularly important because of the way the networks presented their defense of early projections.

Although there was some variation from Member to Member, it was the consensus of the Committee that turnout may well have been affected by the early projections. This belief was based on

several points. First, logic and experience argue that it should affect turnout. The office of the President is the most important in the country with Presidential election years traditionally attracting more voters than Congressional or off-year elections. The Committee reasoned that if the race for President is already decided, then much of the incentive for voting is eliminated.

This conclusion was reinforced by the testimony of local election officials and other concerned participants who were convinced that the early election predictions had a negative impact on voter turnout.[6] For example, Ms. March Fong Eu, Secretary of State for California, in testimony which accurately reflects the sentiments of the other officials who testified, said that, "I am convinced that the early projections before the closing of polls in California, coupled with the early concession speech by Mr. Carter, did have a significant impact."[7] Ms. Eu based this opinion on the disparity between her pre-election prediction of voter turnout of 79.3 percent and the actual turnout of 77.24 percent, a drop of over 2 percent. Ms. Eu noted that as the election progressed her estimate had looked to be accurate up until the time of NBC's announcement after which voter participation dropped sharply. Ms. Eu felt that the difference between her pre-election estimate and the actual lower voter turnout suggests a "significant fall-off in voter participation after 5 p.m. California time."[8]

Ms. Eu also described a number of what she termed "horror stories" -- stories of polling lines dissolving, voter information phones ceasing to ring during traditionally peak hours and cited examples of would be voters who just lost interest.[9]

While the Committee found such descriptive testimony persuasive, the networks were less impressed. The networks' defense of early projections centered around quantification and perception. While acknowledging the stories of election officials, they argued that there was a dearth of statistical evidence proving that early election projections affect voter behavior. They felt that the "horror stories" were "anecdotal", could not be quantified, and thus while they carried emotional impact which produced the perception that a problem exists, they did not prove that a problem exists. Given the fact that a number of different factors can signficantly affect voter turnout, they argued that singling out projections without any quantifiable evidence was unfair. The projections may have only influenced a very few voters. Bill Leonard of CBS felt unless enough voters are influenced by early projections to have an effect on the electoral process then it could not be considered an actual problem. He went on to say that without the question of quantification being addressed it was impossible to determine if there was a problem at all.

> I stress this at the outset because it is central to the issue you are examining. I recognize that there is a perceived problem here - the perception among many voters in the West that turnout is affected by early projections. But whether the problem is, in fact, a real one is yet to be determined.

Richard C. Wald of ABC expressed similar thoughts:

> I am positive there is a concern. I am not positive there is a problem because the evidence seems to me - Mr. Markey used the term anecdotal. We are attempting to find out what its size is.[10]

It is important to understand that the networks didn't deny that the projections had an effect, they merely argued that there was no proof that the effect was signficant enough to be considered a problem.

Since the disagreement between the members of the Committee and the representatives of the networks boiled down to a question of numbers, a discussion of the major studies used to support each side's position would be useful.

For the most part the statistical evidence which was discussed at the hearings was inconclusive. Some of the studies cited were little more than straw polls and so had little if any statistical validity.[11] Even among the major, more rigorous studies there was disagreement as to the number of voters deterred by early projections. The study most often cited by the networks to prove that early projections have little, if any, effect on voter behavior was conducted in 1965 in the wake of the 1964 landslide election. Its findings were that:

> There was no discernible bandwagon or negative effects on voting and that, at the most possible two percent

> of the voters were affected in any way at all - but exactly how they were affected, no one could be sure.[12]

This study's findings were challenged on a number of levels. First, it was unclear from the testimony what the two percent figure represented, i.e., was it two percent of the total electorate or two percent of those people who heard the projection before having had a chance to vote. Second, the study was primarily interested in the projections' effect on the presidential election and so examined whether there was a bandwagon effect, (i.e., did it increase the eventual winner's vote total) rather than checking to see if the projections affected voter turnout.

The study was also challenged by witnesses who felt that its results were not credible. Raymond E. Wolfinger, a professor of Political Science at Berkeley, noted that "... most of the so-called evidence presented by the networks in their own defense is fairly shakey ... the best known of these studies interviewed only 12 registered non-voters in California."[13]

Professor Wolfinger's own study of the effect of early projections concluded that there was a 2.7 percent decline in voter turnout on the West Coast due to the network's early projections in the 1972 election.[14] Even this study which was rigorously conducted and had the advantage of a large statistical base is not entirely germane to these hearings since it only examines the 1972 election.

The conflicting and inconclusive nature of the studies presented did little to resolve the question of how many voters were deterred and it is unfortunate that the study which went furthest in addressing

this question was only available after the conclusion of the first set of hearings. This study, conducted by John E. Jackson and William H. McGee of the University of Michigan and partially funded by ABC, found that voter turnout on the West Coast was significantly affected by the early projections.[15]

It determined that, "among people who were likely to vote and had not voted when they heard the election outcome there was a 20-25 percent decline in voter turnout and that this effect was the same regardless of whether the person had heard a network announcement or President Carter's concession speech."[16] It went on to find that:

> If added to the larger group of citizens who had voted before election coverage began, the overall turnout rate dropped by 6-11 percent as a result of the non-voting among those who had not voted when they heard news of the election outcome.[17]

The Michigan study concluded that, "Peoples' likelihood of voting is related to their perception of their vote in determining the election's outcome."[18] Events that alter that perceived value alter turnout.

SUMMARY

The Committee found that early projections in the 1980 election may well have adversely affected voter turnout. This conclusion was supported on a number of levels. First, logic suggests that if the Presidential race is over, people wil have less incentive to vote. Second, strong testimony was presented describing a fall-off in voter turnout on the West Coast after NBC's 5:15 p.m. early projection.

Scientific studies were also presented which indicated that projections may well alter people's voting behavior. A study conducted by Professor Raymond Wolfinger concluded that voter

turnout in the 1972 election decreased by 2.7 percent due to the networks' early projections. A second study conducted by John E. Jackson, with respect to the 1980 election, concluded that there was a 20-25 percent decline in voter turnout among those who had not voted when they heard an early projection and that, if this number is added to the group of citizens who had not voted before election coverage began, the overall voter turnout dropped between 6 and 11 percent.

In conclusion the best available evidence strongly suggests that voter turnout is significantly affected by early election projections.

IMPACT OF EARLY PROJECTIONS

The Committee found two areas that are affected adversely by early projections. First, early projections can alter the outcome of elections by affecting voter turnout and, more importantly, they can undermine fundamental principles of democracy by convincing people that their vote doesn't count.

The question whether elections could have been affected by early projections was of central concern to the Committee. In order to answer this question it was necessary to quantify the percentage of voters who failed to cast their ballots because of the early projections. Since the results of the Michigan study were not available until after the first set of hearings, most of the discussion concerni this issue involved the 2.7 percent estimate of decreased voter turnout rather than the 6-11 percent figure derived from the Michigan study. Using the 2.7 figure the Committee found that elections could have been affected by the projections. Using the Wolfinger estimate, there was a decline of approximately 1,800 voters per

district and an overall drop of some 337,000 voters in California.[19] When these figures are projected on close local elections, at least one Congressional race, that of Corman vs. Fiedler, which Fiedler won by 752 votes, could have been affected.[20] If the higher 6-11 percent figure is accepted then it is possible that elections which were not nearly as close as the Corman vs. Fiedler race were affected. The Committee did not attempt to determine which elections' outcomes were altered, it merely established that the effect of the early projections on voter turnout was large enough to affect the outcome of elections.

A few Members noted that the affect of such altered outcomes can transcend the individual elections involved. The cumulative result of a number of altered elections can have a significant impact on the political agenda of the nation as a whole. Congressman Markey noted that:

> Although it (the percentage of voters discouraged by early projections) might be a small percentage, that small percentage spread across 15 or 20 key races in the House and Senate, has a very profound effect upon the issues we discuss in this country.[21]

There is another less apparent way in which early projections can affect elections, and that is their impact on the campaigns of various candidates. A large part of any competent campaign involves a "get-out-the-vote" drive. This usually requires a number of enthusiastic volunteers to canvass neighborhoods exhorting people to vote. If the election's main event, the Presidency, is settled much of the impetus for carryout out this aspect of the campaign is eliminated. Ms. March Fong Eu noted that:

> .... The projections and the concession speech were the undoing of several get-out-the-vote drives. Volunteers did not show up as planned once the news was out.
>
> Thus telephones were unmanned, vehicles were unavailable, and organizers were left wringing their hands with dismay, frustration and anger ...."[22]

It should be noted that while the Committee found that it was possible for the outcomes of some state or local elections to be affected by the early projections, it does not appear likely that the outcome of a Presidential race can be altered by early projections. Early projections are usually only made when the race is sufficiently onesided that the election is, for all intents and purposes, "over." As Dr. Austin Ranney of the American Enterprise noted,

> "We are talking about a landslide Presidential election because only where you have a landslide margin are they (the Networks) going to take the risk of making an early projection."[23]

While the impact of early projections in terms of their affect on elections is quantifiable, their effect on the psyche of the American voter is less easily conveyed by statistics. When one examines this problem, exact numbers become less important. As Congressman William Thomas pointed out:

> ... among the general public very often it is attitudes, it is value judgments, it is perceptions, it is feelings that count far more than alot of specifics.[24]

And throughout the country some 70 percent of the voters shared the perception that the right to exercise their franchise freely had been abrogated by the networks' early projections.[25]

The Comm ttee felt that in a healthy democratic society the people must feelthat their vote is important. Their contention was that the networks were undermining this belief by projecting a winner before all the electorate had had a chance to vote. Congressman Wirth made this point early in the hearings,

> "... but aren't there some other measures we are trying to get at that may be more fundamental, and that is people's belief that their vote counts, and the relationship of that to making a democratic society work which is a difficult, tough job to do, making people believe, feel good about their participation in that process."[26]

The long term effects of early projections on voter turnout and participation was also a focus of discussion. The feeling was that people would become increasingly alienated and disillusioned by early projections to the point that future voter registration would suffer. Congressman Joel Pritchard stated:

> Well you have added another dimension to this discussion, that is the opinion, which I assume you all share, that future voter registration is going to be affected ....
>
> .... This is very discouraging that in this country we are having an erosion of the feeling toward our electoral process, our politicians, and our Government.[27]

The concern the Committee expressed about early projections and their immediate affect on voter participation became intertwined with the basic issue of declining voter participation in all elections. Since 1960 the percentage of registered voters participating in elections has been steadily declining.[28] The Committee was convinced that declining voter involvement is an unhealthy sign for a democracy and that the projections can only accelerate this downward spiral.

SUMMARY

The Committee found that early projections can have an adverse effect in two areas. First the Committee found that early projections by virtue of the fact that they may well have decreased turnout in the 1980 election could have affected close races. Using the Michigan study, any election in which the margin of victory was less than between 6 and 11 percent could have been affected by the early projections. The Committee did not attempt to determine which, if any, of the elections were actually affected by the early projections, it merely established the potential for such impact.

The Committee also found that early projections can have an adverse impact on important democratic principles and could aggravate the problem of declining voter participation in this country. Evidence was presented which showed that people were extremely frustrated by the early projections, feeling that this practice disenfranchised voters who had heard the projections before having had a chance to vote. The Committee expressed concern that early projections undermine the peoples' belief that their vote counts and thus have a deleterious effect on the body politic. Furthermore, the Committee felt that the alienation and frustration caused by early projections can only add to the continuing problem of voter apathy which exists in this country.

EARLY PROJECTIONS AND TECHNOLOGICAL INNOVATIONS

Early projections are not a new phenomena, having been made in 1964 and 1972. However, the Committee found that changes in the technology available to the media have made their use more probable, and the prospects of even earlier projections more likely. Historically, the factors which have made early projections possible

are the Electoral College and the size of our country which splits the nation into six time zones.[29] The Electoral College has the effect of fragmenting a national race into 50 separate state elections in which the winner of each state garners all of that state's electoral votes. A presidential candidate wins the national race when he wins states whose Electoral College total exceeds 270.

The fact that we have six time zones means that the polls close at different times with voters out West still voting hours after the polls on the East Coast have closed. The networks gear their prediction techniques to these realities and, since it is possible in the case of an electoral landslide (and has been the case in three of the last five Presidential races) for a candidate to win 271 electoral votes in eastern states alone, elections can sometimes be called between the time the polls on the East Coast and the West Coast close.

Prior to 1980, early projections were based on early election returns from states in which the polls had closed. While the networks were able to accelerate the process of calling the Presidential race by extrapolating the small voting samples they received, they could not call an election before the polls in the East had closed and enough key precincts and districts had been tabulated so that an accurate projection could be obtained.

The 1980 election marked the refinement of a relatively new technique which obviates the use of actual vote counts and makes projections prior to the closing of any poll a possibility. Here a discussion of exit polling is critical.

Exit polling involves asking voters leaving the polling place a wide variety of questions ranging from who they voted for and why, to questions concerning their ethnic and religious background. Exit polling, because of the number of pollsters needed and the time it takes to question each voter, is expensive and only a small number of key precincts are polled requiring that the pollsters sample an accurate cross-section of the electorate in order for the polls to be useful. Initially the sampling base was thought to be too small and techniques too inexact to warrant using exit poll results as the basis for predicting a winner in elections; the networks used them primarily as tools to analyze voting patterns or identify changing demographic trends.

But, as technology has become more sophisticated and polling techniques more refined, the accuracy of exit polls as a means of predicting elections has increased to the point where it is now possible to project a winner solely on the basis of exit polls without having to tabulate any actual votes.

Congressman William Thomas argued that the developing technology may allow earlier more accurate projections in the years to come:

> I am convinced that their reporting techniques allow them, with a high degree of accuracy, to be able to make the kind of projections that they make...
> They are going to be accurate, they are going to be more accurate earlier in each succeeding election.[30]

In fact, in some cases, the technology currently exists to make projections well before the polls close. Dr. Austin Ranney pointed out that, "In 1980 both NBC and ABC could have projected

a winner by noon. They know from their exit polls that Reagan was going to win and win big."[31]

The Committee expressed concern that future elections may be called at 8:00 a.m. instead of 8:00 p.m. The networks took issue with this line of thinking, citing barriers to such early projections. Richard Scammon of NBC, for example, said that predicting an election at 8:00 a.m. was unlikely because it would be prohibitively expensive to carry out enough exit polls to obtain an accurate cross-section.[32] The Committee found, however, that while there are deterrents to using exit polls to project a winner in advance of the polls' closing, there is also a tremendous competitive pressure to call the election as soon as possible. One of the basic tenets of good journalism is that the news should be presented as quickly and as accurately as possible. Dr. Austin Ranney made the point explicitly:

> And let us not forget there are terrific pressures on the news people. One is to call the elections accurately; the other is to call them early. Calling elections early is in the venerable journalistic tradition of the scoop. One of the ways any journalist scores most heavily on election night is to call both early and more accurately than did the competetive newspapers or networks. And I don't think that kind of competition is going to disappear.[33]

The networks' representatives were also quite candid about the competition that takes place and agreed that it produces pressures to call races early. Bill Leonard of CBS in his opening remarks stated that:

> Yes we are very competitive with the other networks and yes, no doubt network competition was a factor in the development of sophisticated election estimating and analysis techniques. Yes we want to be first and

> right with the news, and that includes the news of which candidates have won the most important event in the democratic process.[34]

This competition between networks, while not in and of itself wrong, drives each network to call the election before its competitors and forces them to make greater use of exit polls in order to do so. As it stands now there are primarily two barriers to calling elections early; cost, in terms of the expense involved in exit polls, and the fear of being wrong, which has driven the networks to establish in-house guidelines deciding when an election can be safely called. Of the two barriers, the need to be accurate is probably the more important since the networks have been willing to spend the money to conduct exit polls and because accuracy is perceived by the networks to be a fundamental goal. The implication is that as the exit polls become more accurate and are better trusted, elections will be called earlier.

There are two additional points that should be made here. First, although early projections tend to affect the West Coast more severely than the East Coast, they are a national problem. Second, the networks, despite their protestations to the contrary, are not always as responsible and careful about making early projections as they might be.

No single incident drives these points home more forcefully than the recent Gubernatorial election in New Jersey. In this election, two of the three networks, ABC and CBS, projected a winner, only to later retract that prediction and one network, ABC, projected incorrectly, a trend for a candidate before the close of the polls. While there is no specific evidence showing

that this incorrect projection had an effect on the election, the findings of these hearings suggests that it is a possibility.

SUMMARY

The Committee found that while early projections have been a problem in some past elections, factors have combined to make it extremely likely that they will be more of a problem in the future. The primary reason for this is the increased use and accuracy of exit polls which circumvent the need for actual vote counts. Using exit polls the networks could have called the 1980 election at 12:00 E.S.T. - well before the close of any poll in the country. The second factor which the Committee found to be an important reason for the increasing use of early projections is the intense competition between the networks. As the technology needed to make early projections develops to the point where they can be made with a great degree of confidence this competitive drive will push the networks to call the election as soon as possible.

The New Jersey Gubernatorial race substantiates the Committee's contention that the combination of an increased reliance on exit polls and competitive pressures can force early, and perhaps irresponsible, projections.

FIRST AMENDMENT CONCERNS

Most of the discussion up to this point has focused on how society's right to vote freely is affected by early projections. However, there is a countervailing concern which must be examined

and that is the mandate of the news media to report important news regardless of its content - a mandate protected by the First Amendment.

The networks feel that it is their job to present news as soon as it becomes available and that to do less would be an abdication of their responsibility as journalists. Bill Leonard of CBS testified that:

> We believe our responsibility is that of any news organization: to report accurately the information we have, and its significance as soon as it becomes available. That is nothing unique to election reporting; with the rarest of exceptions, it is a fundamental journalistic credo. We cannot patronize our audience by withholding from them what we know. To do so would be a violation of trust and would seriously jeopardize our credibility.[35]

While it is the responsibility of the media to report the news as soon as it becomes available, the Committee raised the question whether early projections represent reporting news or making it. The Committee argued that there was a difference between reporting a verifiable incident, after the fact, and making subjective predictions which could affect the outcome of an ongoing event.

For example, when a candidate accumulates a majority of the votes in an election and the media declares that person the winner, that is reporting the news. Similarly, in the 1980 election, CBS's and ABC's report that NBC had called the election in favor of Ronald Reagan, was news.

However, the Committee felt that early projections do more than report the news -- they make it. First early projections can, as the evidence indicates, have an effect on voters so that

election outcomes can change. Early projections also differ from network to network. Each network has its own scientific formula for arriving at a projection so that you are in effect, dealing with three different manufactured products rather than one news story.

Congressman Al Swift pointed out this important distinction between reporting news and making it:

> There is a difference between reporting what people have done, because the votes have come in, or even in my judgment extrapolating from actual votes, as ABC and CBS do and doing what NBC does, the fact that you have the distinctions from reporting actual raw votes to projecting from raw votes to projecting from an exit poll, it seems to me we have three difficult things and in each step you are moving further away from reporting what people did and further toward the media creating the news they wish to report.[35a]

While these issues were important, the primary concern was a Constitutional one: Does the First Amendment protect the right to broadcast early projections even though such projections hinder people's right to vote?

ABC, at the request of Congressman Scheuer, filed a legal brief on this topic and a review of this document will help illuminate the issues involved.[36] The clause of the Constitution relevant to this discussion is "Congress shall make no law ... abridging the freedom of speech or the press." This section of the First Amendment has been interpreted expansively by the Supreme Court with particular protection being afforded political discussion. This protection is based upon a belief that open and unfettered discourse is essential for obtaining an informed polity:

> The First and Fourteenth Amendments remove "governmental restraints from the arena of public discussion, putting the decision as to what views will be voiced largely into the hands of each of us, in the hope that use of such freedom will ultimately produce a more capable citizenry and more perfect polity."[37]

Moreover, within the general category of political speech, the Court has provided the greatest specific protection for speech relating to political elections. In a case which is particularly germane, Mills vs Alabama, the Supreme Court ruled that laws which forbid election day editorials that are specifically intended to sway voters are unconstitutional. As the Court stated, "It is difficult to conceive of a more obvious and flagrant abridgement of the constitutionality guaranteed freedom of the press."[38]

Although the Supreme Court has given broad protection to free speech, it has tolerated restrictions on the First Amendment in three narrow categories: i) reasonable time, place or manner restrictions, ii) a permissible subject matter regulation, or iii) a narrowly tailored means of serving a compelling state interest.

The brief contends that a restriction on election result reporting would not fall within any of these categories. The first category, reasonable time, place or manner restrictions, allows government to regulate the time, place or manner of speech if such regulations act "independently and protect a legitimate governmental goal.[39] Thus, the court has allowed parade licensing in order to prevent traffic congestion and has supported laws which prevent people from yelling, "fire" in a crowded theatre. According to ABC, restrictions on election

reporting could not be tolerated under this exemption because such restrictions would be directed specifically at content - i.e., information concerning election results.

ABC's lawyers also argue that the second area of exemption from First Amendment protection, subject-matter regulation, fails to apply. This category allows laws regulating speech only when the speech is conducted on Government property and when the content of that speech interferes with or disrupts the function for which the property was intended.[40] Election result restrictions obviously do not fall in this category. In fact, under Section 326 of the Communications Act of 1934, the government is specifically barred from "intruding upon the content or subject matter of what is broadcast."[41]

While the arguments presented in the brief concerning the first two categories are quite strong, the brief also takes the position that designing a narrowly drawn restriction on election projections as a means of serving a compelling state interest would be unconstitutional. Here, however, the argument is somewhat more tenuous and deserves closer scrutiny. The way this category is interpreted, a limitation on free speech would be allowed only if the state could show a compelling interest which is being obstructed by the exercise of free speech and if the law passed provides the least restrictions on speech while serving that compelling state interest. The legal brief contends that laws limiting election projection broadcasts would fail to meet these requirements.

First, the brief, which was drawn up before the release of the Michigan study, argues that Congress has failed to prove

that voters are affected by early election projections and so has not established a compelling state interest. Furthermore, a restriction on the right of the news media to broadcast early projections would not be the least restrictive alternative available. The brief asserts that, "Congress could, among other steps, implement a 24-hour election day so that all polls close at the same time."[42]

These two contentions are open to dispute. First, the Michigan study provides strong evidence that a large number of people were affected by the early projections. Moreover, testimony was offered showing that the outcome of elections could have been altered by the decreased turn-out, and that long-term effects on the psyche of the American voter -- in terms of alienation and frustration -- would be significant. The elimination of these problems is, arguably, a compelling state interest.

Second, a law delaying early projections may be the only way of securing this compelling interest. As was noted earlier, although same time poll closing proposals would be effective in preventing early projections based on election returns, they would not be effective in dealing with the problems posed by exit polls. Exit polls are independent of election returns and can sometimes be made well before the polls close. A case could, therefore, be made that a law which instituted same time poll closings and delayed the broadcasting of exit poll results until the polls have closed would meet the requirements of a "narrowly tailored means of serving a compelling state interest."[43]

The irst Amendment questions are, as we can see, quite complex and a final and definitive answer could only come from a Supreme Court ruling on an actual case. This, however, appears to be an extremely unlikely event as the Committee expressed strong support for the broad intent of the First Amendment and little inclination to challenge it on this issue. Congressman John Burton of California stated his feelings concerning the First Amendment quite succinctly. "I believe the First Amendment says there shall be no law abridging the freedom of speech and there is no word with more finality than'no'."[44] Congressman Thomas Luken of Ohio echoed Congressman Burton's sentiments saying in part, "The guarantees of the First Amendment are pretty nearly absolute."[45]

The Committee, aware of the difficult First Amendment questions, tried to persuade the networks that early projections represented journalistic irresponsibility. Given the fact that 71 percent of the nation disagrees with the use of early projections and that no one except the network representatives themselves were willing to defend the practice, the Committee felt that the networks should re-examine their position and exercise some restraint. Congressman Al Swift made the point that the problem of early projections is best handled by the networks voluntarily, rather than by Congress with a law which could raise serious First Amendment questions:

> The solution to the problem lies most properly with you not with us. I would like to see a little more evidence that you value the perception of the people that there is a problem. I would like to see a little more response that you are willing to do something about it so that we could all go off and do other things that do not bring us so close to having to deal with something as cherished as the First Amendment. 46

The networks' response to this was that not reporting early projections was self-censorship and violated that fundamental tenet of journalism - get the news out as quickly and as accurately as possible.

The Committee found that the issue of self-censorship is less clear-cut than the representatives of the three major networks admitted. Indeed, the networks delay the broadcast of important "news" if they feel that it is useful to do so. For example, the news media is given a copy of the State of the Union Address hours before the President reads it on national television. The media exercises restraint by not broadcasting the address because they realize that the public is not hurt by the delay.[47] Even more to the point, ABC and NBC could have called the election well before they did but instead waited. In fact, since it is impossible to present all the possible news stories the media is, in effect, constantly withholding information. Dr. Don J. Pember, Director of the School of Communications at the University of Washington, had this observation:

> You must remember...a simple journalistic rule: When someone outside the press asks a journalist to delete or modify a story, it is "self-censorship", when a journalist chooses to delete or modify a story it is called "editorial judgment." ....What I am suggesting is that self-censorship (editorial judgment) is something a good journalist is paid to exercise regularly.[48]

Members of the Committee, convinced that it is incumbent upon journalists to exercise judgment and restraint in bringing the news to the public, tried to drive home the point that there are few advantages to early projections. As Congressman William Thomas asked:

> Can either of you give me some kind of public service rationale where networks providing the information that they do two hours before the polls close rather than two hours after? What is the key public service factor, if any, in your mind, that the early projections provide that weren't available in an early period? What's the advantage? What's the plus of us receiving what we now receive that we didn't have before?[48a]

SUMMARY

The First Amendment issues involved in any legislative attempt to limit early election projections are complex. The Supreme Court has given broad protection to free speech questions especially when political speech is involved, allowing limitations in only three narrow categories. Of these three categories, the best case can be made for a prohibition which is "a narrowly tailored means of serving a compelling state interest.[49]

Such First Amendment questions appear rather academic, however, since the Committee strongly supports the letter and spirit of the First Amendment and is loath to challenge it on this issue. Rather, the Committee hoped that some voluntary solution, involving an agreement between the networks, to withhold projections until the polls close, could be arranged. Voluntary restraint of this nature is not something unknown to the news media and as one witness pointed out, "is something a good journalist is paid to exercise regularly."[50]

PROPOSED LEGISLATION

Perhaps the Committee's view concerning early projections can best be expressed in this manner. "When something serves no useful societal purpose and when it may cause some societal harm, it should not be done.[51]

Accomplishing this legislatively, however, is a difficult and complex task. There are two overviews that should be made concerning the present electoral system and legislation aimed at correcting the problems presented by early election projections.

First, the Committee found that our electoral system is fragile and delicately balanced. Relying primarily on volunteers, many of whom are elderly, and catering to the unique needs of various localities, this process has evolved into a complicated and, on the balance effective, mechanism for running elections. This system, though effective, is fragile and resistant to change, and the Committee expressed a reluctance to institute national changes that could have undesirable repercussions on the grass roots level of the election process. Changes involving extending election hours, changing poll closing times or switching the day on which Federal elections are held can create undue hardships for those election day volunteers who are the heart and soul of the electoral system.

Second, the problem of early projections is not easily rectified. Most of the bills reviewed by the Committee attempt to deal with early projections by restructuring the electoral system. The intent of these proposals is laudable, but early projections, particular those based upon exit polls, appear to be resistent to electoral remedies.

The bills submitted to the Committee were H.R. 1813 - Congressman Cec Heftel; H.R. 3595 - Congressman Les AuCoin; H.R. 84 Congressman Mario Biaggi; H.R. 184 - Congressman George E. Danielson H.R. 3556 and H.R. 3557 - Congressman Pat Williams.

H.R. 1813 submitted by Congressman Heftel involves two changes in the present electoral system. First, it would make the 1984 Presidential election day, a National Holiday, on a trial basis. Second, it would institute a uniform time, 8 p.m., E.S.T. for the closing of all polls except for those now located in the Yukon, Alaska - Hawaii, or Bering time zones. Polling places located in these zones would be permitted to stay open until 10 p.m., E.S.T. Each state would be allowed to determine the opening of their respective polls but all polls must be closed by the mandated time.

Congressman Heftel sees a number of advantages to his bill. First, he hopes to correct the problem of decreasing voter turnout in this country by eliminating voter barriers, particularly time barriers. He believes that, "it will be a strong incentive for Americans to get out and vote when they do not have to juggle family and work responsibilities..."[52] Furthermore, by making the holiday experimental, the bill provides a trial run to see if voter participation does increase. Finally, he hopes that by instituting a uniform poll closing time, early projections will be eliminated.

H.R. 1813, unfortunately, has some side effects. First, the costs associated with a National Holiday are quite high. A congressional research survey conducted in 1979 found that the Federal Government alone loses $140 million on a National Holiday while state and local governments lose over $615 million.[53]

In an era of fiscal conservatism such costs may be considered prohibitive. More importantly, it is not at all clear that the main objective of H.R. 1813, increased voter participation, will be accomplished by the institution of a National Holiday. Congressman Heftel bases his belief that participation would increase on the fact that European countries which have Sunday voting have much greater participation than does the U.S. However, testimony indicated that the low voter turnout in this country is not due to time constraints, but rather to other less tangible factors. Professor Raymond Wolfinger pointed out that:

> ".... if you look at what kind of people do and don't vote on Tuesday, the people who are most likely to vote are the people with the least free time. The champion voters are the farmers who have less free time than anyone else. ... If you look at occupations where people have heavy demands on their time, those are the occupations which tend to have the highest voting rates ... In other words, it probably isn't the availability of time that causes some people to vote less than others ...."[54]

Indeed, the empirical evidence available supports Professor Wolfinger's hypothesis that time factors have little influence on voter participation. Professor Richard Smolka did a study of the two most recent attempts to increase voter participation through Sunday elections. Although Sunday elections are not identical to holiday elections (there was no data presented on Holiday elections), they offer the same theoretical advantage of more free time. Professor Smolka concluded that "neither" of these Sunday elections "seemed to do much for the turnout."[55]

A major intent of H.R. 1813 is to solve the problems of early projections. The bill has mixed success with this aim. It is true that uniform poll closing would eliminate the effect of

projections based upon election returns by guaranteeing that all the polls are closed before any returns become available. Exit polls, however, are not dependent upon actual vote counts and can be taken at any time in the day. As it was noted earlier, exit polls results were available at noon on the day of the 1980 election and as polling techniques become more sophisticated, election projections could well be made before any poll closes - circumventing the intent and effect of uniform poll closings.

Congressman Al Swift pointed out the difficulty of trying to eliminate early projections by establishing a uniform poll closing time:

> "ABC proposed in particular that the solution to the problem lay within Congress' purview by simply passing a law that would have uniform poll-closing times across the Nation.
>
> .... However, NBC's heavy reliance on exit polling at its basic mechanism for projection would short circuit any such proposal."[56]

Finally, uniform poll closings present serious logistical problems for the agency which collects and tabulates the votes on election night. As the system operates now, official returns certified by the legal authority within a state are not available for at least a week after the election. The returns that are used on election night are compiled by N.E.S. (News Election Service) which "collects and tabulates only the factual returns when they become legally available at the source."[57] The process of tabulating returns is a complicated one involving, "managers and organizers in every state, 100,000 to 110,000 individual precinct reports, 4,500 county level reporters, and 3,800 to 4,000 workers in six vote reception centers."[58] The job of counting all

the votes is made somewhat easier by the fact that returns come in sporadically since polls close at different times. If on the other hand, all the polls closed simultaneously and all the election reports were made available at the same time, it would create, "a measurable problem of physical difficulty."[59] enough workers be found who would be willing to work for only a few hours? Could enough phones be made available at one time to handle the sudden influx of calls? Would the news agencies which currently share the cost of N.E.S. be willing to foot the increased expense? And if not, what would fill the vacuum?[60]

The second bill, H.R. 3595, proposed by Congressman Les AuCoin, would mandate all election results be withheld until 11 p.m., E.S.T. at which time all polls must close. The states can close the polls earlier if they wish but all polls must close at 11 p.m., E.S.T. and no returns will be released until that time.

Congressman AuCoin sees two advantages to H.R. 3595. First, it allows the states flexibility in determining their voting hours. And second, it would eliminate the effect of projections based upon election returns by forbidding their release until all the polls have closed.

H.R. 3595 shares some of the problems of H.R. 1813. First, the logistical problems created by the sudden release of all the election returns are, as was noted above, significant. Second, although the bill attempts to deal with early projections based upon election returns, it too ignores the problems associated with exit polls. As it stands now election coverage usually begins in the early evening, when some eastern polls close. If all hard

factual returns were withheld until 11 p.m., the networks would probably want to fill the void with some type of coverage, perhaps using exit polls to provide date.

There are additional problems as well. Withholding election results after the polls have closed invites tampering and could jeopardize the credibility of the election process.

J. Richard Eimers of N.E.S. asked the Committee that:

> Does not holding returns after the counting is complete, until an artificial release time, create the possibility of a period in which those inclined to tamper with results will do so?[61]

A late poll closing time and withholding of election returns also exacts a toll on the poll workers. The common assumption is that if the polls close at 8:00, the election is over at 8:00. But while it may be over for the voter, the poll worker still must go through whatever official steps are required such as reconciling the number of ballots with voters, checking absentee ballots, etc. This process takes at least one to two hours which would keep the poll workers working well past midnight under H.R. 35 Most poll workers are elderly people who perform the task basically out of a feeling of civic duty and to force them to work longer and later hours would undoubtedly increase the difficulty of adequately manning the polling places. Many polling places current operate with less than an adequate number of poll workers.[62]

H.R. 84, authored by Congressman Mario Biaggi, proposes same time Sunday voting. Under this bill Federal elections would be moved to Sunday and all Americans would vote between 12:00 and 9:00 p.m., E.S.T., for Presidential elections. These changes would take place during a six-year experimental period starting in 1982 and include the 1984 and 1988 Presidential elections.

Congressman Biaggi argued for H.R. 84 on a number of levels. First, he hoped to increase voter turnout by reducing "voter obstacles."[63] He cited a 1972 census survey which states that over "48 percent of all registered non-voters did not vote because of a problem related to inconvenience, and noted the high turnout of European countries with Sunday elections.[64] He also stated that H.R. 84's same time voting provisions would eliminate early projections. Congressman Biaggi pointed out that H.R. 84 has received expressions of support from former President's Carter, Ford and Nixon, as well as the approval of several religious leaders.[65]

Some of the limitations of H.R. 84 have been discussed earlier with respect to the other bills mentioned. For example, H.R. 84 does not deal effectively with the problem of exit polls. Congressman Biaggi recognized this ommission but argued that there is a distinction between early projections based on early returns and projections based solely on exit polls; which he feels are less credible.

The Committee felt, however, that the increased accuracy of exit polls has blurred any distinction between early projections based upon actual votes and those derived from exit polling.

As to the main objective of H.R. 84, increased voter turnout, there is some doubt that Sunday voting would have the desired effect.

The testimony of Professor Wolfinger suggests that time constraints have little to do with voter participation and the empirical data presented by Professor Smolka indicates that Sunday voting has had no impact on turnout.

An additional problem is one of cost. Sunday voting, although less expensive than a National Holiday, does entail certain expenses. Buildings, which otherwise would not be used, would have to be opened, poll workers might have to be paid more in order to get them to work on a Sunday and more people would be needed to run the election.[66] Professor Smolka concluded that, "Sunday elections would definitely increase costs."[67]

A more serious problem presented by H.R. 84 would be the conflicts between religion and state duties that could develop as a result of Sunday voting. While Congressman Biaggi surveyed some 30 religious denominations and received their support for his proposal, it was pointed out by Congressman William Thomas that there are at least 50 denominations in California and that, "when you impose a change like this (Sunday voting) you have pockets of resistance which may, in fact, be more than pockets as you move.[68] Professor Smolka lent credence to the contention that religious conflicts would be a significant problem if Sunday voting were implemented:

> In 1963, when the President's Commission on Registration and Voting Participation considered this topic, they found religious objections were too strong to recommend Sunday voting. Even though attitudes may have changed since that time, the conflicts between religious obligations and civic duty ... is very real.[69]

H.R. 184, offered by Congressman George E. Danielson, involves a number of provisions. First, on the day of the Presidential election, all polls would close at 10 p.m., E.S.T. Second, in order to accommodate the various voting habits and needs of the different states, it allows a flexible 24-hour voting period. All

polls must be open at least 12 hours (they could stay open all 24 if they would like to) with at least 6 of the hours directly preceding the 10 p.m. closing time.

Congressman Danielson feels this proposal has merit in two areas. First, it allows states a great deal of flexibility in setting voting hours. Western states which must close the polls at 7 p.m., Pacific Time, could open them the evening before to accommodate voters who like to exercise their franchise in the early evening. States could open the polls for one long continuous stretch or split the hours. He also hopes to eliminate early projections by denying the networks election results until all the polls have closed.

H.R. 184 encounters the difficulty of trying to eliminate early projections based upon exit polls. Congressman Danielson makes the same distinction between projections based upon actual returns and projections derived from exit polls that Congressman Biaggi does arguing that, "Exit polling in the company of a uniform closing time would lose much of its credibility."[70]

It would appear, however, that as the technology available to the networks becomes more sophisticated and exit polls establish a good track record for accuracy, their credibility can only increase. Moreover, the fact that the election would, in effect, be carried out over a 24 hour period would encourage the networks to increase their use of exit polling in order to keep the public informed about the election. A 24 hour voting period would also allow a greater period of time in which the public could be influenced by the results of the exit polls.

H.R. 184 also presents some serious ballot security problems. First, having the polls on the East Coast close at 10:00 p.m. menas that poll workers will have to work quite late perhaps into the wee hours of the morning. Under these circumstances, some jurisdictions may delay delivery of the ballots until the next day. At this point security problems increase.[71] The fact that the bill allows for split hour voting over a 24 hour period also poses a security problem. First, workers must be found who can watch the ballots for the entire 24 hour period, and some secure method must be devised which will secure the ballots should a state decide to implement split voting hours. Professor Smolka concluded that:

> Although ... most elections are honest and most election officials work hard and provide an honest count for very little compensation, there are a sufficient number of instances of vote fraud that the system should not be weakened by making elections more difficult to monitor.[72]

H.R. 3556 and H.R. 3557 - the last two bills reviewed by the Committee, both authored by Congressman Pat Williams, involve legislative measures which have been discussed in reference to some of the other bills examined by the Committee and so can be dealt with rather quickly. H.R. 3556 would seal the ballots in Presidential elections until all the polls are closed and is closely related to H.R. 3595. It also has the same limitations. H.R. 3556 does not deal with exit polling and to the extent it creates an artificial vaccum by withholding election data which would normally become available earlier it may force the networks to increase

their use of exit polls. Sealing the ballot box also creates security problems as far as preventing fraud, especially if this would involve limiting observers access to the ballot so that they couldn't leak results to the press. Poll watchers and prompt counting of ballots are important in so far as they serve to verify result and decrease the chance of tampering. Sealing the ballots until all polls have closed and then releasing all the results simultaneously also presents the logistical problem of how to count all these ballots in a prompt accurate fashion. Finally, this type of ballot sealing in the absence of a uniform poll closing time is, to quote Richard Smolka, "not feasible."[73]

H.R. 3557 seeks to establish a uniform poll closing time. This bill, too, presents problems similar to ones already discussed. It does not solve the problem of exit polling. It would create serious logistical problems in trying to tally, all at once, the election returns. Also, depending upon how late the polls are set to close, problems associated with a late closing could develop - a shortage of workers and an increased possibility of vote fraud.

SUMMARY OF PROPOSED LEGISLATION

The Committee found that the problem of early projections defies simple legislative solutions. All of the bills presented fail to solve the primary problem established by the Committee - that of early projections based upon exit polls. Moreover, the election system in the United States is of such a complex

and delicately balanced nature that legislative attempts to rectify problems such as the trend of declining voter turnout or early projections based upon early election returns, can have serious unwelcomed effects.

It would appear that, short of an outright prohibition, the only effective way of dealing with early projections is through a voluntary agreement between the networks.

END NOTES

1. Hearings held jointly before the Committee on House Administration and the Subcommittee on Telecommunications, Consumer Protection, and Finance of the Committee on Energy and Commerce, U. S. House of Representatives. Ninety-Seventh Congress, First Session.

   The other two networks although calling the election later than did NBC still declared Ronald Reagan the winner before the polls had closed. ABC called the election at approximately 9:50 PM and CBS at around 10:15 PM. Moreover, both CBS and ABC carried NBC's report that Reagan had won. page 159.

2. President Carter conceded the election at 6:45 PM. West Coast time.

3. Ibid., page 93

4. In 1964 CBS projected that Lyndon Johnson was the winner at 6:03 PM E.S.T., and in 1972 two of the three networks, NBC and CBS, declared Richard Nixon had won the election prior to the close of the polls. NBC called the election at 8:30 PM E.S.T. and CBS at 8:50 PM E.S.T.

5. Ibid., page 21

6. Other than Ms. Eu, whose testimony follows, this conclusion was supported by, among others, Dorothy S. Ridings of the League of Women Voters, the Honorable Vic Fazio, Congressman from California, and Nancy Pelosi, Chairperson of the California State Democratic Party.

7. Ibid., page 116

8. Ibid., page 115

9. Ibid., page 116

10. Ibid., page 44

11. The term "straw poll" refers to polls that either survey people randomly or survey so few people that the results are subject to too large a margin of error to be conclusive.

12. Ibid., page 11

13. Ibid., page 140

14. Professor Wolfinger's study can be found on pages 151-161.

15. The best discussion of the methodology of the Michigan study is presented in the study itself which can be found on pages 330-345. The most salient features of the study are as follows: First, using extensive interviews, the study was able to objectively determine from among a study group who voted, who was eligible to vote and did not and who was not eligible to vote. Second, the study assessed the pre-election likelihood of the eligible people voting. This is important since people have different degrees of commitment to voting and will be affected differently by news concerning the election. The interviews conducted in the study avoided relying upon the voter explanation for why they did nor did not vote since people often misrepresent their reasons for not voting. Instead the interviewers determined whether the people had heard an early projection before having had a chance to vote. By being able to control for the difference in likelihood of voting, the study was an almost classic natural experiment with some subjects receiving the news when it could alter their behavior (the treatment group) and others acting independently of the news (the control group). The difference between the two groups in terms of voter participation represented the effect of the early projections.

16. Ibid., page 331

17. Ibid., page 331

18. Ibid., page 345

19. Ibid., page 141

20. Ibid., page 117

21. Ibid., page 21

22. Ibid., page 116

23. Ibid., page 102

24. Ibid., page 112

25. Ibid., page 97

26. Ibid., page 49

27. Ibid., page 241

28. Ibid., page 81

29. There are four time zones contained within the Continental United States, and six when Alaska and Hawaii are included.

30. Ibid., page 324

31. Ibid., page 59

32. Ibid., page 36

33. Ibid., page 33

34. Ibid., page 9

35. Ibid., page 8

35a. Ibid., pages 279-280

36. ABC's briefs can be found on pages 348-353.

37. Ibid., page 349

38. Ibid., page 350

39. Ibid., page 350

40. Ibid., page 350

41. Ibid., page 350

42. Ibid., page 351

43. Ibid., page 350

44. Ibid., page 5

45. Ibid., page 6

46. Ibid., page 46

47. Ibid., page 39

48. Ibid., page 317

48a. Ibid., page 147

49. Ibid., page 350

50. Ibid., page 317

51. Ibid., page 176

52. Ibid., page 3

53. Ibid., Volume II
54. Ibid., page 142
55. Ibid., Volume II
56. Ibid., page 177
57. Ibid., Volume II
58. Ibid., Volume II
59. Ibid., Volume II
60. Ibid., Volume II
61. Ibid., Volume II
62. Ibid., Volume II
63. Ibid., Volume II
64. Ibid., Volume II
65. Ibid., Volume II
66. Ibid., page 53-54
67. Ibid., page 64
68. Ibid., Volume II
69. Ibid., Volume II
70. Ibid., Volume II
71. Ibid., Volume II
72. Ibid., Volume II
73. Ibid., Volume II

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HEADLINE: Florida's black voters saw more ballots invalidated than whites

BYLINE: By **Andres Viglucci,** Geoff Dougherty and William Yardley

BODY:

MIAMI_In nearly all of Florida's majority-black precincts, presidential ballots were invalidated at higher rates than in mostly white neighborhoods in the Nov. 7 election, a Herald analysis of the state's uncounted ballots shows.

The analysis _ the first to examine precinct-by-precinct trends _ shows that the lopsided loss of black votes occurred throughout Florida and not just in widely publicized instances in Palm Beach and Duval counties.

The study found that poor and less-educated voters of all races were more likely than better-off voters to spoil their ballots. However, Florida's balloting problems affected blacks in greater measure.

The analysis also points to a potential solution: Discard rates for all groups, including blacks, were minimal in precincts where electronic machines scan fill-in-the-oval ballots and immediately alert voters to botched ballots so they can correct them.

Those precinct scanners are critically important, the analysis shows. The optical-scan systems in counties that lack the error-notification feature had discard rates that were higher than in punch-card counties, where the now infamous hanging chad caused so many problems.

Florida's patchwork of punch-card machines and optical-scan systems clearly hurt some voters more than others on Election Day, the study found:

_Ballots in majority-black precincts were discarded at a rate three times higher than those in non-black precincts. Nearly one in every 10 ballots in majority-black precincts went unrecorded. In majority-white precincts, the discard rate was less than one ballot in 38.

_Eighty-two percent of Florida's 463 majority-black precincts had discard rates above the statewide average of about 3 percent. By contrast, 41 percent of majority-white precincts had higher-than-average discard rates.

_Ballots in precincts with high poverty were discarded at a rate nearly

double that of better-off precincts.

_Voters in precincts with lower educational attainment spoiled their ballots discarded at a rate 1-[times that of other precincts.

Some experts say the unequal effects on black voters could leave Florida's voting system open to challenges under the federal Voting Rights Act, which prohibits government practices that _ intentionally or not _ dilute minority voting.

The NAACP has said it is contemplating a Voting Rights lawsuit. Experts say such a suit might seek to force the state to mandate and help pay for a uniform, state-of-the-art system across Florida.

"Many African Americans are upset over what happened in Florida, and as your data points out, with some reason," said Louis Seidman, an expert on voting rights at Georgetown University Law School. "I wouldn't be at all surprised to see litigation along these lines."

The balloting disparities were magnified on Election Day by a surge in black turnout that brought to the polls tens of thousands of new or infrequent voters, who are more likely to make mistakes, said David Bositis, senior political analyst at the Washington, D.C.-based Joint Center for Political Studies, which studies issues of concern to minorities.

The problem was compounded by a ballot crowded with 10 presidential candidates, Bositis said, because such long lists make voter errors more likely.

Some local ballot designs led to even more errors, the analysis found: At least 14 counties broke up the presidential candidates into two columns or spread them over two ballot pages _ and had discard rates twice that of the other counties.

The U.S. Commission on Civil Rights will hold a series of hearings in Florida early next year that will focus in part on how black voters fared under the state's voting systems.

The Herald analysis indicates they started off at a disadvantage. The study looked at precinct returns and demographic data for all but three of Florida's 67 counties.

For one thing, a higher proportion of black voters than white voters live in 24 counties that use error-prone punch-card machines. More than half of Florida's black voters are concentrated in five large urban counties, including Miami-Dade, Broward and Palm Beach, that use punch-card systems.

Conversely, blacks are slightly less likely than white voters to live in the 25 counties equipped with optical-scan readers that alert voters to errors _ the places that had the lowest discard rates in the state.

Those machines, which read fill-in-the-oval ballots at the precincts, are typically programmed to return the card if a voter marks more than one candidate in a race. In some places, the machines also return the ballot if they fail to register a vote in a race.

When these electronic readers are used in predominantly black areas, the discard rate drops to 3 percent, the analysis found. In contrast, the discard rate for blacks is 16 percent when they use scanning systems without the correction feature and 11 percent for punch-card machines.

Nowhere was the trouble with punch cards more obvious than in Duval County in North Florida, where confusing instructions appear to have played a large role in the invalidation of 22,000 ballots for double-voting _ about 9,000 of them from majority-black precincts.

In fact, 19 of the 20 precincts with the highest spoilage rates in the state were heavily black neighborhoods in Duval, the analysis found. All had at least a fifth of their ballots tossed out. Elections officials blamed first-time voters and "people who didn't follow directions."

Tiny Bradford County, a mostly rural place that is home to Florida State Prison in Starke, has a more-modern fill-in-the-oval system. But voters don't get a chance to correct errors because the ballots from its 20 precincts are read at a central location, not precincts.

In Bradford's Precinct 7, where two-thirds of voters are black, 88 ballots out of 464 cast were not counted. That is 19 percent of the total, a figure that Elections Supervisor Terry Vaughan said worries him.

"I don't want anyone to think there was any systematic way that any group was targeted. There is nothing sinister going on. But we need to figure out why this happened and come up with a solution," he said.

Some counties have already hit on one.

In Brevard County's Precinct 98, where 95 percent of voters are black and two-thirds of school-age children are poor enough to qualify for free school lunches, the discard rate was only about two votes out of every 100. Scanners at all Brevard precincts return double-punched ballots to voters.

Brevard replaced its old punch-card system with the optical-scan machines about 18 months ago, said Gayle Graham, assistant supervisor of elections.

"Absolutely it's better. The voter isn't being disenfranchised if he makes a mistake," Graham said.

Some experts and many elections officials believe counties have an ethical obligation to make voting as simple as possible for voters, which may mean using systems like the scanners that alert voters to mistakes and lending extra assistance to those who need it.

"The fundamental problem is we have a history of discouraging people from voting and that history is very clear," said Henry Thomas, chair of the political science department at the University of North Florida in Jacksonville. "Casting a vote ought not be rocket science. Ordinary folks should be able to do it."

Yet only 1,720 of Florida's more than 5,885 precincts are equipped with the

optical scanners that alert voters to mistakes, in part because they are relatively expensive.

"We don't have that luxury. We could not afford to go to that system," said Bradford County's Vaughan. Its optical system cost about $35,000, but equipping all 20 precincts would have quadrupled the price, he said.

In some cases, counties that have the mistake-proof equipment nonetheless don't believe in using it to help voters.

Okaloosa County, in the Panhandle, programs its precinct scanners to spit back fill-in-the-oval ballots only if they are completely blank.

On Election Day, Okaloosa's Precinct 12, where almost two-thirds of voters are black, had 35 uncounted ballots out of 364 cast. That's a discard rate of nearly 10 percent.

Elections Supervisor Pat Hollarn contends that giving voters a chance to redo an erroneous ballot would slow down voting too much. While acknowledging that the precinct has "probably the lowest educational levels" of the county, Hollarn said that voters, not elections officials, are responsible if they fail to follow directions.

"As simple as our system is, if people are functionally illiterate. Look, if the directions say fill in the oval, then you fill in the oval. What's so hard about that? If you screw it up, you screw it up. When you pander, low expectations make for low results."

Some critics contend that more than economics has influenced county decisions on what kind of equipment and services to offer voters.

Echoing others, Adora Obi Nweze, state president of the NAACP, alleged that on Election Day many minority precincts were understaffed, run by poorly trained workers and unprepared for the deluge of black voters, who did not get the assistance that may have helped prevent voting errors.

"It's consistent with the overall plan and the overall actions in this state and in this country to treat blacks as though we don't count," Nweze said. "All of it falls under one banner, the disenfranchisement of the black and minority voter."

To be sure, other factors besides voting systems played into whether voters' choices were recorded and tallied.

In Duval County, where so many problems occurred, elections officials distributed inaccurate sample ballots just before Election Day.

The sample listed all presidential candidates on one page and instructed voters to "Vote all pages." But at the polls, the official Election Day ballot instead listed presidential candidates on two pages and instructed voters to "Vote appropriate pages."

Critics say the conflicting directions led many voters to pick two presidential candidates. "A lot of people thought that if you didn't vote on

every page that your ballot won't be counted," said Rodney Gregory, an attorney working with the Democratic Party in Duval.

In Gadsden County, the state's only majority-black county, the list of presidential candidates was broken into two columns on the optical-scan ballot and 1,900 voters, or 12 percent of the total, marked more than one choice for president. The county lacks the voter-alert system.

When the canvassing board did a manual recount, officials found many voters had marked all 10 candidates and then scrawled Gore's name in the box for write-ins.

Some majority-white precincts also experienced problems. In heavily agricultural Hendry County, where the presidential ballot also featured a broken-column design, nearly one of every five ballots went uncounted in Precinct 6, where 82 percent of voters are white non-Hispanics. The county has optical scanners but not the error-alert system.

The blue-collar precinct, on the outskirts of Clewiston, is home to many sugar-industry workers and also is poor enough that more than half the children in the local elementary school qualify for free lunches.

County Commissioner Bo Pelham, whose district includes the precinct, said that although 96 presidential ballots were invalidated for overvotes, there were far fewer or no overvotes in his race and several others. That led him to conclude that the crowded ballot was the source of the problem.

"They weren't expecting to see 10 candidates for president," Pelham said.

Exit polls suggest that many of those stumbling over their ballots in majority-black precincts may have been inexperienced voters. Thanks in part to an NAACP get-out-the-vote drive, black voters' share of the state vote rose from an estimated 10 percent in 1996 to about 15 percent this year.

In Okaloosa County's mostly black Precinct 12, Election Day brought out many new faces from the black community, said poll clerk Aljonia Porter, who lives in the neighborhood. And while she noted that the precinct is home to some elderly white voters who also may have made errors on their ballots, she said, "most of our problem was first-time voters or those who had not voted in a long time."

Some ballots registered as completely blank because voters had made their marks outside the borders of the ovals, Porter said. Those errors were caught. But the readers were not programmed to prevent other invalidating mistakes.

"I had one woman tell me on the way out that she colored in one oval and then wrote in the name of the candidate," Porter said. "That's an overvote. She was just making sure. But it didn't count."

(Herald staff writer Brad Bennett contributed to this report.)

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2000 Presidential Election: Data from Miami-Dade Supervisor of Elections

The accompanying materials are a precinct-by-precinct analysis of the under vote in Miami-Dade County in the black, Hispanic, and white populations. The analysis includes precincts in which at least 50% of a population is represented. The analysis reveals the following under vote rates: *

Black	**2.40%**
White	**1.16%**
Hispanic	**1.40%**

The black under vote rate is twice as high as the white population and ninety percent higher than the Hispanic population. Accordingly, failure to count all the ballots in Miami-Dade County will disproportionately discriminate against black voters.

* All analysis prepared and submitted by Mr. Deutsch.

2000 Presidential Election:
Data Obtained from Miami-Dade Supervisor of Elections
Under Votes in Majority Black Precincts – Miami-Dade County

Prec	Ballots	BLK	BLK %	UNDER	% Under
229	1804	1,421	50%	49	2.72%
139	1085	813	50%	28	2.58%
212	803	483	51%	16	2.65%
140	1160	899	52%	31	2.67%
129	891	663	53%	22	2.47%
532	297	238	53%	7	2.36%
813	1509	1,132	53%	18	1.19%
248	1279	1,081	53%	38	2.97%
517	812	820	53%	12	1.48%
150	986	709	54%	20	2.00%
232	1988	1,507	55%	69	3.51%
235	1375	1,249	55%	68	4.96%
150	880	570	55%	11	1.62%
128	995	816	55%	16	1.61%
133	1234	992	56%	11	0.89%
247	1121	902	57%	27	2.41%
136	1223	958	57%	24	1.96%
143	237	198	58%	2	0.84%
817	1458	1,304	59%	24	1.65%
267	845	802	61%	33	3.91%
138	592	602	61%	13	2.20%
161	686	637	62%	14	2.04%
816	1056	998	62%	16	1.52%
153	1323	1,162	62%	22	1.66%
265	48	50	63%	2	4.17%
242	1249	1,132	63%	21	1.68%
141	855	807	63%	14	1.64%
122	137	136	64%	2	1.46%
313	628	674	65%	18	2.87%
127	1458	1,416	65%	34	2.33%
518	955	941	65%	18	1.88%
256	579	524	65%	23	3.97%
903	478	558	65%	12	2.51%
211	804	756	65%	12	1.49%
135	1774	1,639	66%	43	2.42%
515	364	404	68%	5	1.37%
239	1962	2,069	69%	34	1.73%
920	606	841	69%	10	1.65%
634	303	283	70%	7	2.31%
536	174	204	71%	2	1.15%
621	1463	1,569	71%	40	2.73%
233	746	789	71%	13	1.74%
241	1008	1,085	71%	31	3.08%
531	764	988	72%	17	2.23%
268	1001	1,150	73%	8	0.80%
244	1025	1,217	74%	11	1.07%
215	920	996	74%	12	1.30%
208	1219	1,353	75%	20	1.64%
501	1136	1,386	75%	28	2.46%

2000 Presidential Election:
Data Obtained from Miami-Dade Supervisor of Elections
Under Votes in Majority Black Precincts – Miami-Dade County

Prec	Ballots	BLK	BLK %	UNDER	% Under
214	1382	1,489	[illegible]	21	1.52%
259	864	1,043	[illegible]	30	3.47%
162	559	644	79%	13	2.33%
243	970	1,112	79%	13	1.34%
213	1118	1,335	80%	23	2.06%
224	1206	1,400	80%	22	1.82%
223	1285	1,523	81%	24	1.87%
216	1304	1,488	82%	23	1.76%
505	1290	1,709	82%	47	3.64%
236	45	62	83%	1	2.22%
922	1137	1,630	84%	34	2.99%
227	1212	1,492	84%	16	1.32%
584	862	1,018	84%	17	1.97%
225	1466	1,835	84%	31	2.11%
514	697	853	84%	19	2.73%
245	949	1,158	84%	25	2.63%
240	1408	1,688	85%	29	2.06%
228	1354	1,627	85%	35	2.58%
237	756	985	86%	40	5.29%
270	1207	1,518	87%	18	1.49%
519	1094	1,393	87%	19	1.74%
251	606	735	87%	13	2.15%
834	920	1,349	88%	13	1.41%
523	1324	1,796	88%	25	1.89%
220	1057	1,312	88%	27	2.55%
217	1230	1,494	89%	18	1.46%
226	1231	1,527	89%	34	2.76%
253	806	986	89%	25	3.10%
585	633	834	89%	19	3.00%
221	1313	1,685	90%	29	2.21%
234	1458	1,927	90%	56	3.84%
206	565	785	91%	17	3.01%
222	2141	2,727	91%	44	2.06%
254	1290	1,476	91%	26	2.39%
833	1107	1,624	92%	31	2.80%
249	1447	1,821	92%	48	3.32%
264	802	1,190	93%	28	3.49%
533	858	1,294	93%	24	2.80%
826	448	626	93%	3	0.67%
535	820	1,174	93%	15	1.83%
801	1088	1,468	94%	42	3.86%
258	673	1,047	94%	14	2.08%
522	1127	1,592	94%	33	2.93%
818	957	1,343	94%	33	3.45%
238	476	661	95%	19	3.99%
521	1333	1,898	95%	20	1.50%
252	1562	2,127	95%	49	3.14%
260	896	1,024	95%	9	1.29%
250	998	1,402	95%	21	2.10%
263	1302	1,906	95%	46	3.53%
261	971	1,539	95%	21	2.16%

2000 Presidential Election:
Data Obtained from Miami-Dade Supervisor of Elections
Under Votes in Majority Black Precincts – Miami-Dade County

Prec	Ballots	BLK	BLK %	UNDER	% Under
803	1225	1,520	96%	44	3.59%
511	1003	1,477	96%	22	2.19%
262	894	1,392	96%	24	2.68%
255	868	1,269	96%	22	2.53%
203	1277	1,721	96%	48	3.76%
507	744	1,087	96%	25	3.36%
219	806	1,114	96%	34	4.22%
513	469	652	96%	14	2.99%
520	721	1,038	96%	21	2.91%
508	1079	1,674	96%	25	2.32%
257	759	1,124	97%	26	3.43%
269	140	213	97%	3	2.14%
218	1008	1,418	97%	25	2.48%
592	19	34	97%	-	0.00%
271	142	240	97%	6	4.23%
512	788	1,103	97%	22	2.79%
802	1249	1,707	97%	31	2.48%
204	288	391	98%	2	0.69%
930	3	5	100%	1	33.33%
TOTAL	113574	132,642		2,725	2.40%

2000 Presidential Election:
Data Obtained from Miami-Dade Supervisor of Elections
Under Votes in Majority Hispanic Precincts – Miami-Dade County

Prec	Ballots	HISP	HISP %	UNDER	% Under
759	3007	2,085	50%	33	1.10%
530	708	507	50%	11	1.55%
620	1095	785	50%	12	1.10%
11	1031	798	50%	19	1.84%
829	1405	1,128	50%	12	0.85%
720	1201	811	50%	11	0.92%
26	31	24	50%	2	6.45%
815	897	679	50%	8	0.89%
739	1729	1,294	50%	24	1.39%
766	1649	1,285	50%	17	1.03%
529	1216	1,017	51%	23	1.89%
931	183	167	51%	2	1.09%
301	1015	721	52%	17	1.67%
231	1160	874	52%	21	1.81%
347	782	579	52%	13	1.66%
767	1258	1,106	53%	10	0.79%
724	1294	934	53%	19	1.47%
729	1068	919	53%	18	1.85%
747	1395	1,299	53%	19	1.36%
358	1658	1,232	53%	28	1.69%
302	972	785	53%	9	0.93%
13	1060	916	54%	20	1.89%
708	90	69	54%		0.00%
561	551	440	54%	2	0.36%
711	1530	1,253	54%	19	1.24%
752	2281	1,962	54%	29	1.27%
450	2177	1,684	54%	19	0.87%
21	822	650	55%	11	1.34%
602	922	689	55%	8	0.87%
501	1129	861	55%	8	0.71%
201	1344	1,036	56%	25	2.39%
18	1086	968	56%	16	1.47%
725	1365	1,049	57%	14	1.03%
740	1641	1,431	57%	14	0.85%
733	2018	1,727	57%	12	0.59%
356	3	4	57%		0.00%
304	1909	1,545	57%	28	1.47%
940	642	741	57%	8	1.25%
730	1756	1,535	58%	25	1.42%
429	995	788	58%	9	0.90%
770	1173	966	58%	12	1.02%
401	1310	1,200	58%	7	0.53%
707	456	360	58%	7	1.54%
737	741	739	59%	16	2.16%
266	131	126	59%	5	3.82%
731	1159	950	59%	18	1.55%

2000 Presidential Election:
Data Obtained from Miami-Dade Supervisor of Elections
Under Votes in Majority Hispanic Precincts – Miami-Dade County

Prec	Ballots	HISP	HISP %	UNDER	% Under
712	1325	1,136	60%	16	1.21%
714	1270	1,065	61%	14	1.10%
756	1792	1,573	61%	15	0.84%
738	2660	2,346	61%	22	0.83%
733	1772	1,582	61%	17	0.96%
633	998	841	61%	7	0.70%
246	1155	1,099	61%	22	1.90%
776	2202	1,992	61%	21	0.95%
308	310	280	61%	2	0.65%
715	1400	1,179	61%	21	1.50%
803	907	829	62%	12	1.32%
537	850	873	62%	17	2.00%
365	1921	1,711	62%	16	0.83%
364	849	756	62%	15	1.77%
710	1163	1,030	63%	8	0.69%
763	1110	1,045	63%	19	1.71%
431	830	768	64%	4	0.48%
594	114	93	64%	2	1.75%
774	882	968	65%	10	1.12%
718	483	429	65%	10	2.07%
32	906	851	65%	10	1.10%
348	325	333	66%	6	1.85%
441	968	912	66%	5	0.52%
432	1012	954	66%	7	0.69%
709	1561	1,448	66%	17	1.09%
434	1319	1,208	67%	17	1.29%
[illegible]	32[illegible]	540	67%	1[illegible]	1.19%
597	136	140	67%	1	0.74%
567	899	842	68%	10	1.11%
726	1623	1,515	68%	13	0.80%
775	2275	2,290	69%	29	1.27%
736	1[illegible]	1,184	69%	17	1.51%
579	539	5[illegible]	69%	5	0.93%
524	627	620	69%	10	1.59%
357	965	929	70%	10	1.04%
528	318	367	70%	7	2.20%
310	1220	1,287	70%	25	2.05%
317	918	924	70%	8	0.87%
352	3334	1,1[illegible]	70%	39	1.17%
316	1094	1,060	71%	29	2.65%
702	2412	2,411	71%	23	0.95%
706	1482	1,510	71%	17	1.15%
589	53	62	71%	-	0.00%
704	1452	1,531	71%	12	0.83%
422	1093	1,087	72%	20	1.83%
764	1566	1,624	72%	20	1.28%
526	1666	1,924	72%	27	1.62%
705	1235	1,344	72%	13	1.05%

2000 Presidential Election:
Data Obtained from Miami-Dade Supervisor of Elections
Under Votes in Majority Hispanic Precincts – Miami-Dade County

Prec	Ballots	HISP	HISP %	UNDER	% Under
591	572	646	72%	18	3.15%
440	1265	1,244	72%	14	1.11%
844	15	18	72%	-	0.00%
713	1422	1,478	72%	19	1.34%
427	1096	1,067	72%	17	1.55%
415	1645	1,790	73%	24	1.46%
335	1088	1,163	73%	6	0.55%
408	1615	1,822	73%	23	1.42%
580	1211	1,262	73%	7	0.58%
527	1300	1,504	73%	11	0.85%
426	1082	1,137	74%	24	2.22%
571	1446	1,508	74%	18	1.25%
588	59	95	74%	2	3.39%
419	862	863	74%	5	0.58%
577	1047	1,122	74%	13	1.24%
436	1366	1,414	74%	22	1.61%
430	1460	1,523	75%	18	1.23%
433	1226	1,237	75%	15	1.22%
423	1284	1,265	75%	21	1.64%
772	1143	1,356	75%	8	0.70%
314	1000	1,026	75%	11	1.10%
354	659	693	75%	11	1.67%
576	1569	1,677	75%	17	1.08%
428	1005	1,085	75%	18	1.79%
318	932	1,017	75%	9	0.97%
312	969	1,093	76%	19	1.96%
595	104	108	76%	1	0.96%
701	1341	1,566	76%	7	0.52%
315	1315	1,360	76%	19	1.44%
424	1195	1,271	77%	22	1.84%
319	782	850	77%	9	1.15%
425	1321	1,496	77%	35	2.65%
418	1072	1,150	77%	14	1.31%
573	1181	1,307	78%	15	1.27%
311	1587	1,737	78%	24	1.52%
417	1549	1,869	78%	13	0.79%
420	1438	1,509	78%	27	1.88%
572	881	982	78%	11	1.25%
329	1566	1,740	78%	36	2.30%
325	862	964	78%	13	1.51%
435	1391	1,557	79%	27	1.94%
596	180	191	79%	2	1.11%
421	1680	1,819	79%	19	1.13%
559	1291	1,408	79%	28	2.17%
552	400	441	79%	5	1.25%
337	965	1,089	79%	30	3.11%
732	999	1,194	79%	11	1.10%
570	976	1,125	79%	4	0.41%

2000 Presidential Election:
Data Obtained from Miami-Dade Supervisor of Elections
Under Votes in Majority Hispanic Precincts – Miami-Dade County

Prec	Ballots	HISP	HISP %	UNDER	% Under
437	1133	1,258	79%	21	1.85%
342	1499	1,753	79%	25	1.67%
438	1681	1,844	79%	32	1.90%
403	1770	2,080	79%	19	1.07%
413	2374	2,521	79%	36	1.52%
321	1859	2,174	79%	27	1.45%
525	716	877	79%	15	2.09%
503	600	884	80%	14	2.33%
329	1722	1,793	80%	26	1.51%
334	1015	1,191	80%	14	1.38%
578	1697	2,094	80%	21	1.24%
551	924	1,083	80%	8	0.87%
550	1184	1,341	80%	18	1.35%
575	1381	1,575	80%	25	1.81%
442	518	586	80%	10	1.93%
449	804	898	80%	10	1.24%
553	1222	1,472	80%	10	0.82%
773	1468	1,735	80%	13	0.87%
404	1455	1,586	81%	11	0.76%
320	1635	1,889	81%	29	1.77%
448	918	[illegible]	81%	15	1.63%
445	85	[illegible]	81%	1	1.18%
327	966	1,315	81%	26	2.69%
406	979	1,228	81%	19	1.94%
447	987	1,222	81%	23	2.33%
409	667	834	81%	8	1.20%
331	1546	2,080	81%	50	2.71%
368	1350	1,590	81%	19	1.41%
326	2206	2,509	81%	43	1.95%
340	2080	2,433	81%	42	2.02%
557	1355	1,596	81%	27	1.99%
543	1358	[illegible]	81%	41	3.02%
330	1467	[illegible]	81%	22	1.50%
339	1978	2,403	81%	32	1.62%
510	582	651	81%	7	1.20%
548	1096	1,242	82%	15	1.37%
336	1196	1,507	82%	23	1.92%
549	968	1,126	82%	17	1.76%
367	903	1,053	82%	10	1.11%
332	1341	1,529	82%	24	1.79%
414	2144	2,502	82%	25	1.17%
443	643	715	82%	7	1.09%
322	1883	2,354	82%	49	2.60%
545	1391	1,710	82%	17	1.22%
439	2380	2,613	83%	25	1.06%
562	1825	2,202	83%	18	0.99%
509	987	1,197	83%	24	2.43%
593	672	870	83%	11	1.64%

2000 Presidential Election:
Data Obtained from Miami-Dade Supervisor of Elections
Under Votes in Majority Hispanic Precincts – Miami-Dade County

Prec	Ballots	HISP	HISP %	UNDER	% Under
560	1597	1,959	83%	11	0.69%
412	2172	2,499	83%	22	1.01%
566	1527	2,084	83%	40	2.62%
555	1622	1,903	83%	22	1.36%
355	20	25	83%	-	0.00%
451	1052	1,159	83%	13	1.24%
402	2565	2,835	83%	32	1.25%
558	1171	1,425	84%	17	1.45%
564	1035	1,470	84%	19	1.84%
333	1496	1,788	84%	48	3.21%
383	1040	1,337	84%	12	1.15%
574	1823	2,244	84%	13	0.71%
338	1502	1,822	84%	18	1.20%
554	1386	1,674	84%	17	1.23%
446	234	273	84%	4	1.71%
547	1372	1,721	84%	14	1.02%
444	1224	1,487	84%	21	1.72%
353	1983	2,272	84%	21	1.07%
405	1159	1,453	85%	15	1.29%
565	1293	1,736	85%	15	1.16%
410	2080	[illegible]	85%	24	1.15%
[illegible]	1849	2,486	85%	28	1.51%
309	1866	2,371	85%	37	1.98%
416	1665	2,129	85%	30	1.80%
407	944	1,134	85%	11	1.17%
360	1176	1,430	85%	20	1.70%
349	2550	[illegible]	86%	44	1.73%
359	1826	2,383	86%	29	1.59%
362	1151	1,394	86%	28	2.43%
556	1903	2,481	86%	28	1.47%
341	255	351	86%	10	3.92%
563	1156	1,530	87%	19	1.64%
[illegible]	933	1,156	87%	22	2.36%
361	763	954	87%	17	2.23%
323	1154	1,392	88%	20	1.73%
TOTAL	273673	287,671		3,844	1.40%

2000 Presidential Election:
Data Obtained from Miami-Dade Supervisor of Elections
Under Votes in Majority White Precincts – Miami-Dade County

Prec	Ballots	WHT	WHT %	UNDER	% Under
722	350	254	50%	6	1.71%
760	96	69	50%	-	0.00%
26	31	24	50%	2	6.45%
569	2,546	1,816	50%	37	1.45%
119	849	826	50%	15	1.77%
118	541	417	50%	13	2.40%
308	804	557	51%	5	0.62%
4	447	369	51%	8	1.79%
39	791	596	51%	9	1.14%
42	871	679	51%	15	1.72%
17	1,045	787	51%	19	1.82%
832	834	652	51%	15	1.80%
207	1,686	1,299	51%	38	2.25%
43	338	264	51%	2	0.59%
610	93	69	51%	-	0.00%
169	191	167	52%	3	1.57%
811	739	554	52%	6	0.81%
541	555	480	52%	2	0.36%
728	1,412	1,158	52%	18	1.27%
830	439	304	53%	4	0.91%
741	1,629	1,208	53%	12	0.74%
723	797	575	53%	5	0.63%
40	824	652	53%	16	1.94%
638	14	9	53%	-	0.00%
[illegible]	1,956	1,417	53%	23	1.18%
769	848	652	53%	7	0.83%
805	473	387	54%	3	0.63%
158	888	669	54%	13	1.46%
542	277	1,040	54%	4	1.44%
719	1,297	1,048	54%	20	1.54%
611	1,259	930	54%	11	0.87%
748	1,120	863	54%	11	0.98%
751	8	6	55%	-	0.00%
609	882	700	55%	7	0.79%
116	437	365	55%	10	2.29%
756	1,606	1,269	55%	21	1.31%
637	37	26	55%	-	0.00%
608	1,290	967	55%	7	0.54%
843	288	229	55%	2	0.69%
743	815	644	56%	6	0.74%
727	846	637	56%	13	1.54%
344	1,217	971	56%	7	0.58%
835	186	154	56%	1	0.54%
147	538	488	56%	6	1.12%
916	533	565	57%	5	0.94%
923	384	441	57%	5	1.30%

2000 Presidential Election:
Data Obtained from Miami-Dade Supervisor of Elections
Under Votes in Majority White Precincts – Miami-Dade County

Prec	Ballots	WHT	WHT %	UNDER	% Under
771	[illegible]	375	57%	27	2.30%
49	993	315	57%	11	1.11%
125	197	138	58%	6	3.05%
750	1,479	1,155	58%	13	0.88%
836	1,434	1,326	58%	18	1.26%
823	1,294	1,172	58%	13	1.00%
345	1,195	922	58%	11	0.92%
2	611	525	58%	17	2.78%
807	1,013	803	58%	6	0.59%
608	733	605	58%	10	1.36%
605	1,500	1,168	58%	11	0.73%
925	156	143	59%	1	0.64%
15	524	413	59%	5	0.95%
825	1,565	1,427	59%	24	1.54%
850	14	13	59%	-	0.00%
917	104	147	59%	1	0.96%
346	1,109	859	59%	14	1.26%
27	496	535	59%	14	2.82%
10	1,123	864	60%	22	1.96%
50	1,055	879	60%	10	0.95%
134	55	49	60%	4	7.27%
751	1,109	896	61%	6	0.54%
114	205	254	61%	2	0.98%
544	388	367	61%	3	0.77%
23	1,254	[illegible]	61%	29	2.31%
37	292	259	61%	5	1.71%
536	279	251	61%	4	1.43%
9	570	568	61%	13	1.94%
516	820	730	61%	11	1.34%
108	1,155	1,127	62%	14	1.21%
848	121	135	62%	1	0.83%
613	932	751	62%	10	1.07%
822	1,216	838	62%	7	0.69%
51	1,401	1,112	62%	9	0.64%
16	525	495	62%	11	2.10%
749	1,159	988	62%	8	0.69%
52	27	27	63%	-	0.00%
614	928	753	63%	6	0.65%
907	1,192	1,258	63%	14	1.17%
148	1,303	940	64%	16	1.60%
617	1,568	1,451	64%	6	0.36%
752	1,140	985	64%	6	0.53%
921	83	85	64%	3	3.61%
546	6	16	64%	-	0.00%
840	246	226	64%	1	0.41%
753	2,291	2,062	64%	13	0.57%
150	342	310	64%	8	2.34%
25	[illegible]	[illegible]	65%	8	1.02%

2000 Presidential Election:
Data Obtained from Miami-Dade Supervisor of Elections
Under Votes in Majority White Precincts – Miami-Dade County

Prec	Ballots	WHT	WHT %	UNDER	% Under
513	447	416	65%	5	1.12%
208	1,653	1,529	66%	29	1.75%
581	1,352	1,236	66%	9	0.67%
824	1,321	1,355	66%	13	0.98%
539	381	357	66%	7	1.84%
615	800	725	67%	4	0.50%
804	1,256	1,206	68%	8	0.64%
901	965	997	68%	10	1.04%
642	283	274	68%	-	0.00%
583	1,072	1,106	68%	8	0.75%
146	1,389	1,310	68%	7	0.50%
625	1,142	1,108	68%	8	0.70%
755	285	266	69%	-	0.00%
937	80	77	69%	1	1.25%
640	34	29	69%	2	5.88%
107	650	743	70%	17	2.62%
31	702	675	70%	6	0.85%
623	1,004	966	70%	5	0.50%
106	394	405	70%	7	1.78%
5	1,105	1,152	71%	12	1.09%
754	1,807	1,767	71%	10	0.55%
820	1,867	1,919	71%	11	0.59%
29	916	889	71%	12	1.31%
627	1,204	1,141	71%	12	1.00%
110	388	387	71%	12	3.09%
630	536	531	71%	1	0.19%
819	836	862	72%	10	1.20%
156	1,128	1,343	72%	11	0.99%
822	1,362	1,423	72%	18	1.32%
38	349	330	72%	4	1.15%
821	1,537	1,505	72%	11	0.72%
124	1,733	1,825	72%	14	0.81%
8	784	775	72%	12	1.53%
807	875	856	72%	7	0.80%
837	1,295	1,326	73%	16	1.24%
624	886	856	73%	2	0.23%
912	1,028	1,180	74%	14	1.36%
151	575	572	74%	7	1.22%
104	743	826	74%	6	0.81%
1	1,124	1,222	74%	29	2.58%
7	1,024	1,017	74%	21	2.05%
635	138	148	74%	2	1.45%
641	37	35	74%	-	0.00%
120	380	433	75%	10	2.63%
809	372	377	75%	1	0.27%
746	720	747	75%	8	1.11%
619	1,442	1,441	76%	6	0.42%
632	[illegible]	[illegible]	76%	8	[illegible]

2000 Presidential Election:
Data Obtained from Miami-Dade Supervisor of Elections
Under Votes in Majority White Precincts – Miami-Dade County

Prec	Ballots	WHT	WHT %	UNDER	% Under
615	537	537	76%	4	0.74%
24	934	983	77%	9	0.96%
30	1,709	1,875	77%	16	0.94%
526	775	801	77%	-	0.00%
157	1,351	1,409	77%	10	0.74%
628	1,507	1,528	77%	5	0.33%
582	1,203	1,335	78%	11	0.91%
806	864	946	78%	7	0.81%
919	481	608	78%	6	1.25%
149	606	699	78%	6	0.99%
808	1,211	1,288	78%	4	0.33%
101	1,415	1,577	78%	11	0.78%
927	177	223	79%	3	1.69%
28	948	1,066	80%	10	1.05%
810	1,408	1,522	80%	6	0.43%
939	3	4	80%	-	0.00%
629	357	377	80%	2	0.56%
631	1,016	1,077	80%	3	0.30%
915	549	648	80%	6	1.09%
932	65	73	81%	2	3.08%
105	908	1,123	81%	6	0.66%
586	1,020	1,124	81%	9	0.88%
913	1,069	1,307	82%	16	1.51%
902	1,332	1,575	82%	7	0.53%
914	343	408	82%	4	1.17%
3	1,723	1,973	82%	44	2.55%
113	662	772	82%	22	3.32%
102	1,344	1,505	82%	17	1.26%
587	716	844	83%	1	0.14%
926	262	335	83%	1	0.38%
109	1,755	2,117	84%	31	1.77%
6	1,151	1,437	84%	27	2.35%
851	151	156	85%	3	1.99%
924	72	124	86%	2	2.78%
111	1,981	2,371	86%	64	3.26%
103	3,136	3,813	87%	67	2.14%
112	446	515	87%	7	1.57%
145	520	750	87%	6	0.97%
47	139	204	88%	1	0.72%
643	117	141	89%	-	0.00%
639	20	27	93%	1	5.00%
636	-	1	100%	-	0.00%
644	2	2	100%	-	0.00%
TOTAL	**152,510**	**145,737**		**1,774**	**1.16%**