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HEARING ON THE CONDUCT OF ELECTIONS AND PROPOSALS FOR REFORM

HEARING

BEFORE THE

COMMITTEE ON HOUSE ADMINISTRATION
HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

HEARING HELD IN MILWAUKEE, WISCONSIN, OCTOBER 24, 2005

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WISCONSIN: CONDUCT OF ELECTIONS AND PROPOSALS FOR REFORM

MONDAY, OCTOBER 24, 2005

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC.

The committee met, pursuant to call, at 9 a.m., in the Milwaukee Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 225, Milwaukee, Wisconsin, Hon. Robert W. Ney [chairman of the committee] Presiding.

Present: Representatives Ney, Ehlers, and Moore.

Also Present: Representative Green.

Staff Present: For Representative Ney: Paul Vinovich, Karen Christian, Audrey Perry, Donald Zelaya, and Patrick Sweeney.

For Representative Ehlers: Ben Gielow.

For Representative Millender-McDonald: George Shevlin and Thomas Hicks.

For Representative Moore: Winfield A. Boerckel, Jr., Kathleen Mulligan-Hansel, and Shirley Ellis.

Mr. NEY. The Committee will come to order and I would ask that the first panelists, we have two members for the first panel, please feel free to come up and join us.

The Committee is meeting here today in Milwaukee, Wisconsin, to take a look back at how the 2004 election was conducted in Wisconsin and hear about proposals for the reform.

Today's hearing follows previous hearings this Committee has held in both Washington, DC and in my home state of Ohio, Columbus, Ohio, on election issues.

With the January 1, 2006, deadline for compliance with the Help America Vote Act, of which I was the main author along with Carson and Steny Hoyer, who authored on the Democrat side along with quite a lot of members to pass the Help America Vote Act known as HAVA, we are working with different groups from across the country to complete that act. The last phase of it in 2006 will be kicking in on January 1.

While some in the media and others have brought a lot of attention to the 2004 election cycle in my home state of Ohio, as you know, Ohio was basically the most scrutinized state in the nation. We went there to look at some of the discussions of whether the Help America Vote Act worked correctly, what happened in Ohio, and we found some other things applied to the act and some didn't. Frankly, some are local issues and state issues.

But a lot of attention was brought in the 2004 election in my home state. There is substantial evidence of some voting irregular-

ities in Wisconsin in 2004 that were brought to our attention. The attention given to Ohio's problems was curious given the margin of victory was 10 times what it was in the state of Wisconsin.

While some may not want to admit it, election problems are not limited only to the states won by Republicans. They can also occur in states won by Democrats. So, although Ohio is a focus, we have several states across the nation that we can look at and learn from.

During the course of this hearing, we hope to learn more about what went wrong during the most recent election cycle and how elections can be improved in Wisconsin and the United States. By gaining a greater understanding of what happened, we will be able to ensure the effective administration and successful operation of Wisconsin elections and the United States elections in the future.

Issues debated in Wisconsin are also being debated at the national level, and it will be particularly constructive for this Committee to learn what is happening here.

Today we have with us members of our Committee, the House Administration Committee, and I would note and we will turn our attention to a statement by our ranking member, Juanita Millender-McDonald of California, and she passes her regrets today that she could not be here due to a commitment that she has. But she has a great interest in this issue as we are responding and working with our ranking member, Congresswoman Juanita Millender-McDonald.

Also a regular member of the Committee is Congressman Vern Ehlers of Michigan to my right. Congressman Ehlers served on the Committee for the past 10 years that I have been in the House, and also, a member in her own right, Congresswoman Moore filling in our for ranking member, Juanita Millender-McDonald. Thank you for having us from your state.

And also, at the far end of the table, Congressman Green, who had requested of me to have this hearing here in Wisconsin. We thank him for asking us to be here in your state and for initiating this hearing.

Witnesses, I want to clarify for the record because I had a call from a newspaper out here, and there was a question about witnesses. At one point in time there were witnesses submitted to us by the minority, but then they requested witnesses, and we put the witnesses here so I just wanted to clarify you can't always believe what you read in the newspapers. But in this case, I wanted to clarify that we accepted the witnesses so there are witnesses by both the minority and majority, which is the way it should be.

The two witnesses contacted by us were not able to attend. The United States Department of Justice declined our invitation citing ongoing investigations into the joint task force report, and also Janice Mueller of the Legislative Audit Bureau was invited, but respectfully declined. But we'll have other people who can testify again for results and views of the election.

And again, with Congressman Green, we welcome him and thank him for having us here in your state, in your great state. This again is not the first of the hearings we have had and I predict it won't be the last.

Our door is always open in Washington. Behind us are staff of House Administration, majority, minority. We are always willing as

we work through HAVA and other bills to listen to the concerns across the United States and input on elections on how people think that it can be made better.

Full press makes it easier to vote and harder to cheat. Everybody can agree on that.

Each hearing that we have helps to advance our understanding of what problems exist in our election system and how best to solve them. I look forward to hearing from all the witnesses, and I will yield to Congresswoman Moore who is here on behalf of our ranking member.

Before I do, just a technical piece of business, I would like to advise people in the audience today that cellular phones, pagers, and other electronic equipment should be silenced from interrupting the proceedings.

Also, we welcome you in the audience that are here today. This will be an official meeting of the Congressional Committee of the U.S. House of Representatives House Administration Committee, and so it is governed today by the rules of House of Representatives, and these rules give the Committee Chair the power to maintain order and decorum.

Pursuant to that, disruptive people in the audience who interfere with the conduct of the Committee's business will be removed. We ask that you not either boo or applaud depending on the mood that betakes you if someone says something.

I don't know if I have the same type of control of members as I do the audience. And with that, without objection I would ask that both members who are not members of this Committee, Congresswoman Moore and Congressman Green without objection be allowed to participate as full members.

Ms. MOORE. I absolutely want to thank Chairman Ney and appreciate his courtesy for allowing me to sit with these distinguished members of the House Administration Committee. As you well know, you were one of the first members of congress that I had the opportunity to meet when I was elected to Congress and the House Administration Committee continues to be a committee that really deals with matters and mostly bipartisan manner, and I am happy to welcome you here to Wisconsin, great place and a great lake.

I—I am going to ask Mr. Chairman that we submit Ranking Member Juanita Millender-McDonald Congresswoman's opening statement for the record. I will read just a small portion of it.

Mr. NEY. Without objection.

STATEMENT OF THE HON. JUANITA MILLENDER-McDONALD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AS READ BY CONGRESSWOMAN GWEN MOORE

Ms. MOORE. Thank you. I would like to—this is Ranking Member Millender McDonald's opening statement in part. I would like to thank the Chairman for holding this field hearing in Milwaukee, Wisconsin. However due to a prior commitment which cannot be rescheduled, I am unable to attend today's hearing. I hope we'll continue to hear dialogue on how the conduct of elections and review how the Help America Vote Act, HAVA, is being implemented. Today the committee will hear testimony on the conduct of elections in Wisconsin and proposals for reform.

And without objection, I would like to submit her testimony for the record.

Mr. NEY. Without objection.

[The statement of Ms. Millender-McDonald follows:]

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Rep. Juanita Millender-McDonald (CA-37), Ranking Member

CHA Oversight Hearing on
Implementation of the Help America Vote Act

October 24, 2005

9:00 AM
Federal Courthouse, Milwaukee Wisconsin

RANKING MEMBER JUANITA MILLENDER-MCDONALD'S OPENING STATEMENT

I would like to thank the Chairman for holding this field hearing in Milwaukee Wisconsin. However, due to a prior commitment which cannot be rescheduled, I am unable to attend today's hearing. I hope we will continue to hear dialogue on the conduct of elections and review how the Help America Vote Act (HAVA) is being implemented. Today, the Committee will hear testimony on the conduct of elections in Wisconsin and proposals for reform.

In the 107th Congress, this committee was the driving force in passing legislation to ensure that the problems brought to light during the 2000 Presidential election were not repeated. We heard reports of a wide range of voting frustrations. Most common were punch cards with hanging or pregnant chads, and voters who were turned away from the polls without being given the opportunity to cast a ballot.

With the passage of HAVA, $3.9 billion was authorized to the states to improve the voting process, marking for the first time in our nation's history that the Federal government has paid one red cent for the administration of Federal elections.
Traditionally, states have shouldered the entire burden of the cost, sometimes having to choose between funding the maintenance of roads and infrastructure, the construction of schools or the management of elections.

In 2004, Senator John Kerry carried Wisconsin by 11,384 votes out of almost 3 million votes cast. In 2000, Vice-President Gore carried the Badger State by little over 5,000 votes. Wisconsin is a perennial battle-ground state. And, while Wisconsin did not have the closest election result in the country in 2004 or 2000, history suggests that it could have easily been at the epicenter of an election showdown.

Despite HAVA's intent, some of the same election problems brought to light in 2000 occurred again in 2004. I am especially troubled by the reports of voter suppression and intimidation, particularly a flier that was targeted towards black voters which stated:

- "If you already voted in any election this year, you can't vote in the Presidential Election."
- "If anybody in your family has ever been found guilty of anything, you can't vote in the Presidential Election."
- "If you violate any of these laws, you can get 10 years in prison and your children will be taken away from you."

We should prosecute voter suppression and intimidation with the same zeal as voter fraud. Both are wrong! Why has no one been held responsible for this?

Fortunately, HAVA is a solid foundation upon which we can institute further electoral improvements. The law has made it easier for voters to cast a ballot and harder for people to knowingly commit fraud. It also has eased the financial burden states face in preparing for and administering Federal elections. Given the importance of this work, we must provide the entire $3.9 billion authorized to the states.

I would also note that HAVA requires that state election officials accomplish two landmark goals by the beginning of next year. First, every voting precinct in the United States must have at least one voting machine or system that is accessible to individuals with disabilities. This mandate will allow many disabled voters to cast secret ballots for the first time. Second, by the start of 2006, every state must implement a uniform, centralized, computerized statewide voter registration list.

Lastly, I am troubled by legislation that would require photo identification at voting precincts. This legislation would impose an economic burden on the voter. The Federal Elections Commission noted in its 1997 report to Congress that photo identification entails major expenses, both initially and in maintenance. It also presents an undue and potentially discriminatory burden on citizens in exercising their basic right to vote.

If you live in America's fortunate half, the half with a household income that is above the median of $44,000 a year, it is probably inconceivable that some Americans are too poor to possess an automobile or that some people are so disconnected from the mainstream that they have no driver's license or similar identification to allow access to commercial airline flights or checking accounts. The entire nation witnessed this as thousands of people who were not able to leave New Orleans in the face of Hurricane Katrina because they were too poor to leave. We should not erect more barriers for the poor. Any cost to the voter to cast a ballot is a poll tax.

We must strengthen voters' rights and work to get the 40% of registered voters who did not participate in the last election to become participants and not erect barriers to reduce the number of voters. I believe that voter fraud is wrong, but we should not look to prosecute citizens who make honest mistakes. We should instead devote the same resources to prosecute illegal intimidation tactics.

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STATEMENT OF THE HON. GWEN MOORE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Ms. MOORE. Mr. Chairman, I would like to take this opportunity to read my own opening statements, and I want to thank you again for that privilege. Being a freshman I never expected to be in the position of the Ranking Member, but you know, just can't hold a good woman down.

Mr. NEY. Ranking Member from California wanted me to tell you just don't get too comfortable.

Ms. MOORE. That feels good. Since the 2004 elections, a number of task forces and special committees here in my state have reviewed how the election was conducted around the state and in Milwaukee.

These bodies included the legislative counsel special committee on election law review which included county clerks, representative of Milwaukee County election commission, municipal clerks, election lawyers, and the executive director of our state election board, Mr. Kevin Kennedy, who will be testifying here today as well.

Again, we had the City of Milwaukee election task force which looked closely at the conduct of the elections here in Milwaukee, the chair of which Ms. Sharon Robinson who is also in the audience and will testify this morning, and as you have mentioned Chairman Ney, the legislative audit bureau evaluation of voter registration issued this September, a very credible nonpartisan body in our state.

Each of these bodies found what they believed to be the problems that needed to be solved; mainly administrative errors by poll workers and rules that need updating.

So they have made a host of recommendations which include better training of poll workers, recommended changes to our current state elections procedures, rules and systems and perhaps most importantly the request for better funding for state and local elections. Agencies without—which the first two recommendations will never take place, the old mandate sort of argument, Mr. Chairman.

You will find this call echoed in the written testimony of many of our witnesses here today, I would submit on both sides. After looking closely at what happened here in our state, none of these state's local bodies recommended that every voter without a government issued photo ID be turned away at the polls. Perhaps this is because such a proposal would not solve the difficulties we faced last November 2nd.

It seems to be a solution in search of a problem. And it has the potential to disenfranchise the thousands of people, the elderly, ethnic minority, and students.

Just to illustrate, I would like to submit for the record, Mr. Chairman, a study by Professor John Peroserat (phonetic) that outlines just how many people in this state and in Milwaukee do not have a driver's licenses.

In this state over 177,000 of seniors, an estimated 98,247 Wisconsin residents age 35 through 64, and 47 percent of county African American adults and 43 percent of Hispanic adults in Milwaukee County do not have driver's licenses.

Why focus on—why not focus on real solutions that solve our real difficulties with the elections here in Wisconsin and Milwaukee?

Some recommendations like the statewide voter registration system is already in the process of being constructed as we speak, and I understand it may go a long way toward resolving a number of the discrepancies.

Other recommendations by this body will require passage of laws through the state legislature.

But then let's go and pass the consensus recommendations made by these experts who have looked closely at what went wrong, and then fund the recommended changes adequately and then see if it works.

What we should not do is jump the gun with a proposal that does not address the problems identified by state and local experts and at the cost of disenfranchising so many elderly voters.

Thank you, Mr. Chairman, and thank you for the courtesy, and I would ask my testimony as well be submitted for the record.

Mr. NEY. Thank you for the statement. Without objection, the testimony and the additional materials will be submitted for the record.

[The statement of Ms. Moore follows:]

OPENING STATEMENT OF CONGRESSWOMAN GWEN MOORE
October 24, 2005
Committee on House Administration
Field Hearing
Milwaukee, Wisconsin

Mr. Chairman, I appreciate your courtesy in allowing me to sit on the dais this morning.

[If you would allow it, Ranking Member Millender McDonald, who could not be here today, asked me to read into the record her opening statement.]

[READ MILLENDER MCDONALD STATEMENT HERE.]

Thank you again, Mr. Chairman, for allowing me to participate in this hearing. I look forward to hearing the testimony of the witnesses this morning.

Since the 2004 elections, a number of task forces and special committees here in my state have reviewed how the election was conducted around the state and in Milwaukee. These bodies included:

- the Legislative Council's Special Committee on Election Law Review which included county clerks, a representative of Milwaukee County's Election Commission, municipal clerks, election lawyers, and the Executive Director of our State Elections Board (Mr. Kevin Kennedy, who will testify here this morning).

- The City of Milwaukee Election Task Force, which looked closely at the conduct of the elections here in Milwaukee, (the Chair of which, Ms. Sharon Robinson, will also testify this morning).

- And the Legislative Audit Bureau's evaluation of voter registration issued this September.

Each of these bodies found what they believed to be problems that needed to be solved: mainly administrative errors by poll workers and rules that need updating. So they have made a host of recommendations which include better training of poll workers, recommended changes to our current state election procedures, rules, and systems, and perhaps most importantly, the request for better funding for state and local elections agencies without which the first two recommendations will just never take place. You will find this call echoed in the written testimony of many of our witnesses here today.

After looking closely at what happened here, none of these local and state bodies recommended that every voter without a government issued photo ID be turned away at the polls. Perhaps this is because such a proposal would not solve the difficulties we faced last November 2. It seems a solution in search of a problem.

And it has the potential to disenfranchise thousands of people: the elderly, ethnic minorities, and students. Just to illustrate, I would like to submit for the record a study by Professor John Pawasarat that outlines just how many people in this state and in Milwaukee County do not have drivers licenses. In this state over 177,000 of seniors; an estimated 98,247 Wisconsin residents ages 35 through 64. 47 percent of Milwaukee County African American adults. 43 percent of Hispanic adults in Milwaukee County.

Why not focus on real solutions that solve our real difficulties with elections here in Wisconsin and Milwaukee? Some, like the Statewide Voter Registration System (SVRS), is already in the process of being constructed as we speak, and I understand it may go a long way to resolving a number of the discrepancies. Others recommendations by these bodies will require passage through the state legislature. But then let's go and pass the consensus recommendations made by those experts who have looked closely at what went wrong. And then fund the recommended changes adequately. And then see if it works. What we should not do is jump the gun with a proposal that does not address the problems identified by state and local experts and at the cost of disenfranchising so many eligible voters.

Mr. Chairman, thank you for your courtesy and I look forward to hearing the testimony of the witnesses.

Mr. NEY. Mr. Ehlers.

Mr. EHLERS. Thank you, Mr. Chairman.

STATEMENT OF THE HON. VERNON J. EHLERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. EHLERS. I am pleased to take a little hop across the lake to be in Milwaukee once again. I have not been here since August. And it is a beautiful downtown area, beautiful art museum. It is good to be back again.

I was somewhat surprised for the reason for the visit because this has been a very well kept secret nationally that the election last year was as flawed as it was. All the attention focused on Ohio.

And clearly if Ohio had gone the other way, all the attention would have focused on Wisconsin, and I think people in the state would have been very chagrinned to have all their faults exposed on national TV that occurred in Ohio and Florida five years ago.

Clearly there is something wrong and I was surprised when reviewing the record. I have been involved in elections for 30 years, I have served on this committee as long as I have been in Congress, and we have had to deal with a lot of flawed elections. The pattern is the same in almost every case.

What I have not heard is the word fraud, which is what everyone really worries about. There are, of course, the honest mistakes that are made by poll workers who may not be properly trained, who only do the job twice a year and may have forgotten the procedures. That certainly can be handled with checklists, and I was surprised to find that there were not sufficient written instructions available for poll workers. That may be part of the problem.

But poll workers are very—in my experience, very fine people, very dedicated people who come out to work in these elections very long hours, and do a difficult job dealing with the public that sometimes gets angry about waiting in line. So I am not in any way criticizing the poll workers.

But clearly some things were wrong in the last election in Wisconsin and they should be corrected.

I simply don't understand the argument that it is too difficult for individuals to get an ID card. In Michigan, we have had it for years. People ask for it. Simply because if they didn't have a driver's license, they have trouble cashing checks, they have trouble doing financial transactions, etcetera, and so for years in Michigan, we have issued at request state ID cards through the secretary of state's office exactly the same process as getting the driver's license except you don't take a test and you are not qualified to drive afterwards.

I just think that the argument that it is too difficult for people to do just does not hold water. And whether or not Wisconsin decides to use an ID card for election purposes is besides the point. There is certainly no reason not to have ID cards available furnished by the state through the secretary of state's office.

Michigan does it. A lot of other states do it upon request, and there is no difficulty.

Some states, of course, do require the picture ID and I think it is a good idea. That may not have been the problem here, I don't

know. But certainly it helps reduce fraud in elections, and fraud is what you have to worry about.

Honest mistakes will always occur. Fraud is deliberate and planned, and you have to take every step you can to make certain that fraud does not occur. There is certainly evidence of some fraud occurring, perhaps not enough to have overturned any election, but there is certainly enough evidence that we should be concerned about it. There has been enough so that the people of Wisconsin should be concerned about it.

With that, I give back.

Mr. NEY. Thank you. The gentleman from Wisconsin, Mr. Green.

STATEMENT OF THE HON. MARK GREEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. GREEN. Thank you for giving me the chance to testify this morning and thanks for coming to my home state.

I join Representative Moore in welcoming you to Wisconsin and Milwaukee.

Mr. Chairman, this area is famous for many things, we are the home of Harleys and beer and bratwurst and we are playing some pretty good basketball and baseball as well these days.

Unfortunately we are also becoming known for election irregularities. These problems go back several election cycles breaking onto the national scene with the 2000 presidential election and the widely reported cigarettes for votes program and it carried over into the elections last fall.

Out-of-date voter lists, fake names, invalid addresses, double, sometimes triple voting, ballots cast by convicted felons whose rights have not yet been legally restored. Unfortunately, the laundry list goes on and on.

Mr. Chairman, that's one reason why I made the request some months ago that you came here today and I am so grateful that you have.

In May, the Milwaukee Journal Sentinel reported an investigation that found almost 300 cases of felons voting illegally, at least 100 cases of double voting, 1200 votes from invalid addresses, and thousands more ballots cast than people reported as voting.

A mutual friend and former colleague of all of ours, Mayor Tom Barrett, even reported that the folks he bought his house from six years ago were still on the voter rolls registered at that home address.

Of course, these cases of irregularity are by no means exclusive to Milwaukee or Wisconsin. We all know unfortunately that they plague our election system in a number of places. But even if Milwaukee or Wisconsin were the only place with problems, it would still potentially hurt our democracy and people's faith in our system.

When presidential elections come down to the outcome of one or two states as we have experienced for two presidential elections in a row, election problems don't just affect one state, they can affect the entire country and the future course of our country.

Wisconsin as you noted was very nearly the deciding state last fall and even four years ago.

Last year on a percentage basis, the outcome was closer in Wisconsin than any other state. Now, of course, there is no silver bullet to fixing our election problems, but there are measures that can make the process better, more reliable, and less subject to the fraud that we have seen far too often.

Mr. Chairman, as this committee looks at ways to election challenges and restore people's faith in our system, I would ask that you consider legislation I offered some months ago and introduced, the Vote Act. I believe it is a broadly written response to many of the issues that you will hear about this morning.

The Vote Act requires training for all poll workers and establishes a federal grant program to help states meet those training requirements. My bill also proposes changes to the registration system, increasing accountability and setting clear standards in all facets of voter registration.

During voter registration drives, my bill enhances in our system by prohibiting felons from canvassing voters, and requiring that paid canvassers disclose the source of their pay.

The Vote Act also ensures that investigations on voting complaints happens fast because we should not have to wait for a long drawn out process.

In some ways the heart of the Vote Act is a photo ID requiring all voters to present a valid photo ID before casting a ballot. This requirement is one of the principal recommendations of the bipartisan Carter-Baker Commission.

Requiring voters to show a government approved photo ID is the best way for us to protect the fundamental American principle of one man one vote. Every American has the sacred right to cast their vote, but only once. You have to show an ID to rent a movie at your local video store. In Wisconsin you even need one to buy certain cold medicines. With so much at stake in our elections, I don't think it is too much to require one for voting.

I have listened carefully to concerns that a few have raised that some folks might have trouble paying for or obtaining an ID. The Vote Act specifically includes provisions to try to address those concerns.

It authorizes, for example, states like Wisconsin to form a photo ID requirement for those who can't obtain one because of a disability or a physical incapacity.

Of course, voters are not the only folks affected by a photo ID requirement. Those great folks that my colleague Vern Ehlers referred to sit on the other side of the table during the election, the poll workers, they will be affected, and my bill makes their job easier because it establishes a simple rule, voters must present a photograph ID.

The photograph ID requirement is by no means the answer to all of our election problems—not by a long shot and I think that's something we can all agree on.

For example, a key problem reported by the Milwaukee task force was a lack of sufficient training among poll workers. The Vote Act requires training for all poll workers, and again, it establishes a grant program that helps states meet those requirements.

The task force also found problems with voter registration. 20,000 registration cards were not processed in time by November.

My bill also proposes changes to the registration system, increasing accountability, and setting clear standards in all facets of voter registration.

The Vote Act contains provisions, that combat these and allows us to go after organizations that do not follow the standards originally outlined by HAVA which, as you noted, you were the lead author of.

If someone recognizes fraud during say, a voter registration drive, my bill ensures that investigations into voting complaints start right away.

Every American deserves speedy and thorough investigation into the problems arising from any election.

In summary, Mr. Chairman, our democracy can withstand a lot of things, a loss of faith in our elections is not one of them.

We have to believe that whoever wins, Republican, Democrat, conservative, liberal, your guy, my guy, he or she has won fair and square. It is the only way that our leaders have the democratic mandate they need to take on our nation's most heated challenges. That's why the work of this committee is so crucial to our future.

And I appreciate the committee's willingness in traveling so far to look into the problems and all that has happened here in Wisconsin.

If problems can arise in a state as great as Wisconsin and a community as great as Milwaukee, they can happen anywhere.

I applaud your commitment to this issue. The American voter and I appreciate the chance to address this committee. It means a great deal to me. I yield back.

[The statement of Mr. Green follows:]

Testimony of Congressman Mark Green
U.S. House of Representatives
Committee on House Administration
Milwaukee Field Hearing
Monday, October 24, 2005

Thank you, Mr. Chairman. Thanks for giving me the chance to testify this morning and thanks for coming to my home state today.

Welcome to Wisconsin, and welcome to Milwaukee. This area is really famous for many things. We're the home of Harleys and beer and bratwurst, and we play some pretty good basketball and baseball too.

Unfortunately, we're also becoming known for election irregularities. These problems go back several election cycles, breaking onto the national scene with the 2000 presidential election and the widely-reported "cigarettes for votes" program.

And it carried on into the elections last fall. Out-of-date voter lists, fake names, invalid addresses, double – sometimes triple – voting, ballots cast by convicted felons whose rights had not yet been legally restored. Shockingly, the laundry list goes on and on, and, Mr. Chairman, that's why I made the request some months ago that you come here today.

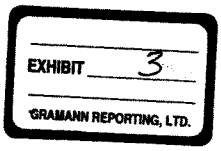
In May, the *Milwaukee Journal-Sentinel* reported an investigation that found:

- Almost 300 cases of felons voting illegally;
- at least 100 cases of double-voting;
- 1,200 votes from invalid addresses; and
- a mutual friend and former colleague, Mayor Tom Barrett, even reported that the folks he bought his house from six years ago were still on the voter rolls, registered at that home address.

Of course, these cases of fraud and irregularity are by no means exclusive to Milwaukee, I'm sure they plague our election system in many places. But even if Milwaukee or Wisconsin was the only place with problems, it would still potentially have a profound impact on our democracy and on people's faith in our system.

When presidential elections come down to the outcome of one or two states – as we've experienced lately – election problems don't just affect one state, they can affect the entire country.

Wisconsin was very nearly the deciding state last fall, and even four years ago. Last year, the outcome was closer in Wisconsin than any other state.



There's no silver bullet to fixing our election problems, but there are measures that can make the process better, more reliable, and less subject to the fraud and abuse we've seen far too often.

Mr. Chairman, as this committee looks at ways to address election challenges and restore people's faith in our system, I would ask that you consider legislation I authored some months ago, the "VOTE Act." I believe it is a broadly-written response to many of the issues you'll hear about this morning.

The VOTE Act requires training for all poll workers, and it establishes a grant program to help states meet training requirements. My bill also proposes changes to the registration system, increasing accountability and setting clear standards in all facets of voter registration. During voter registration drives, my bill provides public safety by prohibiting felons from canvassing for voters. The VOTE Act also ensures that investigations into voting complaints happen fast, because we don't have time to wait for a drawn-out process.

In some ways, the heart of the VOTE Act is a photo ID requirement – requiring all voters to present a valid photo ID before casting a ballot. This requirement is one of the principle recommendations of the Carter-Baker Commission.

Requiring voters to show a government-approved photo ID is the only way for us to protect the fundamental American principle of "one man, one vote." Every American has the sacred right to cast their vote, but only once.

You have to show an ID to rent a movie at your local video store. You even need to show one to buy certain cold medicines. With so much at stake in elections, it's not too much to require one for voting.

I've listened carefully to concerns a few have raised that some folks might have trouble getting an ID. The VOTE Act includes provisions to address their concerns.

Of course, voters are not the only people affected by a photo ID requirement. Those great folks who sit on the other side of a table during an election – the poll workers – will be affected, and my bill makes their job easier because it establishes a simple rule: voters MUST present a photo ID before they cast a ballot.

But a photo ID requirement is by no means an answer to all of our election concerns. Not by a long shot.

For example, a key problem reported by the Milwaukee Election Task Force was a lack of sufficient training among poll workers. The VOTE Act requires training for all poll workers, and it establishes a grant program to help states meet training requirements.

The Task Force also found problems with voter registration, as 20,000 registration cards were not processed in time by November. My bill also proposes changes to the registration system, increasing accountability and setting clear standards in all facets of voter registration.

During voter registration, cases of fraudulent or unscrupulous canvassing activities are frequently reported. The VOTE Act contains provisions that combat these abuses, and it allows us to go after organizations that do not follow the standards originally outlined by HAVA.

And if somebody recognizes fraud during, say a voter registration drive, my bill ensures that investigations into voting complaints will start right away. Every American deserves speedy and thorough investigations into problems arising from voting.

In summary, Mr. Chairman, our democracy can withstand many things. A loss of faith in our elections themselves is not one of them. We have to believe that whoever wins, Republican, Democrat, your guy, my guy, he or she has won fair and square. It's the only way our leaders have the democratic mandate to take on our nation's most heated challenges.

That's why the work of this committee is so critical to the health of our nation.

I appreciate the Committee's willingness in traveling so far to investigate, looking into the problems and all that's happened here in Wisconsin. If such problems can arise in our great state and this great city, they can happen anywhere. I applaud your commitment to the American voter, and appreciate this chance to address the committee.

Thank you again.

Mr. NEY. Again, I want to thank the Gentleman once again for inviting us here. This is why we are here, so we appreciate it.

We are going to go to our first panel. I want to explain, there are time clocks. We are all four creatures of the legislature, all four of us. We have all served. I was a state Representative and state Senator so we have all served, and in most of our legislatures, you don't have to have a clock. Legislators kind of know when to wrap it up.

Congress is a lot different. That way we can control things. We have a clock and it will go green and then it will hit yellow and you have a minute to sum up and then it hits red.

We just try to stay to the clock and the timing, so I will give you a friendly reminder if it goes past the red. That way we can get all three panels in. That's the procedure of the House.

Again, welcome State Senator Joe Leibham and also State Representative Pedro Colon. And I want to welcome both members and we will start with the Senator first.

STATEMENT OF STATE SENATOR JOE LEIBHAM

Mr. LEIBHAM. Thank you, Mr. Chairman and Committee. Welcome to Wisconsin. It is a pleasure to welcome Senator Ney and Congressman Ehlers to Wisconsin and to welcome home two of Wisconsin's favorites: Congressman Green and Congressman Moore. It is a pleasure to see you both.

Congresswoman Moore, I have not had a chance to visit with you since our departure Senate, but it is good to see you before us today.

Mr. Chairman and committee members, one key block in foundation of our free country, our democracy here in America is our election process and the ability of our citizens to make a difference by casting a vote for our elected officials.

Unfortunately, I believe and I believe it is being that this foundation has been softened if not eroded specifically over the recent years due to legitimate concerns regarding human administrative error and fraudulent voter activity here in Wisconsin.

Each year we have witnessed increasing problems and with the process here in Wisconsin while the faith of our voters continues to erode. As Congressman Green indicated, we have had problems in the 2000 elections, 2002 elections, and most concerningly in the most recent 2004 election we have had a strong concern of questionable voter activity and administrative error.

Recently the legislature put together a special committee, a joint legislative council committee that has been working to review the problems of the 2004 election, and that committee has been working in concert with some official investigations that are taking place here in the state of Wisconsin.

We have the joint election fraud task force which is of the U.S. Attorney, the Federal Bureau of Investigation, the Milwaukee District Attorney, and the Milwaukee Police Department. That task force has been reviewing some of the problems of our 2004 election here in Wisconsin, and they have recently released some preliminary finding that show some very concerning things.

Today the preliminary findings of that task force show that we have more than 100 individual instances of suspected double voting

in the 2004 election, people voting in names of persons who mostly likely did not vote or voting in names of individuals that would be fake.

We have more than 200 felons who voted when they were not eligible to do so. We have evidence of paid special deputy registrars who falsely listed approximately 65 names in order to receive compensation for those registrations, and to date, the number of votes counted in the City of Milwaukee exceeds the numbers of persons voting by more than 4500 individuals.

To date, 14 people have been charged in connection with the overall investigation including 10 felons who have been suspected of voting illegally while still on probation or parole.

Now, while the majority of the media coverage here in Wisconsin has been focused on the City of Milwaukee, our special committee wanted to take a look at what is happening across the state, we believe activity and administrative errors can take place in any location, so we asked the legislative audit bureau to conduct an audit of all of our election municipalities across the state of Wisconsin.

Recently, as Congresswoman Moore indicated, that legislative audit bureau report was brought forward and they indicated a number of concerning problems as well.

Specifically, the audit found that 98 ineligible felons may have voted in our 2004 election, two individuals who possibly voted twice, one voter who may have voted under age, and four absentee ballots that should not have been counted because the voters who cast them had passed away prior to election day.

And these—this audit bureau information has brought forward, obviously, a number of areas of administrative functioning that could be changed in our election processes as well.

But clearly these problems demonstrate, there needs to be some corrections in Wisconsin's election laws and our committee has sought about to do just that.

Within the next couple of weeks, people can move a comprehensive package of election reform. That is going to do a number of things to reform our election processes.

We worked with the City of Milwaukee, we worked with governor's administration, and we hope to bring forward a number of changes which would again not only administratively improve our election laws, but also deal with the potential of fraudulent activity.

In addition to this comprehensive reform package, the legislature has been working on a photo ID requirement. I have joined Representative Jeff Stone in authoring a photo ID requirement here in the State of Wisconsin. That photo ID requirement does provide flexibility for individuals who do reside in nursing home facilities and assisted living facilities and would provide a measure which would cover costs for anybody who is unable to afford a photo ID.

Unfortunately, that legislation has been vetoed by our governor three times, but we do plan to continue to move forward to focus on photo ID through legislative and a possible constitutional amendment.

I would encourage the committee members to work with us as we explore our election processes here in the State of Wisconsin. We want to fix our elections.

I would encourage you to endorse Congressman Green's Vote Act. It includes many provisions that we have looked at and plan to move forward here in the state of Wisconsin. And again, collectively, we need to accomplish our goal which is to ensure that that key foundation of our country, our democracy, the right to vote is maintained and enhanced here in Wisconsin.

Thank you, Mr. Chairman and Committee Members.

Mr. NEY. Thank you, Senator. Representative.

[The statement of Mr. Leibham follows:]

Joe Leibham

State Senator
9th State Senate District

State Senator Joe Leibham
Testimony
Committee on House Administration's
Hearing on Election Administration
October 24, 2005

Good morning and welcome to Wisconsin.

Chairman Ney and distinguished committee members.

One key block in the foundation of our free country, our democracy in America, is our election process and the ability of our citizens to make a difference by casting a vote.

Unfortunately, this foundation has been softened, if not eroded, over recent years due to legitimate concerns regarding human administrative error and fraudulent voter activity. Each election year, we have witnessed increasing problems and frustrations with the process here in Wisconsin while the faith of our voters continues to erode. After hundreds of thousands of Iraqis risked their lives to cast a vote earlier this year, there are far too many people in our country who do not go to the polls – too many of our citizens wonder whether their vote will even count.

In the 2000 elections we learned of paid political operatives from New York offering cigarettes to homeless people in Milwaukee in exchange for votes, college students bragging about how many times they voted and known felons casting ballots. The 2002 elections were marked with questionable voting at bingo parties, unusual absentee voting schemes and ballots cast under names of people who had passed away.

Unfortunately, these concerns may eventually pale in comparison to the questionable activities and irregularities associated with the 2004 elections. Since last November's Presidential Election, we have learned the following through the numerous media reports and an ongoing Joint Election Fraud Task Force comprised of the US Attorney, the Federal Bureau of Investigation (FBI), the Milwaukee District Attorney and the Milwaukee Police Department:

- More than 100 individual instances of suspected double-voting, voting in names of persons who likely did not vote, and/or voting in names believed to be fake.
- More than 200 felons voted when they were not eligible to do so.
- Paid "special deputy registrars" falsely listed approximately 65 names in order to receive compensation for the registrations.
- The number of votes counted from the City of Milwaukee exceeds the number of persons recorded as voting by more than 4,500.

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To date, 14 people have been charged in connection with the investigation, including 10 felons suspected of voting illegally while still on probation or parole, and two people charged with voting twice. Two others were charged with falsifying names on voter registration cards.

While, a majority of the media coverage has focused on the problems in the City of Milwaukee, the nonpartisan Legislative Audit Bureau (LAB) recently released the results of their audit of election results from a number of municipalities from across the state. Specifically, their audit found:

- 98 ineligible felons who may have voted;
- 2 individuals who may have voted twice;
- 1 voter who may have been underage;
- 4 absentee ballots that should not have been counted because the voters who cast them died before Election Day.

Due to the current investigation underway in the City of Milwaukee, these results do not include those records.

Clearly, these incidents suggest a pattern of activities that undermine Wisconsin's tradition of open and honest elections. Furthermore, these findings also stress the need for comprehensive election reform at both the state and national level.

As the Chair of the Wisconsin Legislature's Legislative Council Special Committee on Election Law, I have worked for the last year with a bipartisan grassroots committee comprised of clerks, legislators and activists from across the state to draft a comprehensive election reform package that will be introduced later this Fall.

A few highlights of the comprehensive election reform package include measures that would:

- Require mandatory training of election officials and poll workers,
- Advance Wisconsin's deadline for pre-election registration by one week to allow our clerks the necessary amount of time prior to election day to prepare poll lists for election day,
- Allow municipalities to establish a central counting facility to conduct pre-election registration and to count absentee ballots on election day.
- Eliminate special registration deputies who were found to have falsified voter registration forms leading up to the 2004 election,
- Create a system for post election audits and analysis to eliminate long term problems from continuing to occur and thereby weakening our system of democracy, and

In addition to this bipartisan comprehensive reform package, earlier this year, I joined State Representative Jeff Stone (R-Greendale) to co-author and introduce Wisconsin State Senate Bill (SB) 42, legislation that would require eligible voters to present a valid state-issued photo ID card at the polls before voting in any Wisconsin election.

While this common sense measure passed both houses of the state legislature with bipartisan support, the legislation was ultimately vetoed by Governor Jim Doyle. As a result, the state legislature is currently considering a constitutional amendment that would require a photo ID prior to voting.

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The problems that we continue to experience here in Wisconsin are not unique to our state. They are the challenges of our democratic process where we cherish the common value of wanting every eligible citizen to be able to exercise their right to vote – once.

Coupled with a constitutional amendment that would require a photo ID to vote, the pending comprehensive election reform package will go a long way to restoring confidence and integrity to Wisconsin's election system while working to make it easier to vote and tougher to cheat.

In addition to this package of statewide reform measures, I urge you to support Congressman Mark Green's (R-Green Bay) "VOTE Act".

This much needed legislation is critical to supplementing Wisconsin's efforts, and the efforts of other states across our great nation, who desire to improve their election system while ensuring that our federal elections are conducted with the highest level of integrity.

Furthermore, Congressman Green's "VOTE Act" will provide a national gold standard for federal elections to ensure that every citizen across this nation will have their legal vote counted, without the fear of having their vote cancelled by an illegally cast vote.

I appreciate you inviting me here today to testify and would be happy to answer any questions you may have.

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STATEMENT OF STATE REPRESENTATIVE PEDRO COLON

Mr. COLON. Good morning. Thank you, Ms. Moore, Mr. Ehlers and Mr. Green for allowing me to testify and giving me opportunity to express my views on the issue requiring citizens to present photo identification for voting.

As a person who runs for office and dedicates a great amount of time to influencing issues and elections, I am interested and committed to a fair election process for all.

However, it has been my experience and understanding voter identification requirements will undermine the participation in the electoral system of local and statewide elections and ultimately lead to a government that is less representative and less legitimate in the eyes of the public at large.

The election results in 2000 differed by about 11,000 votes. The election 2004, those election results differed by about 5,000 votes.

Given what happened in Ohio and what happened in 2000 in Florida and in Wisconsin, given the fact that the electorate was definitely unsure as to who should govern as most of the nation, it was greatly contested.

The local newspaper in the Milwaukee metro area, the Milwaukee Journal Sentinel, suspecting that Wisconsin would become another Florida, covered the election process in the 2004 elections and concluded that various procedures and process were not followed and that voter lists were woefully disorganized and poorly kept.

This report did not cover the outlying areas of Milwaukee or the outlying suburbs.

This in turn led to a partisan call and suspicion of voter fraud in the Milwaukee election. Based on those partisan calls for investigations, the local district attorney, the U.S. Attorney's office, the Milwaukee police department, conducted an investigation.

So far as of August 22nd they have not been able to find any fraud in the allegations by essentially the Republican party's call for an investigation into the fraud.

Of the total 105 cases found by the legislative audit bureau to have constituted fraud, 98 were felons who were not allowed to vote.

We all understand that those felons should not vote or should not participate, but I don't know that a voter ID requirement is going to dissuade or in any way, shape, or reform not allow those felons to not vote in the future elections.

According to Assistant U.S. Attorney Biskupic, there is still no evidence of widespread conspiracy, end of quote. As of found assorted clerical errors, other inconsistencies, but no fraud.

At the same time the three investigative agencies have found no widespread fraud in our elections, the University of Milwaukee employment training institute has found 177,399 persons over the age of 65 and 98,247 of the ages between 35 and 65 simply do not possess a driver's license. Not surprisingly, disproportionately it is the elderly and the poor that do not have the driver's license.

In my zip code of the area in which I represent 58 percent of the males do not have a driver's license and 36 percent of the females simply do not have a driver's license.

The same study found that 3 percent of students residing in the dormitories at the University of Wisconsin Milwaukee campus and Marquette University, only 3 percent were properly changing their addresses on their driver's licenses.

I also believe that a photograph identification would simply frustrate the course of the voting. In the Town of Caledonia not long ago a clerk decided she was going to get a jump start on all the lists that we talked about, and in the process of that during an education referendum in that town, the people became so frustrated at the requirement that they simply went home and midmorning during that referendum it was reported that she just simply stopped requiring the IDs. It was too cumbersome.

Given the fact that there has been no widespread fraud according to the Attorney General, U.S. Attorney General, and given the fact that the people do not possess a driver's license, I don't know requiring a ID is the best way to maintain democracy and participation in the election process.

I do understand that there have been problems. However, voter ID will not do anything to solve those problems.

Just this past April, Governor Doyle proposed voter reforms that will address bureaucratic errors and called into question the integrity of our election system. This reform include a early voting option for all eligible voters, a mandatory training for poll workers, uniform voter registration cards requiring municipalities to develop an election day plan designed to meet 30 minute maximum waiting time at the polls, allow state wide uniform poll hours, and require maps of the polling sites for voters.

It is my belief that we should be focussing on these types of reforms rather than creating more barriers for one to cast a vote on election day.

Thank you for allowing me the opportunity to testify.

[The statement of Mr. Colon follows:]

Testimony in Opposition to Requiring Voter ID's

Committee on House Administration
U.S. Congress

Milwaukee, Wisconsin

October 24, 2005

By

Wisconsin State Representative Pedro A. Colón

Good morning. Thank you Chairman Ney, Representative Millender-McDonald and Committee members for allowing me the opportunity to express my views on the issue of requiring citizens to present photo identification for voting. As a person who runs for office and dedicates a great amount of time to influencing issues and elections, I am interested and committed to a fair election process for all. However, it has been my experience and understanding that voter identification requirements will undermine the participation in the electoral system of local and statewide elections and ultimately lead to government that is less representative and less legitimate in the eyes of the public at large.

The 2004 election results in the State of Wisconsin differed by about 11,000 votes between President George W. Bush and the statewide winner Senator John Kerry. The 2000 presidential results differed by approximately 5,000 votes between President Bush and statewide winner Senator Al Gore. Based on these results of the 2004 elections and based on the contentious post-election litigation in Florida after the 2000 election, the local newspaper for Milwaukee Metro area the Milwaukee Journal Sentinel suspecting that Wisconsin would become another Florida covered the election process in the 2004 election and concluded that various procedures and processes were not followed and that voter lists were woefully disorganized and poorly kept. These reports did not do any analysis of the Milwaukee suburbs or outlaying areas outside the City of Milwaukee. However, these reports were then seized by the local partisan apparatchik to claim that there was widespread voter fraud in the City of Milwaukee.

Based on Newspapers reports and partisan call for investigations, the Milwaukee Police Department, the United State Assistant Attorney General for the eastern District of Wisconsin, Steve Biskupic, and the Milwaukee County District Attorney E. Michael McCann spent countless hours and resources investigating the allegations of voter fraud. In August 22, 2005 the Assistant U.S. Attorney General and Milwaukee County District attorney announced at a press conference that the allegations of voter fraud conspiracies were non-existent but that they had found instances of ineligible voters illegally voting in the 2004 elections. Of the total 105 cases of voter fraud cited by the Wisconsin Legislative Audit Bureau, 98 have been felons who by law should not have voted in that election. However, it is unclear how a voter identification requirement of a driver's license would have prevented felons from voting.

EXHIBIT 5
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According to Assistant U.S. Attorney Biskupic "there is still no evidence of a widespread conspiracy." According to the U.S. Attorney and the Milwaukee County District Attorney, they found "assorted clerical errors and other inconsistencies, but no fraud."

At the same time that three investigative agencies found that there was no widespread voter fraud, a study by the University of Wisconsin-Milwaukee Employment and Training Institute has found that 177,399 persons over the age of 65 and 98,247 of people 35 to 65 years old in this State simply do not possess a driver's license. Not surprisingly, disproportionately it is the elderly and poor that do not have driver's license. In the zip code area that covers most of the Wisconsin Assembly district that I represent 58% of voting age males and 36% of voting age females do not have a driver's license. The same study found only 3% of students changed their addresses to reflect that they resided in the dormitories of Marquette University and the University of Wisconsin-Milwaukee. Based on the evidence found in this study voter identification requirements would work to disenfranchise people who would otherwise be allowed to vote.

Furthermore, requesting photo identification would frustrate eligible voters and would lead the complete abandonment of elections. This summer in the nearby town of Caledonia, a school referendum was under way when the local clerk decided the get a jump on the voter lists and asked her poll workers to require identification from all potential voters. It was not long before voters became angry and frustrated at not being allowed to vote. Not long after, the clerk stopped requesting the photo identification from potential voters as it was clearly not allowing people to participate in the referendum.

As we all know, districts are not just zip codes, polling sites and wards. Districts are composed of decent, honest, hardworking people. Democracy works in the City of Milwaukee because we have honest people that care about the election process. With such little evidence of fraud, it is difficult to understand why our elected officials would want to likely make thousands people in the State of Wisconsin electoral refugees. I am proud that Wisconsin consistently ranks high in voter turnout. In the 2004 elections, Wisconsin was ranked 3rd in the nation for voter turnout when over 75% of eligible voters went to the polls on Election Day. Wisconsin needs the 25% that did not participate to participate, not enact more requirements on those 75% that are participating.

While I agree that reforms need to be made to ensure accuracy and prevent bureaucratic mistakes I cannot agree that potentially taking away someone's right to vote is the course we, as policy makers, should choose.

Just this past April, Governor James Doyle proposed voter reforms that will redress the bureaucratic errors that have called into question the integrity of our election system. These reforms include:

- An early voting option for all eligible voters;
- Mandatory training for all poll workers;
- An extensive outreach campaign to recruit more poll workers;
- Mandatory training for all special registration deputies;

- Prohibit voter drives from paying individuals on a per voter or quota system;
- Uniform voter registration cards;
- Allow eligible voters to register to vote when applying for or renewing a driver's license;
- Require municipalities to develop Election Day plans designed to meet a 30-minute maximum waiting time at the polls;
- Allow access to voter birth date information again to allow for better oversight, but prohibit the use or sale of such information for commercial purposes or the display of such information on the Internet;
- Statewide, uniform poll hours; and
- Require a map to be displayed at every polling location, directing voters to their proper voting wards.

It is my belief that we should be focusing on these types of reforms rather than creating more barriers for one to cast a vote on Election Day.

Thank you again for allowing me to speak.

Mr. NEY. I want to thank both members of the legislature for their testimony. I have a few questions and we will turn to my colleagues.

In the Help America Vote Act we had a provision for first time registrants, that they could use an ID, the last four digits of their social security number, a bank card, a bank statement, or something else with their name on it.

The Congress at that time didn't tackle the ID issue it didn't say; this is the ID you have to have. We started to go down that path, and decided to deal with it on a generic basis—so in federal elections, for the first time registrants, there is some ID requirement.

Then there was the attestation that you have to be a citizen of the United States to vote, and that non-citizens who voted could be charged. So, some of this was left up to the states.

There is still—and somebody will be testifying from the Carter-Baker Commission today—talk in Washington of voter ID and, the verified paper trail. My state has a paper trail requirement. I am always asked about whether we should mandate that nationally.

So there are still questions ahead. We are looking at Georgia and their voter ID requirements.

Do you have any comments—as we look at Georgia's law and what happened down there, part of it was struck down, Senator and also Representative, Congressman, since you authored the law that was vetoed several times, is there a difference between the way you approached it and Georgia approached it.

The argument in Georgia was that you had to provide a piece of paper and tell why you could not pay for an ID, and another reason why it was struck down in Georgia with the voter ID was because of lack of locations and access.

Any comments in the difference between the law here that was voted on and in Georgia.

Mr. LEIBHAM. Thank you. I will begin with the response. Under the provision that Wisconsin's legislature is continuing to review the three types of identification that we would require individuals to show prior to voting in Wisconsin election would be a state issued photo ID, state issued driver's license which has a photo ID on it, or a military ID.

And we have written the legislation to ensure that there are a number of exceptions or provisions in place for individuals that may not be able to obtain. Specifically in the area of seniors we have an exception in the legislation that says if you reside in a nursing facility and an assisted living facility or you are infirmed in your own home due to a disability or inability to get to a polling location, you would being exempt from a photo ID requirement.

In addition, under the Wisconsin legislation, we adopt the provisional voting concept that is at the federal level and that would say if you come in to a Wisconsin election on election day and for one reason or another didn't obtain or have the identification that was required, you could cast a provisional ballot and have until 4:00 o'clock the following day to come in and provide the appropriate identification.

I think that is one major difference in the Georgia law, in allowing that provisional balloting to take place just in case a person does forget the ID on election day.

Mr. NEY. Representative Colon.

Mr. COLON. My only comment would be that talking about a voter ID reform assumes that there is voter fraud. I don't think that has been found anywhere.

I truly believe that in this community in the City of Milwaukee we have a good U.S. Attorney general, we have a pretty good D.A. that does a good job and there are good investigative agencies. There simply does not exist any widespread voter fraud. Those are their words, not mine.

The fact is that Wisconsin has a very progressive tradition of allowing and including people to vote. In the last election, we had 75 percent of the eligible voter voted.

My view is simply that we can work on the polling sites, we can work on some of the things that we need to work on and we all understand that. I think that is a bipartisan understanding.

But requiring an ID will disproportionally affect the people that simply have the least.

I don't believe that we should make requirements that simply we will leave a large proportion of the electorate, of the eligible electorate to be essentially political refugees during an election.

Mr. NEY. Any comments on the Help America Vote Act? First time registrants by mail will have to put their last four digits of social security, that would be under the federal provision. Any thoughts on that or—not a photo ID, but it is——

Mr. COLON. That proposal has been being reviewed obviously at the state level, we discussed that. The question in regard to the social security requirement is basically the law says that an individual could put down four numbers supposedly supposed to be a social security number and then sign an affidavit that supposed to be suggesting that you are who you say you are, and again, if an individual is wanting to participate in fraudulent activity, those aren't two hurdles that are hard to overcome and that's the concern that Wisconsin has with the social security requirement.

I should add, Mr. Chairman, that Wisconsin has probably some of the most open election laws in the United States of America in regard to the ability for any individual to come in and vote until 8:00 p.m. On election day. We have same day recommendation. We have provisional balloting opportunities.

And what we are trying to do in the legislative approach and I appreciate your efforts as well maintain the openness while ensuring that that openness is not being taken advantage of. And to do that, you have to have checks and balances in place so that you can ensure that the voting process, the very open voting process is not being taken advantage of. Thank you, Mr. Chairman.

Mr. NEY. As I am sure the members of the audience are aware, when we passed the Help America Vote act, provisional balloting was a key issue. That way, if you have any disputes in states about the ID requirements, and someone says, "Well, this is not a proper ID"—people can still vote with a provisional ballot. Provisional balloting stops the disenfranchisement of individuals. We had conversation in Ohio about the intention of provisional balloting.

I think the provisional balloting is a large key to HAVA. As states go down the voter ID or identification path, people could still

use the provisional ballot if they are disputed at the polling place, they can still vote and have their ballot decided later.

Do you have any questions?

Ms. MOORE. Thank you, Mr. Chairman. I thank this panel for their very, very astute testimony. I think I would like to question Representative Colon first.

Am I going to have five minutes for both witnesses or just one.

Mr. NEY. Both.

Ms. MOORE. Both of them together.

Mr. NEY. Yes.

Ms. MOORE. Start the clock over again, okay.

I am going to have questions for both of you and you know that I am not that good on not talking long, you know that.

Mr. LEIBHAM. We miss you.

Ms. MOORE. Here is the question. This Commission I believe that you served on, Senator Leibham, came with some excellent recommendations for reforming the elections process, and I guess I just really don't get it.

I can't connect the dots between how requiring a photograph ID would stop some of the mistakes, errors, even the 98 felons that have been investigated, I believe one of those people have been convicted.

And I am wondering about—and while protecting the vote is extremely important, I am wondering how you are reacting to the John Peroserat study that we entered into the record and I believe that Representative Colon referred to.

You talk about the one voter that may have been under age in your testimony, the four dead people who didn't die on purpose I am sure, but they cast their ballots before they died on election day.

And I am wondering how—how requiring a photograph ID which will have the impact of disfranchising over a quarter of a million, over a quarter of a million eligible voters in the state and very clearly this breaks out demographically to have a great impact on minorities.

You take Wisconsin white men, for example, only 17 percent of them don't have a valid driver's license versus a Hispanic man 46 percent of whom don't have a driver's license, an African woman, 49 percent of them don't have a valid driver's license versus 17 percent of white women.

When you break it down by age group, you are going to find that this discriminates against students, younger people, white men 18 to 24, 36 percent of them don't have a valid driver's license, but a Hispanic man, 57 percent of them don't.

So I am wondering when we start looking at reforming the process, two questions for both of you.

Number 1, how will a valid driver's license stop someone—a felon can get a driver's license. How will that stop a felon from voting number 1, and number 2, in terms of the scale of things, how would stopping—what is your response to the over quarter of a million people, particularly people of color and young people and the elderly, the adverse impact it will have on them were we to enact the voter ID requirement.

Mr. COLON. I think I will be brief. I think that Wisconsin has a progressive tradition. The courts interpret them a vote that is cast has to be proven not meeting the requirements beyond a reasonable doubt. The same standard for voters who do a criminal conviction. That's how convinced we are in the state that people should participate.

Now, having said that, I think you inevitably engage in the slippery scope that first you are requiring people to show the IDs and then you are requiring social security number and then require the conviction record and then require their INS status and then you continue on the slippery slope where we end up in the Dominican Republic where a police officer can stop you and require whatever it is that they want from you, and if you don't have that national ID, at least it was when I was a kid when I went on vacation there with my parents, you get thrown in jail. That is not the country I want to live in.

I want to live in a state that allows me to vote and allows me to vote fairly, it runs fairly.

I am happy to report that from my district in the neighborhood of south side, it is predominantly run by honest hard working people. That is a fact.

Ms. MOORE. Before your time runs out, I want to ask you this question. There can you—can you share with us a little bit of wisdom about the folks who are unbanked. We have been constantly getting examples here of why can't people have IDs.

You need them for your bank accounts, you need them to go to Blockbuster Video. You need an ID to get on an airplane.

Can you explain to us why many people in the Hispanic community are not middle class because it sounds to me like we are putting an asset test on people, people who don't have cars.

Can you please respond to me whether there is any relationship between having valid driver's licenses and being middle class.

Mr. COLON. Again, briefly my experience is in my district people have two jobs, sometimes three jobs, they live on a month-to-month basis to make a living.

The economy is largely on a cash basis. You have temporary jobs that don't provide any sort of economic stability.

All of these things lead to movements from apartment to apartment to apartment, and the fact is the more requirements that you impose on people to cast their vote which is their right, which is the premise of our whole constitution and our form of government, I think it would be wrong to disenfranchise those people.

I don't believe that these people are dishonest. I don't believe that the people in my district are any—have a tendency to fraudulent activity any more than any other district.

Unfortunately, I don't think there is a cause and effect between a voter ID and the fact that we would somehow diminish voter fraud. The fact is that we have not found voter fraud. The fact is that all the mistakes that have been found including felons voting, addresses not existing are largely due to the power structure; that is, the people that run the elections.

We are the ones responsible for delivering the electoral system, and we have failed to do so. People have acted the most reasonable

way they can. They have waited in lines, they have gotten to the tune of 75 percent of eligible voting, they are doing their job.

I don't understand why it is that we are requiring them to now overcome some burden that we have created as a people who run elections and actually make our living at it.

Mr. NEY. Time has expired.

Ms. MOORE. He is a state legislator.

Mr. NEY. The Senator may like to answer this.

Mr. LEIBHAM. If I may briefly, thank you Congresswoman, for the question.

First, under the legislation that the state of Wisconsin is considering, we have amended recently on a bipartisan effort to deal with the felon issue, and specific language in the bill that Governor Doyle has even indicated that he would support specifically that would inform an individual who is in felony status that they don't have the right to vote, and that's how we are handling that situation.

Number 2, in regard to the administrative functioning of our lesson and how it may help. I would encourage, and I am sure you talked as well, but talk with the poll workers.

This past I talked with three ladies who work at polling locations in Sheboygan and Manitowoc, elderly women who are saying that photo IDs would help them to more administratively function the election with ease.

When you see a name on an ID tied to a photo, it is easier to be able to move people through the voting process, election process. I have not met a poll worker at least in my district that has indicated that by asking individuals to show a photo ID, it would be a greater burden or challenge in the election process.

Please remember as well that under the photo ID legislation that we are considering, we have no costs for a individual to receive an ID, so there is not an economic concern that should be legitimate.

Ms. MOORE. Excuse me, Senator, but there is because you have to have a birth certificate in order to get a photo ID, and if you are born in Mississippi, I have done this, you have to send for it, you have to pay 12 bucks for the birth certificate. If you have got until 4:00 p.m. When you cast the provisional ballot, somehow you have to get the register of deeds in Mississippi to get it to you and Fed Ex to get there. There is a cost of having a photo ID.

So I—I am asking you when we—we don't want to disenfranchise a single person.

The question to you was the scale. If there is a person who when we have penalties and I am for enforcing the law, if someone fraudulently votes and they are not eligible to vote, I am for prosecuting them; but what I am saying is why would we prosecute 275,000 people who are not middle class, they don't get on airplanes, they don't need a photo ID. They are unbanked so they don't need a photo ID.

They are students, they live in the dorm, they are poor, they move three times a year so even if they had a photo ID, so even if they have a photo ID, it may not have the correct address on it.

And I am asking you how you rationalize disenfranchising over a quarter of million people when there is no connection between having a photo ID and having the right to vote.

Why can't—what is wrong with our system now where you can—register in advance, but if you go on election day, you can go there and show your utility bill, current utility bill, you can have your mother corroborate that you turned 18 two months ago and sign an affidavit under penalty of law that you are who you say you are, what—how do you rationalize that.

Mr. NEY. We are way over time, but since you have been posed a question, please answer, and then we will move to Mr. Ehlers.

Mr. LEIBHAM. Actually I want to encourage the committee like we have done in Wisconsin as you are reviewing any photo ID proposal across the nation that you seek information from the states in regard to other areas in which they require a photo ID.

If you look at Wisconsin, we require a photo ID for a individual who receives food stamps. To apply for the food stamp program you have to have a state issued photo ID.

If you are a student who is wanting to take the ACT or SAT, you have to have a photo ID in Wisconsin to be able to participate in the program.

As Congressman Green indicated, just recently to purchase cough medicine in Wisconsin, Governor Doyle signed a law that requires a photo ID for an individual to purchase cough medicine.

And we have other provisions that require individuals of all economic stature and all background to have state IDs for state law.

I think it is rational to suggest in an election process in which we are simply trying to confirm the identify of an individual who already under law has to register, we are simply asking them to identify themselves with a photo ID. Thank you, Mr. Chairman.

Mr. NEY. Okay.

Mr. EHLERS. There appears to be a little disagreement on this issue.

Now, let me ask you, in Wisconsin, when someone registers to vote, do they receive a card indicating that they are registered to vote and giving the polling place where they are supposed to vote, giving the address?

Mr. LEIBHAM. State law does not require that, but some communities do have processes in which they send out voter cards to individuals. It is typically in more smaller towns that continue that practice and that is one area we are looking at in the special committees.

For instance, through the requirement of HAVA for the voter registration to bring consistency how that preregistration and preelection day activity takes place.

Mr. EHLERS. I am surprised it is a not a state requirement. I would certainly suggest it is a first step.

I find the arguments against a photo ID not very convincing.

It is not that—as I say, Michigan has a state issued ID, it is not a voter ID, but it is a state issued ID. And millions of people get those because they find that very useful to have, and it does not, in my experience in Michigan, seem to impose any burden whatsoever in terms of getting that information and that card.

So I am really puzzled by the opposition. It makes me suspect that the opposition is fairly political, and I am not here to raise partisan planes at all, but it seems strange that the Democrats seem to be opposed to it.

I heard your comment that there is not wide-spread fraud, and I read the account, and I would agree the evidence does not appear that there is wide-spread fraud in Wisconsin.

The same cannot be said for some of your neighbors not too far to the south, but there is always the potential there.

And the point of voter laws is to try to ensure the integrity of the election.

When you have elections decided by 11,000 votes out of an entire state, it doesn't take very much fraud or error to change the result, and it seems to me the goal should be to try to use every means possible.

The controversy here seems to settle in voter ID, picture ID I should say, but that's only part of it. And Representative Colon, you made that comment, you have all of these other things you should do.

I agree you should do those. That doesn't mean you shouldn't have a picture ID as well, if that is becoming a problem in this state.

Very few states have it, but more and more are getting it because there is more and more fraud across the country occurring, and it doesn't have to be widespread. It can be just individuals doing this and not, not distinguishing by wide spread I mean organized fraud where a group, a party, or a set of individuals decides to organize fraud.

There is not too much of that in America although there is some, but certainly there is a lot of individual fraud going on and that's what we want to stop as well.

In order to speed things along since we have to move along, Mr. Chairman, I won't ask any questions at this point.

Mr. NEY. Thank you. One note before I move on to Mr. Green. I was asking the staff, and Mr. Ehlers and I were involved in looking at election over eight years ago.

If I recall, 720 people that voted were not citizens of the United States.

Mr. EHLERS. We suspect far more, but it was very——

Mr. NEY. Very close congressional race, there were quite a few people, but there were quite a few people that were not citizens of the United States that voted in the congressional election.

And so we have always historically being on this Committee, viewed that if you had a way to—if you knew that person was a citizen or not, call me old fashioned, but I think you ought to be a citizen of the United States to vote in elections.

We went through that. I wanted to make it as a side note. It was a considerable amount of people, quite a close election that had no form of ID, and there they went, they registered, and they were not citizens.

So we have a little bit of history on the issue.

Mr. EHLERS. Mr. Chairman, as you recall, I chaired the contested election committee. Pretty close to the worst experience of my life.

And I was dismayed to find the extent—really was an eye opener to the extent of the fraud, the state's errors, etcetera, and shows we have a long way to go on election law.

Ms. MOORE. Mr. Chairman, I am old fashioned, too. I could not agree with you more that I don't want noncitizens to vote.

The fact is that noncitizens can get driver's licenses.

Mr. EHLERS. Well, I am against that, too.

Mr. NEY. Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman. As I did my questions, something I wanted to clear up.

A couple of times we have heard the statement that investigators have not found fraud in Wisconsin. That's simply not true. In fact I am looking right here at the public statement that said they did find clear evidence of fraud in the November elections and the analysis was none the less it was unlikely that there would be much prosecution because, not my words here, city records are so sloppy, it will be difficult to establish cases that will stand up in court, but they did say they had clear evidence of fraud.

The other thing I wanted to mention, I want to make it clear we are obviously in Milwaukee for a variety of reasons, but the whole issue of photo ID is one that is important statewide including in Milwaukee.

The public polls that we have seen show very strong support across more than two to one and majority support right here in the City of Milwaukee, so sometimes these issues get cast and at least in our state and Milwaukee versus the state, that is simply not true.

The question I have though is Representative Colon, as you know the Carter-Baker Commission called for one of it's principal recommendations of photo ID. It says, I am quoting, we are recommending a photo ID system for voters designed to increase registration.

And then President Carter, obviously not a right wing zealot, and senior member of the commission, he says, "I personally had at the beginning some reservations about the issue. This will be, I think, a move forward in getting more people to vote. It would not restrict people from voting.

It will uniformly apply throughout the country. It will be nondiscriminatory."

Why do you think that President Carter and the Carter-Baker Commission support a photo ID requirement for voting.

Mr. COLON. I have no idea. Actually I can only tell you what happened in Wisconsin, and in Wisconsin of all that fraud that is claimed to have happened, one conviction has been obtained, only one.

Mr. GREEN. As I said, the prosecutor said that it would be difficult because of sloppy records, but they said they found clear evidence of fraud.

Mr. COLON. If you find fraud, you should prosecute it. It's just that simple.

Mr. GREEN. Even if you don't have evidence.

Mr. COLON. Well, if you don't have evidence, you don't have fraud.

Mr. NEY. I would please note to the audience as I have before, do not show applause nor booing. Thank you.

Mr. GREEN. Again, I think it is important to remember because you said a couple of times that there was no fraud, and again, you praised both our U.S. Attorney and our Milwaukee County D.A.

And they do say there is evidence of fraud, they said there was clear evidence of fraud.

Mr. COLON. Simply bring the cases forward——

Mr. GREEN. But just to clarify, there was clear evidence of fraud, so it is inaccurate to say that there was not fraud.

Mr. COLON. There is obviously two disagreements.

There is obviously a disagreement about whether there was fraud. I happen to think that one conviction does not lead to widespread fraud. I happen to believe Attorney—U.S. Attorney General Steven Biskupic on the issue because he has looked, he has the power, and he is in fact the one that we rely on to bring those cases along——

Mr. GREEN. He was the one I was citing here. He was the one who said that there was fraud.

Mr. COLON. I understand. I am saying if there is evidence of it, we certainly would like to know and there is evidence of it, we have all of these courts right in this building ready to go.

If he has evidence, he should bring the cases forward.

If he can't prove it, then maybe an issue as to the quality of the lawyering or something else, but it is not the issue.

The evidence is what rules a courtroom. We all understand that.

Now secondly, on the issue of the Carter Commission, there has been sent—I can't speak for the Carter Commission, I don't know it, I know what occurred through the media and so forth, but ultimately, this is Wisconsin and in Wisconsin we allow people to vote.

And if we are going to error on the side of something, we are going to error on the side of democracy.

If we are going to error on the side of a few mistakes which is all that has been found, we are going to allow people to participate.

The fact is that tradition goes back to the beginning of our state, and it will continue. I have no doubt.

We have a agreement, but I think our agreement as Congressman Ehlers indicated, it is much narrower. I agree with Senator Leibham that there are many things we can do to provide a better election system. I just don't believe the punishment to be further barriers to those who actually participate in good faith.

By and large, all of those people who participate legally and with the faith that those systems that are run by the good poll workers in our neighborhood are run for the benefit of good election results. I think we agree on that.

Mr. GREEN. Mr. Chairman, my time has expired.

Mr. NEY. I want to thank both the Senator and Representative for your time today and the members of the Committee. Thank you.

We will move on to panel 2. Panel 2 will consist of Kevin Kennedy, Executive Director of the Wisconsin State Elections Board; Sharon Robinson, Director of the Milwaukee Department of Administration; Susan Edman, Executive Director of the Milwaukee Election Commission; and Kathy Nickolaus, Waukesha County clerk. Thank you. I appreciate all of you being here, and we will start with testimony of Mr. Kennedy.

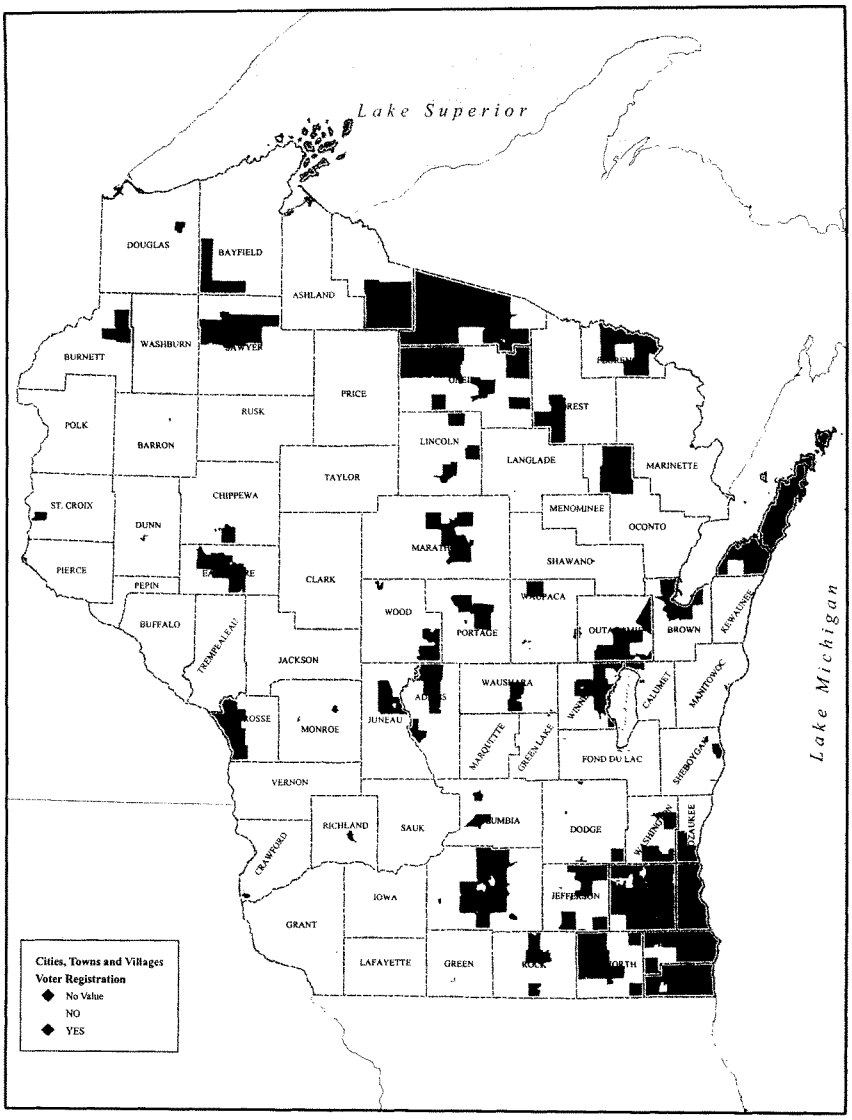
STATEMENT OF KEVIN J. KENNEDY, EXECUTIVE DIRECTOR OF THE WISCONSIN STATE ELECTIONS BOARD

Mr. KENNEDY. Thank you, Chairman Ney, Congressman Ehlers, Congresswoman Moore and Congressman Green. I really appreciate the opportunity to be here.

I have provided additional copies of my testimony as requested, and what I would like to talk about a little bit is Wisconsin's unique situation in administering elections, just in case I do not have it I have two maps of the state of Wisconsin which I would offer for the committee, they are part of my testimony on page 18.

Mr. NEY. Without objection.

[The information follows:]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SHEBOYGAN
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RICHLAND
SAUK
COLUMBIA
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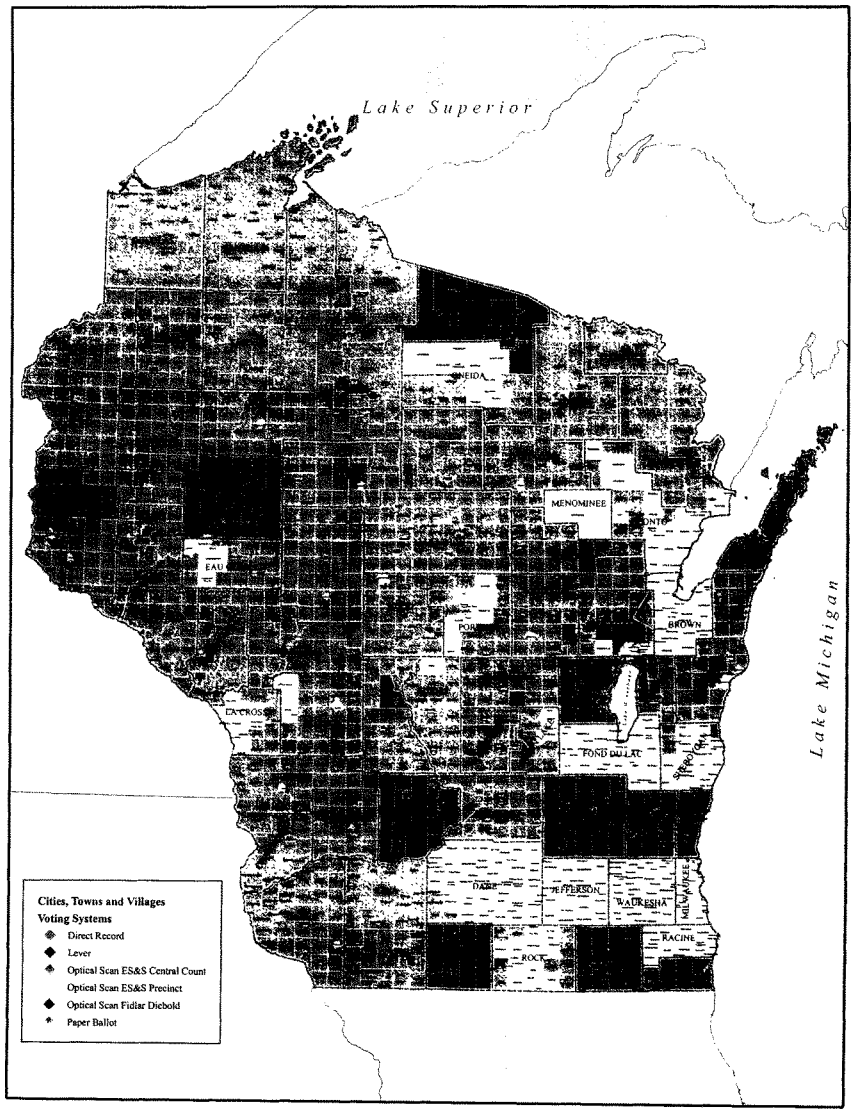
Cities, Towns and Villages
Voter Registration
No Value
NO
YES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MENOMINEE
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FOND DU LAC
JEFFERSON
WAUKESHA
RACINE
Cities, Towns and Villages
Voting Systems
Direct Record
Lever
Optical Scan ES&S Central Count
Optical Scan ES&S Precinct
Optical Scan Fidlar Diebold
Paper Ballot

Mr. KENNEDY. These maps illustrate some of the uniqueness in Wisconsin in terms of complying with the Help America Vote Act in terms of voter registration in the State of Wisconsin and the type of voting in the state of Wisconsin.

The Packer colored map, green and yellow, is voter registration. Wisconsin currently does not have voter registration. Under 5,000 as part of the Help America Vote Act, we have enacted legislation that all of our municipalities will have it. In some of the small municipalities in yellow, when you walk in to vote, people know you or they recognize you, and that has been our protection. We can't ask for identification for those individuals.

Starting in 2006, every voter will be required to be registered to vote. Wisconsin also has election day registration preferred, and in those municipalities which is about three quarters of our voting age population, we find that 20 percent of the people who come to the polls either registered for the first time or make some change to their registration such as changing their name or their address, highly mobile population.

Those individuals do provide identification, that identification is consistent with the requirements of the Help America Vote Act for first time voters.

We have provisional voting but only for first time voting currently in Wisconsin. In the 2004 election, 374 individuals were required to cast provisional ballots out of the three million votes that were cast in the state of Wisconsin. That is because we have election day registration, those individuals who did not have that identification be registered at the polling place in most cases. That was something we worked very hard for as part of the Help America Vote Act was to provide for that.

That provisional voting is usually quite frankly a fail-safe catch up for the type of errors that creep in through the voter registration process.

I think the thing that I have to emphasis the most, besides the uniqueness in terms, illustrated by the two maps, is that the election process is really about people.

In Wisconsin, we have 2,000 elected officials, we run our elections at the municipal level. That's why the maps are coded at the municipal level.

The clerks are the ones that equip, hire, and train the poll workers. Most—that includes 1850 municipal clerks, and 72 county clerks, deputies, and individuals in our office.

We have about 20,000 poll workers at our November election, working on that and they deal with about three million voters in the last election.

All of these people are affected by the various legislative proposals, and it is generally through those areas where I think we find a lot of the concerns.

As Wisconsin's chief election officer, to tell you I welcome the level of scrutiny that we have had to endure since 2000. I think it helps illustrate some of the issues that not only our office but the county clerks and municipal clerks have to wrestle with.

There are a lot of challenges because of all the people that are processed in terms of that.

The second map illustrates the challenges we have in dealing with the Help America Vote Act requirement in terms of equipping polling places for individuals with disability.

We are a paper driven state. Some of those municipalities have 70 voters, 150 voters, 200 voters, and it is a real challenge to bring in something other than paper ballots.

On that map, I forgot the color, I think it is green is the paper ballot coding, and you will see how much territory even though it is about 12 percent of the voters in our state.

Let me conclude my testimony, I will certainly welcome comments, but I want to say how much I did appreciate the scrutiny that is going on because it is only going to improve our process, but to reemphasis as we moved forward the election process including voter registration and voting equipment is about people, voters, local election officials and their participation in the electoral process. We will always have to balance the constitutionally protected right for eligible citizens to participate in the electoral process with the public policy that ensures participants have the utmost integrity of that that requires significant balancing. It requires commitment of government resources that has not been available in the past despite the infrastructure that HAVA has made which has allowed us to put together statewide voter registration system, to allow us to put accessible voting equipment in.

It is not enough in terms of the commitment that we have and continue to go. Thank you very much.

[The statement of Mr. Kennedy follows:]

Congress of the United States
House of Representatives
Committee on House Administration

Testimony of Kevin J. Kennedy
Executive Director
Wisconsin State Elections Board
October 24, 2005

Chairman Ney and Administration Committee Members:

Thank you for the opportunity to testify on election administration in Wisconsin and proposals for reform. It is an honor to appear before the Committee. Following the 2000 presidential election I was privileged, along with several other state and local election officials, to participate in extended discussions with House and Senate staff as Congress developed a series of legislative proposals that culminated in the Help America Vote Act of 2002 (HAVA).

In my written statement for the record I will address the status of Wisconsin's HAVA implementation, the unique election administration challenges presented in Wisconsin, the work of the Wisconsin Legislative Council Special Committee on Election Law Review and the recent report of the Legislative Audit Bureau on voter registration in Wisconsin. I will also touch on the administrative response to the slew of news coverage related to the November 2004 election that includes the conduct of a joint prosecutorial task force by the U.S Attorney's office for the Eastern District of Wisconsin and the Milwuakee County District Attorney's office.

I am Wisconsin's chief election official. I report to a nine-member citizen Board appointed by the Governor. Board members are individually nominated by the four leaders in the state legislature, the chair of each political party whose candidate for Governor received at least 10% of the vote in the last gubernatorial election, the chief justice of the state supreme court and one member designated by the governor. As a result Board members represent a wide spectrum of the political process in Wisconsin. Their nominating authorities consist of Democrats, Republicans, a Libertarian and a non-partisan judicial officer.

EXHIBIT 7
GRAMANN REPORTING, LTD.

The responsibility for the administration of Wisconsin's election and campaign finance law was given to the State Elections Board in 1974. Before that time, the responsibility was vested in a partisan elected official, the Secretary of State. The State Elections Board sets policy for the administration of elections as directed by the Legislature. It is my job to implement the legislative and administrative requirements established by law.

Structure of Election Administration in Wisconsin

In order to provide some perspective on my testimony, it is important to describe the structure of election administration in Wisconsin. The responsibility for conducting elections in Wisconsin rests at the municipal level. The municipal clerk in our 1,850 towns villages and cities is responsible for equipping polling places, recruiting and training poll workers, preparing ballots and notices for municipal elections, processing absentee ballot requests and ensuring that post election report forms, including official election results, are delivered to the appropriate boards of canvassers. The municipal clerk also serves as the filing officer for ballot access and campaign finance documents for candidates for municipal office. In the city of Milwaukee, the executive director of the City Board of Election Commissioners carries out these responsibilities.

Many of these municipal clerks work part-time performing these and other municipal duties. In many cases this is not their day job, so municipal responsibilities including election administration are done in the evening. Wisconsin has long operated on the premise that the most responsive government is government that is closest to the governed.

Wisconsin's 72 counties also play a role in election administration. The county clerk is responsible for preparing notices and ballots for county, state and federal elections. The county clerk directs the county board of canvassers that certifies the results of county, state and federal election contests and ensures delivery of the official results of state and federal election contests to the State Elections Board. The county clerk also serves as the filing officer for ballot access and campaign finance documents for candidates for county office. In Milwaukee County, the executive director of the County Board of Election Commissioners carries out these responsibilities.

The State Elections Board serves as the filing officer for candidates for state and federal office. The Board is responsible for the overall administration of Wisconsin's election and campaign laws. The agency has compliance review authority over local election officials to resolve complaints that they have acted contrary to law or abused their discretion in administering elections.

The agency is responsible for certifying state and federal election results, approving voting equipment for use in the state and training local election officials. The State Elections Board is also developing and will administer and maintain the statewide list of registered voters required by HAVA.

Voter Registration

One of the unique facets of election administration in Wisconsin is that before HAVA there was no requirement for voter registration in municipalities with a population of less than 5,000. Beginning with our spring nonpartisan primary in February 2006, all municipalities will be required to have voter registration. Currently, only 339 of Wisconsin's 1,851 municipalities have voter registration. Approximately 71% of the state's voting age population (4,119,000) reside in municipalities with voter registration. Almost 1.2 million citizens of voting age live in the 1,512 municipalities without voter registration. I have appended a state map that delineates those municipalities with voter registration and those without voter registration.

The existing structure of municipal administration of elections and an existing lack of uniformity in voter registration requirements makes implementation of the HAVA required statewide voter list the most challenging in the country. Wisconsin must build its statewide voter list from the ground up. We cannot tie together a series of existing countywide data bases like many of our neighboring states to get a statewide list of voters. In designing the specifications for meeting the HAVA requirements, we recognized that Wisconsin has to provide our local election officials with an election administration tool that enables them to carryout all of their election-related responsibilities.

Election day registration

In 1976, Wisconsin became the second state in the country to provide election day registration. At the 2004 presidential election, 443,778 of the 3,016,288 citizens who voted in Wisconsin, registered to vote or changed their registration at the polling place on election day. Election day registration enables Wisconsin voters to participate in the political process by eliminating barriers that limit participation in states where voter registration closes up to 30 days before the election.

Individuals seeking to register to vote on election day must complete a voter registration card before a poll worker and provide an identifying document such as a driver's license, property tax or utility bill that is current and contains the full name and complete address of the voter. If the individual cannot provide the required proof of residence, another qualified elector residing in the municipality with acceptable proof of residence may sign a statement under oath corroborating the residence information of the individual. The poll worker records the type and any unique number associated with the proof of residence document on the voter registration card.

A voter who believes he or she is registered, but whose name does not appear on the poll list may also use this procedure to register and then cast a ballot. This eliminates the need to provide provisional ballots that may not be counted until sometime after the election and only if the municipal clerk can determine that the individual was actually properly registered.

National Voter Registration Act

Because Wisconsin has election day registration, Wisconsin is exempt from the provisions of the National Voter Registration Act of 1993 (NVRA). This not only reduces the amount of paperwork and record keeping that state and local election officials and other government employees would have to complete, but it ensures cleaner voter registration rolls. When government employees whose primary responsibility is not voter registration are required to collect and route voter registration forms from their clientele, there is no incentive to ensure that the forms are properly completed or delivered in a timely manner for inclusion on the poll lists.

Voting equipment

Wisconsin presently is a paper ballot state. Beginning in 1993, the State Elections Board began encouraging counties and municipalities to abandon punch card voting for optical scan voting equipment. At the 2000 presidential election, only three counties were using punch card voting equipment and only one of those counties was committed to continuing use it after that election.

Wisconsin presently uses four types of voting systems:

- optical scan - polling place and central count tabulation (949 municipalities, voting age population –3,430,851);
- paper ballot (943 municipalities, voting age population –562,669);
- lever machine (16 municipalities, voting age population – 123,157);
- direct record electronic (1 municipality, voting age population – 2,641).

However, none of these voting systems enable individuals with a disability to vote privately and independently. I have appended a state map to my testimony showing the current distribution of voting equipment in Wisconsin.

Implementation of the Help America Vote Act in Wisconsin

Wisconsin began planning for the implementation of HAVA shortly after the law was passed. As the State's chief election official, I appointed a state plan committee and began the planning process. I also directed the development and worked with the legislature to secure passage of changes in state law to reflect the requirements of HAVA and qualify for the available federal funding under HAVA. Wisconsin has made significant progress in meeting HAVA requirements. We have a toll free line, 866-VOTEWIS (868-3947), voter information posted at the polling place, a statutory definition of what constitutes a vote, a redesigned voter registration form and a HAVA compliant complaint process.

We are also working to secure accessible voting equipment and complete the implementation of the statewide registration list. A description of our progress in these areas is set out below.

Voting Equipment

All voting equipment must be approved by the State Elections Board before it may be used in the conduct of a Wisconsin election. The requisites for approval are set out in S. 5.91, Wis. Stats., and ElBd Chapter 7, Wis. Adm. Code.

This is a link to information describing the voting equipment approval process: http://elections.state.wi.us/category.asp?linkcatid=618&linkid=159&locid=47. The applicable statutes and administrative code as well as a list of counties and municipalities by voting equipment can be accessed from this link.

One condition of approval is that the voting system must be tested by an independent laboratory approved by the National Association of State Election Directors (NASED) and qualified to the 2002 FEC Voluntary Voting System Standards. ElBd 7.01 (1)(e), Wis. Adm. Code. As a consequence, Wisconsin will not consider a voting system for use in the state until it has completed testing with a NASED approved independent laboratory and been qualified to the 2002 FEC Voluntary Voting System Standards.

As of the time of preparation of this testimony, seven vendors have applied for approval of voting equipment. One system, Populex, was rejected after testing because it did not meet the statutory criteria for conducting an election in Wisconsin, and because it did not permit an individual with a disability to cast a write-in vote without assistance. A second vendor, Elections Systems and Software, withdrew its application just before our testing because it was unable to run our partisan primary. The third vendor, Diebold Election Systems, submitted its application after our initial testing period. We began testing this equipment and the ES & S AutoMARK in October. We plan to schedule other vendors who just submitted applications for approval this month for testing as soon as possible. We expect to have one or more accessible voting systems approved by the end of this year.

In Wisconsin, each municipality is responsible for equipping its polling place. S. 7.15 (1)(a), Wis. Stats. Wisconsin has set aside $18 million in HAVA Section 251 funding to assist municipalities in acquiring an accessible component for its existing voting systems. An additional $1.3 million in HAVA Section 102 funding is available for reimbursing counties and municipalities for the replacement of punch card and lever machine voting equipment. All punch card voting had been replaced by optical scan equipment by the fall of 2001. However, the state will not provide HAVA Section 102 funding until arrangements have been made for adding an accessible voting component to the existing or replacement voting system.

Once accessible voting systems have been approved, the state will assist counties and municipalities with acquisition of the new voting equipment. Each municipality, in consultation with its county, will select the accessible equipment it believes will work best with its existing voting system. The state will provide municipalities with $6,000 per polling place toward the acquisition of the accessible voting equipment. The state will also use part of its HAVA Section 261 funding to assist with programming the accessible voting equipment for the 2006 elections.

One condition of providing funds to the municipalities is that their polling places must be accessible. The state has received a polling place survey from every municipality and is reviewing the surveys to determine if polling places are accessible.

Because no equipment has been approved, the mechanism for providing the acquisition funding has not been determined. Municipalities will either receive the funds as reimbursement once purchase arrangements are made or the state will make the purchase on behalf of the municipalities. This will depend on equipment selected.

We anticipate that all municipalities will be able to make arrangements for the acquisition of the accessible voting equipment by December 31, 2005. However, we do not believe that the equipment vendors will be able to ensure delivery for all municipalities before our February 21, 2006 nonpartisan primary. We expect that equipment can be delivered and in place for the April 4, 2006 nonpartisan election.

All of our planning and preparation are dependent on the vendors' ability to provide voting systems that meet the criteria for approval in Wisconsin. The state will not invest in equipment that cannot conduct a Wisconsin election.

Statewide Voter List

Wisconsin has made significant progress in the last three years towards compliance with the HAVA requirement for a computerized statewide voter registration list. These efforts began with a study completed in 2003, laying out the path that Wisconsin would take towards meeting this requirement.

In 2004, a Request for Proposal was issued seeking a qualified vendor to provide a commercial off-the-shelf software package for a statewide voter registration system (including election administration), and implementation services to the State of Wisconsin. The contract was awarded to Accenture LLP. The product is the Accenture Election Systems Manager (AESM) package. Accenture is also under contract to perform customizations to the AESM software to meet Wisconsin's business and technical requirements.

Wisconsin has many unique election provisions, making our project one of the most complicated implementations in the country. The most complicating factor is the decentralized nature of election administration. The responsibility for administering elections and voter registration lie with approximately 1,851 municipalities in the state. Wisconsin's Statewide Voter Registration System (SVRS) will be coordinated with 1,851 municipal clerks, 72 county clerks and the State Elections Board.

Wisconsin law does not require voter registration in municipalities with a population of less than 5,000 until the February 2006 elections. 2003 Wisconsin Act 265. Approximately 1,512

municipalities were not required to register voters, so SVRS brings not only a new software package, but also new business processes and requirements.

To accommodate these challenges, many Wisconsin municipalities have entered into a memorandum of understanding (MOU) with their county or another municipality to assist in voter registration list maintenance duties. These "reliers" will work with a "provider" to perform the actual data entry into the SVRS. These complexities make the SVRS implementation challenging from both a budgetary and a timeline perspective.

Despite an early start to SVRS planning, Wisconsin is currently not on schedule to have the entire state operating live by January 1, 2006. Delays from Accenture in its software development and errors within the software application have forced Wisconsin to push out the implementation in its pilot region, and consequently its statewide roll-out.

User Acceptance Testing (UAT) conducted by the state on the software revealed system errors that prevents the software from being deployed. A decision was made to delay the deployment schedule until application system errors were sufficiently resolved to enable roll-out. However, we did proceed rolling out with our pilot county (Dane) in October. This enabled us to work out the deployment logistics while testing on the revised software continued.

An updated version of the software, containing fixes to many of the errors discovered in UAT, was delivered by Accenture to Wisconsin on September 23, 2005. This version was updated on October 13, 2005. This version will also undergo UAT, and if "accepted," the deployment will begin throughout the state. Additional deployment steps that must be completed in order for SVRS to be operational include converting existing voter registration data from legacy voter registration systems, finalizing MOUs and training users on the application.

Despite the delay, significant progress has been made and it is anticipated that a significant number of counties will be live and fully operational by January 1, 2006 and SVRS will be fully implemented and in use throughout the state by the April 2006 statewide election cycle.

There are many documents available on the State Elections Board website regarding the development, design, and operation of the database. Some of the most helpful resources, are:

The study conducted in 2003 on the design, development and implementation of a statewide voter registration system at the direction of the Legislature available at: http://elections.state.wi.us/docview.asp?docid=2944&locid=47. This document is described on our website as the Project Charter.

The Request for Proposal for the Statewide Voter Registration System available at: http://elections.state.wi.us/section_detail.asp?linkcatid=597&linkid=304&locid=47&sname=SVRS%20Project. This document describes the services requested by Wisconsin to meet HAVA requirements.

The Contract between the State of Wisconsin and Accenture available at: http://elections.state.wi.us/section_detail.asp?linkcatid=596&linkid=304&locid=47&sname=SVRS%20Project. This document describes in detail the services being performed by Accenture relating to the design and development of SVRS.

The SEB Website has a section devoted to SVRS documentation such as frequently asked questions, communications that have been distributed, and the documents listed above. This section can be found at: http://elections.state.wi.us/section.asp?linkid=304&locid=47.

Legislative Council Special Committee on Election Law Review

In the summer of 2004, the Legislative Council established a Special Committee on Election Law Review. The Legislative Council is a service agency of the state Legislature. The Council

charged to conduct studies of matters of concern to the Legislature, either during or between sessions of the Legislature, and to report its recommendations to the next general or special legislative session.

The Special Committee on Election Law Review consists of 5 legislators, 2 county clerks and a representative of the Milwaukee County Election Commission, 3 municipal clerks, 2 election lawyers and myself. The scope of the work of the Special Committee is to examine the election process and the administration of elections in the state, other than campaign financing law, examine the implementation of the federal Help America Vote Act of 2002 (HAVA), state oversight of elections in Wisconsin and the recount process. The Special Committee may also examine other election-related issues such as voter registration and identification, new technologies for voting, the adequacy of staffing at polling places and the adequacy of training received by poll workers.

The Special Committee first met just before the November 2004 election and has held nine public meetings. The Special Committee has completed its public meetings and the staff is putting together proposed legislation based on a series of consensus based decisions for election law changes. A description of the items tentatively agreed on for the proposed package is set out below:

1. Require a witness for absentee voting be an adult U.S. citizen.

2. Permit a request for an absentee ballot by facsimile or electronic mail, but require that a copy of a signature be provided with both.

3. Change the deadline for registering to vote in the municipal clerk's office from 5 pm on the day before the election until 5 pm or the close of business whichever is later on the Friday before the election.

4. Permit public observation of the absentee voting process in the office of the municipal clerk (if it is a public building) and prohibit electioneering within 100 feet of the building during the absentee voting process.

5. Require the municipal clerk to treat a request for an absentee ballot from a military elector as a request for all elections and permit the clerk to cancel the request if the military elector does not return a ballot for 2 consecutive general elections.

6. Permit the counting at a recount of an absentee ballot from a military elector that arrives after the polls close if it is post marked by election day. Require the municipal clerk to post on election night the number of absentee ballots that have not been received from military electors.

7. Require absentee voters who wish to have their absentee ballot mailed to them to provide an excuse. The list of acceptable reasons would be the same as before 2000. Persons voting absentee in the municipal clerk's office would not need an excuse.

8. Delete the requirement that absentee ballots be sent with return postage.

9. Require that an absentee ballot may only be mailed to an elector's permanent or temporary address.

10. Require that absentee ballots be recorded publicly in the same room where votes are cast.

11. Require the municipal clerk to maintain a list of all facilities where special voting deputies take absentee ballots and the time when ballots will be voted. The clerk must post a notice at the facility disclosing the time when special voting deputies will bring absentee ballots and political parties may send an observer.

12. Require voter registration forms completed at the polling place to be legible.

13. Voter registration by mail or through a voter registration deputy closes on the 5th Monday (29 days) before the election. An elector may still register in the municipal clerk's office up until the day before the election and at the polling place on election day.

14. Eliminate the minimum GPA requirement for a high school student to serve as a poll worker and authorize school boards to develop criteria for approving students to serve as poll workers.

15. Change the term of appointment for high school poll workers to one election rather than two years. A high school student may be appointed to serve at more than one election.

16. Eliminate the requirement that mail voter registration cards contain prepaid return postage.

17. Require the circulator of election-related petitions including nomination papers to be an adult U.S. citizen who is not otherwise disqualified to vote. The circulator does not have to reside in the district affected by the petition.

18. Require that school boards provide a copy of school district referenda questions to the county clerk of each county having territory within the school district.

19. Require the State Elections Board to prepare a report and recommendations with regard to state and local election related contingency planning efforts and preparedness regarding natural disasters or terrorist activities that may occur at or near election time.

20. Require the Election Administration Council to provide guidance to local units of government concerning the purchasing of election apparatus including supplies and ballot forms to ensure competitive pricing.

21. Eliminate voter registration at the office of register of deeds and permit the municipal clerk to establish other locations for voter registration.

22. Prohibit any person from compensating any individual who gathers voter registrations at a rate that varies by the number of forms collected and make it a misdemeanor.

23. Require the municipal clerk to send a voter registration confirmation card by mail for any voter who does not register in person at an authorized location.

24. Authorize voter registration to be conducted at the office of the county clerk or Board of Election Commissioners.

25. Change the appointment date of election inspectors to December of odd-numbered years. The term of poll workers would begin in January of even-numbered years.

Require an election inspector to stand at the end of the line when the polls close to ensure that no one enters the line after that time.

26. Direct the State Elections Board to promulgate administrative rules regarding the proper conduct of observers at polling places, including the interaction of observers with election officials at polling places.

27. Change the deadline for delivering election materials including ballots, tally sheets and inspectors' statements to the county clerk from 2 pm to 4 pm on the day following the election.

28. Require first-time voters, an individual who has never voted in the state of Wisconsin and who registers to vote by mail, to provide identification before being allowed to vote for the first time.

29. Redraft the criminal prohibition on making election-related threats to make it more readable.

30. Direct the State Elections Board to establish a fee for obtaining a copy of the statewide voter list or portions of the list after consulting with county and municipal clerks.

31. Require the municipal clerk to send a confirmation letter or post card to an elector who registers by mail within 10 days of receiving the registration form.

32. Permit an individual to list an out-of-state drivers' license number on the voter registration form. Provide that out-of-state drivers' license numbers would not be subject to inspection by the public. Require the State Elections Board to contact the chief election officer of each state where a voter listed an out-of-state drivers' license number to determine if the individual voted in that state after each election.

33. Prohibit electioneering at a polling place. Prohibit the posting or distribution of election-related material during polling hours on any public property at a polling place or within 100 feet of an entrance to a building containing a polling place. Permit an election inspector, municipal clerk or law enforcement officer to remove election–related material and change the penalty to a civil forfeiture.

34. Permit election inspectors to record information on a single inspectors' statement (EB-104) and require the municipal clerk to make the requisite copies for distribution to the appropriate boards of canvassers following the election.

35. Establish a single uniform list of identifying documents to be used by first-time voters required to show identification and individuals registering to vote at the polling place on election day. Eliminate the use of a lease as proof of residence and require private college and employer I.D.s to contain photographs.

36. Permit a county or municipal clerk to serve on the board of canvassers when the clerk is a candidate if the clerk is unopposed.

37. Require a recall petition of a city, village, town, or school district officer include a statement of the grounds that constitute "cause" for the recall. The definition of "cause" is defined as "official misconduct or malfeasance in office."

38. Require that unused ballots may not be destroyed or discarded until after the deadline for requesting a recount.

39. Change the deadline for requesting an absentee ballot by mail from the Friday before the election to postmarked no later than the Wednesday (6 days) before the election.

40. Permit the optional counting of absentee ballots at a central location with a separate absentee ballot board of canvassers.

41. Require that a map showing the geographic area served by the polling place be posted at each polling place.

42. Require the State Elections Board to train municipal and county clerks and clerks to attend training every 2 years beginning in 2007. Require all poll workers go through training and certification provided by clerks according to rules established by the State

Elections Board. Permit training by video and create an exemption for mandatory training in the case of an emergency.

43. Require the names of registered voters who are ineligible to vote because of a felony conviction to appear on the poll list with a notation that the individual is ineligible to vote. Require a list of convicted felons under supervision to be kept at the polling place to check against election day registrants. Require a statement on the voter registration form that the voter is not under supervision for a felony conviction.

44. Require municipalities to appoint one alternate poll worker for each polling place and permit municipalities to appoint a poll worker to serve as a greeter without regard to party affiliation.

45. Require the county boards of canvassers in state or federal recounts involving more than one county to consult with the State Elections Board to ensure standard recount procedures are followed.

46. Require board of canvassers to conduct a recount of machine readable ballots using electronic voting equipment unless a candidate petitions a circuit court for permission for a hand recount no later than the first business day following the deadline for requesting a recount.

47. Authorize municipal clerks to relocate the absentee ballot processing and absentee voting function to a more accommodating location in the municipality.

48. Require the State Elections Board establish a plan for random post-election audits during the fall of odd-numbered years under which local election practices are reviewed by election officials from peer municipalities and the cost of the review is borne by the state.

49. Authorize the State Elections Board to do voter registration verifications currently required by municipal clerks using the Statewide Voter Registration System.

This list was compiled by me and does not represent an official document of the Special Committee. For more information on the Special Committee on Election Law Review follow this link:

http://www.legis.state.wi.us/lc/3_COMMITTEES/Special%20Committees/2004/ELAW/index.htm

Legislative Audit Bureau Report on Voter Registration in Wisconsin

On February 9, 2005, the Legislative Joint Committee on Audit directed the Legislative Audit Bureau (LAB) to conduct an evaluation of voter registration in Wisconsin. The LAB issued its

report on September 16, 2005. The audit report described a series of recommendations directed to the State Elections Board on how to use its existing authority to address voter registration issues described in the report. The report also set out a series of recommended statutory changes for the Legislature to consider with respect to voter registration. The LAB included my written response to its recommendations along with the report.

On September 28, 2005, the State Elections Board reviewed the LAB report and my recommended response. The Board unanimously directed me to provide a response to the LAB report for the Joint Committee on Audit. That response is appended to this testimony.

The Legislative Joint Committee on Audit held a hearing on October 18, 2005 on the report. This is the day that my written testimony for the House Committee on Administration was submitted. I will be prepared to respond to questions concerning the Joint Committee on Audit hearing when I appear before the House Committee on Administration.

The LAB report paints a vivid picture of voter registration in Wisconsin before the implementation of the Statewide Voter Registration System. The LAB report provides a valuable benchmark for evaluating the success of SVRS in 2006.

For more information on the Legislative Audit Bureau report follow this link:
http://www.legis.state.wi.us/lab/

Joint Prosecutorial Task Force

Following the 2004 presidential election, the Milwaukee County District Attorney's office and the office of the United States Attorney for the Eastern District of Wisconsin established a joint task force to investigate allegations of election fraud in Milwaukee. Charges stemming from that investigation have been filed in both state and federal court. I am informed that the task force will complete its investigation by the end of 2005.

The Milwaukee County District Attorney and the U.S. Attorney have stated that there was no concerted pattern of election fraud identified in this investigation. The most glaring discrepancy identified in media reports was that there appears to be approximately 7,000 more ballots cast than voters recorded as voting in the city of Milwaukee. However, from my experience observing the conduct of elections and recounts throughout the state of Wisconsin for more than 26 years this discrepancy may be explained by the failure of poll workers to assign a voter number to absentee electros, election day registrants and individuals whose name had not been entered into the voter registration software used by Milwaukee when the poll lists were printed.

Whatever the reason for the failure to assign a voter number, Wisconsin law sets out procedures to be followed at the polling place when the votes are tabulated to determine if there are more ballots than voters. The discrepancy should have been identified by the poll workers and corrected at the polling place on election day. Wisconsin law also requires the county board of canvassers to reconcile the voter lists and vote totals after it receives the election documents from the municipal clerk

Election officials should have identified this error and taken steps to correct it within 24 hours of the close of voting. Their failure to do so has undermined public confidence in the conduct of elections in Wisconsin and cast a pall of doubt over the election results that will not be lifted by the criminal investigation.

Conclusion

The glare of public scrutiny of the conduct of elections in Wisconsin is a powerful catalyst for change. There is reason for concern abut the administration of elections in Wisconsin, but there is a commitment among state and local election officials to restore public confidence in the integrity of the electoral; process. The Statewide Voter Registration System will provide local election officials with a tool for ensuring that voter registration lists are maintained in a consistent manner that eliminates much of the confusion of the current system and provides the public with a readily accessible portal into the election process. The proposed legislative changes emanating from the Special Committee on Election Law Review, Governor Doyle's

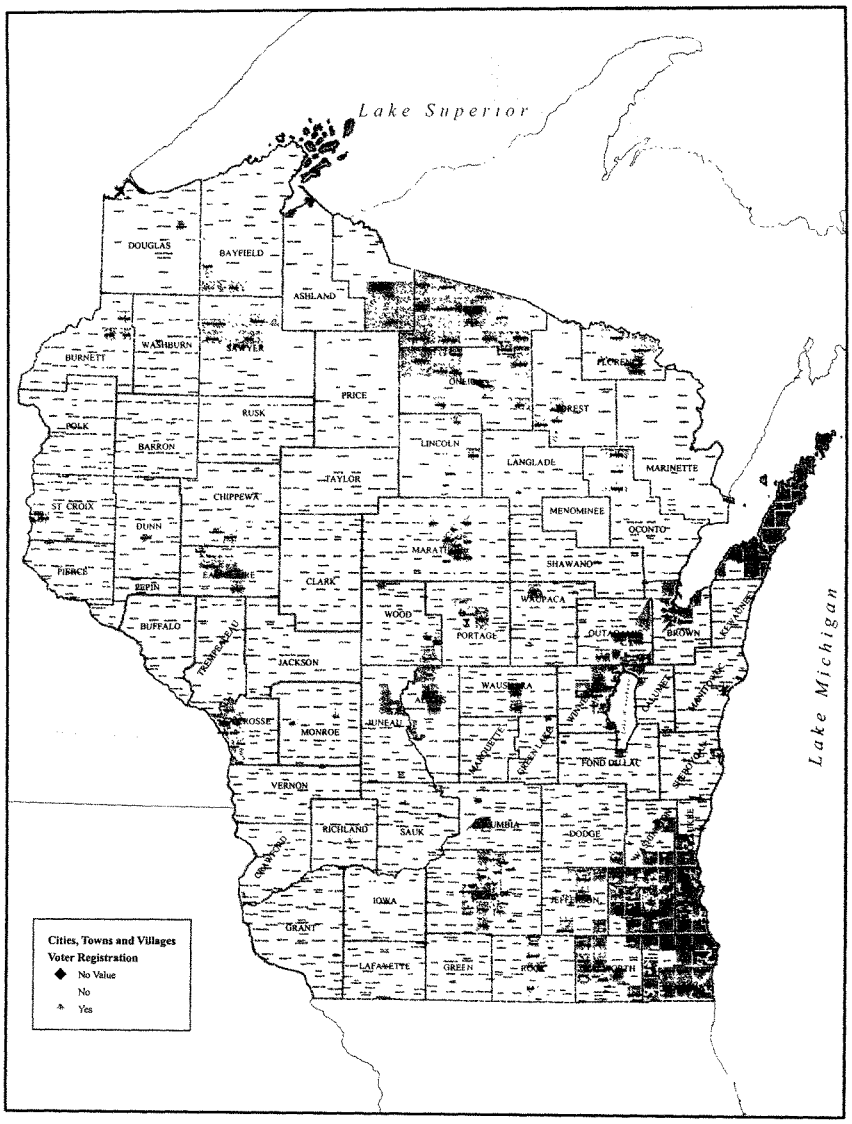
election reform package and the Joint Legislative Audit Committee have generated a discussion and movement that will improve election administration in Wisconsin.

What cannot be overlooked as we move forward is that elections are about people – voters, candidates, local election officials and their participation in the electoral process. We will always have to balance the constitutionally protected right to enable eligible citizens participate in the electoral process with the public policy to ensure participants in the electoral process have confidence in the integrity of the process. This requires a commitment of government resources that has not been available to state and local election officials even with HAVA funding.

Respectfully submitted,

Wisconsin State Elections Board

Kevin J. Kennedy
Executive Director


Lake Superior
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TAYLOR
CHIPPEWA
ST. CROIX
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MENOMINEE
OCONTO
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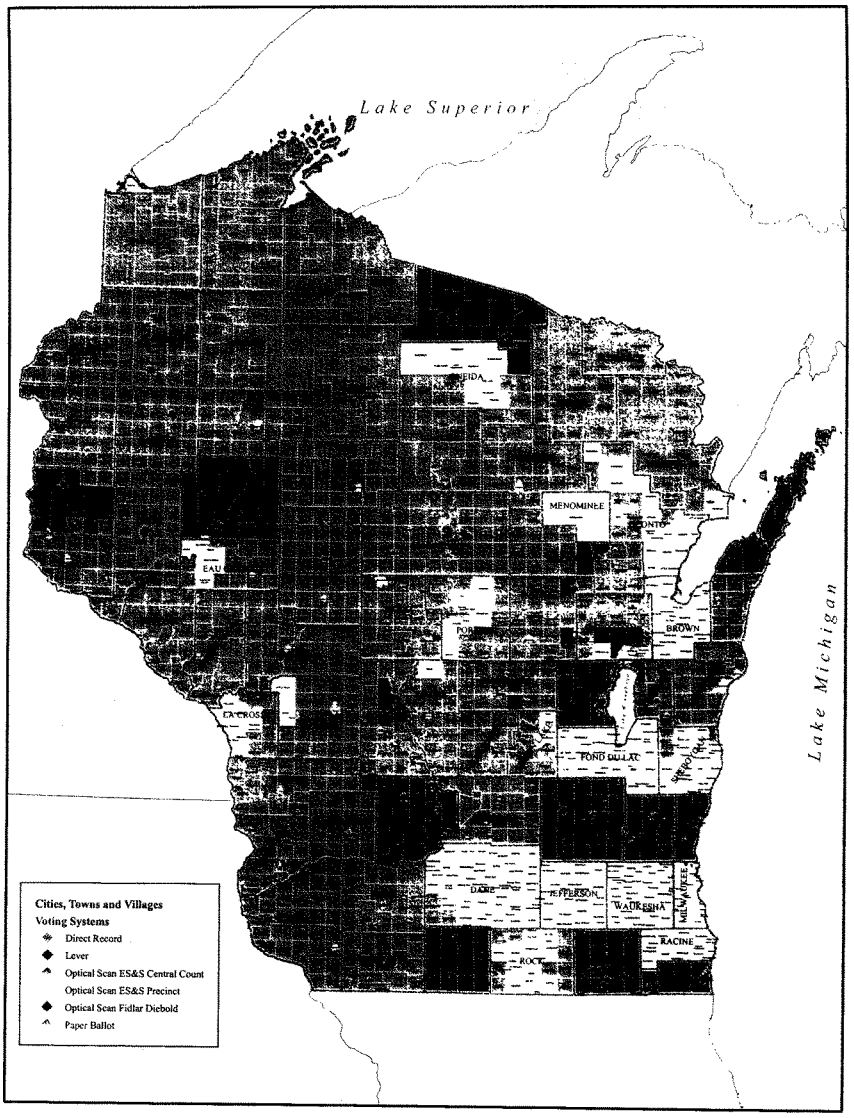
PEPIN
CLARK
SHAWANO
WOOD
PORTAGE
BUFFALO
BROWN
JACKSON
MONROE
VERNON
RICHLAND
SAUK
DODGE
IOWA
GRANT
LAFAYETTE
GREEN
Cities, Towns and Villages
Voter Registration
No Value
No
Yes


Lake Superior
Lake Michigan
MENOMINEE
BROWN
FOND DU LAC
JEFFERSON
WAUKESHA
RACINE
Cities, Towns and Villages
Voting Systems
Direct Record
Lever
Optical Scan ES&S Central Count
Optical Scan ES&S Precinct
Optical Scan Fidlar Diebold
Paper Ballot

Legislative Audit Bureau Recommendations

1. The State Elections Board use its existing authority to promulgate rules for the appointment and training of special registration deputies (p. 28).

The State Elections Board supports this recommendation. Current law requires the State Elections Board to promulgate administrative rules prescribing procedures for appointing, revocation of appointment and training of special registration deputies consistent with a policy to promote increased voter registration and efficient election administration. Section 6.26 (3), Wis. Stats.

The State Elections Board has not promulgated rules in this area because before 2004 it was not a high enough priority to devote limited staff resources. When the requirement was enacted, the agency's primary focus was on the administration and enforcement of campaign finance requirements. Voter registration was not required in all municipalities and local election officials had not described any significant concerns with special registration deputies.

The increased activity of voter registration groups brought these issues into focus in 2004. In July 2004, the State Elections Board provided municipal clerks with direction on training special registration deputies and setting standards for their performance. The agency workload in 2004 did not permit the translation of this direction into administrative rules.

This is now a priority of the staff and proposed rules can be integrated into the operation of SVRS. We have discussed the development of a standard curriculum for use by municipal clerks to train special registration deputies.

SVRS will be able to capture a unique number assigned to a special registration deputy. This will enable better tracking of registration forms submitted by special registration deputies.

2. The State Elections Board use its existing authority to promulgate rules for the use of address verification cards (p. 38).

The State Elections Board staff recognizes address verification cards as a place to leverage the benefits of SVRS. As part of SVRS, the State Elections Board plans to mail the verification cards to ensure that this follow up is done consistently. We expect that this will reduce costs for municipalities. SVRS will have the capability to record municipal clerk follow up on address verification.

However, a statutory change is necessary to clarify SEB's authority to mail verification cards on behalf of municipalities. I have asked the Legislative Council Special Committee on Election Law Review to include this change in its package of proposed election law changes. In addition the State Elections Board encourages the Legislature to require a verification card for all new registrants.

The State Elections Board supports this recommendation with some reservation. The Board is concerned about the states commitment to fund the agency's ability to carry out this function. This will place accountability for sending the card in one place, but one of the primary reasons municipalities did not conduct this activity is that it cost money.

3. The State Elections Board use its existing authority to revise the voter registration form to require disclosure of felony conviction status (p. 48).

The State Elections Board supports this recommendation. The SVRS Team is already working on including this change in the design of the voter registration and absentee ballot application forms. This is also a recommendation submitted by the Governor in his election reform package, 2005 Assembly Bill 542, 2005 Senate Bill 249.

4. The State Elections Board use its existing authority to promulgate rules to minimize data entry errors, and automate processes for identifying ineligible voters (p. 53).

The State Elections Board does not support this recommendation. This is not a good use of the administrative rulemaking process.

As part of the operation of SVRS, municipal clerks will be given a detailed set of business processes that describe the procedures for handling voter registration forms, entering information into the system and reviewing reports generated by SVRS that identify data entry errors and inconsistencies. These processes will change with more experience on the system. It would significantly reduce administrative flexibility if administrative rules had to be promulgated and amended to reflect changes in business processes.

Training has already begun in our pilot county (Dane) on SVRS business processes and the SVRS application. One approach may be to promulgate an administrative rule requiring municipal and county clerks to follow the procedures set out in the SVRS business processes.

5. The State Elections Board use its existing authority to promulgate rules to clarify the responsibilities of election officials and, if authorized by statute, specify civil penalties for noncompliance (p. 53).

The State Elections Board supports this recommendation with a proposed modification in the approach.

As a part of the implementation of SVRS, local election officials are required to enter into a memorandum of understanding (MOU) that delineates the responsibilities of local election officials and the State Elections Board with respect to the use of SVRS. These MOUs establish the roles and responsibilities, along with the associated costs for performing various functions related to voter registration, absentee voting and election administration.

The MOU process could be a focus of administrative rules. This could address the recommendations for administrative rules on following procedures and delineating responsibilities by enshrining the MOU process and provisions in an administrative rule.

6. The State Elections Board provide voter registration training designed specifically for municipal clerks (p. 57).

The State Elections Board supports this recommendation. This recommendation is consistent with the State Elections Board's plans. As part of the SVRS implementation, local election officials will receive approximately 40 hours of business process, application and advanced application training. This training program has already been developed and is being refined through the SVRS pilot program. The business process training was conducted in Dane County in the first week of September and will continue throughout the state this fall. The business process training consists of six hours of in-person instruction.

Training on the voter registration elements of the SVRS application was conducted in Dane County during the last week of September and the first week of October. Training on the election administration elements of the SVRS application will be held during the last two weeks of October.

The State Elections Board will need to dedicate personnel and resources to coordinating ongoing SVRS training as well as continuing training on election administration for local election officials. Once federal funding has been exhausted, the state will need to commit additional resources to this ongoing need.

7. The Legislature consider adjusting the early registration deadline to provide clerks more time to prepare registration lists.

The State Elections Board supports this recommendation. The Legislative Council's Special Committee on Election Law Review may include the recommendation for adjusting the statutory registration deadline in its proposed legislation. That proposal sets the close of registration at the 5th Monday (29 days) before the election. The Report of the National Task Force on Election Law Reform established by the Election Center also includes this recommendation.

8. The Legislature consider establishing more stringent requirements for special registration deputies, including prohibiting compensation based on the number of individuals registered.

The State Elections Board supports this recommendation. This is an excellent suggestion that has broad state and national support. The Legislative Council's Special Committee on Election Law Review may include the recommendation for prohibiting special registration deputies from being compensated based on the number of registration forms they submit in its proposed legislation. This is also a recommendation submitted by the Governor in his election reform package, 2005 Assembly Bill 542, 2005 Senate Bill 249. The Report of the National Task Force on Election Law Reform established by the Election Center also includes this recommendation.

9. The Legislature consider establishing uniform requirements for demonstrating proof of residence for all registrants.

The State Elections Board supports this recommendation.

The HAVA identification requirement for first-time voters registering by mail added complexity and confusion to the voter registration process. Election Day registrants and late registrants are required to provide proof of residence as defined in S. 6.55 (7), Wis. Stats. First-time voters are required to provide identification. With respect to identification containing a picture of the voter, the federal requirement is broader than state law governing proof of residence because it does not require a current address. Federal law also expands the use of certain government documents beyond what is permissible for proof of residence by including bank statements, government checks, other government documents and paychecks that are current and contain the voter's full name and current address.

Amending state law to make proof of residence more consistent with the identification requirement for first-time voters would alleviate some confusion. The language permitting updating information by hand on proof of residence documents needs to be eliminated along with items from the statutory list of acceptable forms of proof of residence such as credit cards, library cards and credit plates which do not have addresses and do not qualify as acceptable proof of residence.

When Election Day registration was enacted in 1976, the State Elections Board was directed to adopt emergency rules defining acceptable proof of residence. These rules were incorporated into the statutes in their current form. An administrative rule may provide a more flexible vehicle for addressing these concerns. It is more difficult to change a statute when a form of identification becomes outdated.

10. The Legislature consider providing municipal clerks with more flexibility in the use of address verification cards.

The Legislature may want to consider requiring all voters to provide their birth date and driver's license number as part of the voting process in 2006. This will enable municipal clerks to capture essential identification information for all registered voters which can be added to SVRS and ensure more accurate matching of voter records.

Keeping SVRS current and accurate will require using additional sources for reconciliation. Municipal clerks are an essential partner in this process. It is important to provide state and local election officials with more flexibility to utilize other sources to reconcile registration discrepancies.

11. The Legislature consider authorizing civil penalties for local election officials and municipalities that fail to comply with election laws.

The State Elections Board does not support this recommendation. This may be an unpopular means of ensuring administrative accountability.

It is definitely worth considering adding a civil penalty component to the election fraud laws which apply to voters as well as election officials. This may provide a useful tool for district attorneys that ensures more enforcement of election law violations.

12. The Legislature consider implementing mandatory election training requirements for municipal clerks.

The State Elections Board supports this recommendation. This recommendation is consistent with the State Elections Board's plans.

As part of the SVRS implementation, local election officials will receive approximately 40 hours of business process, application and advanced application training. This training program has already been developed and is being refined through the SVRS pilot program. The business process training was conducted in Dane County in the first week of September and will continue throughout the state this fall. The business process training consists of six hours of in-person instruction.

The State Elections Board will need to dedicate personnel and resources to coordinating ongoing SVRS training as well as continuing training on election administration for local election officials. Once federal funding has been exhausted, the state will need to commit additional resources to this ongoing need.

State of Wisconsin \ Elections Board

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CARL HOLBORN
Chairperson

KEVIN J. KENNEDY
Executive Director

September 9, 2005

Janice Mueller, State Auditor
Legislative Audit Bureau
22 East Mifflin Street, Suite 500
Madison, WI 53703

Subject: Response to Legislative Audit Bureau Report on Voter Registration in Wisconsin

Dear Ms. Mueller:

We have reviewed the report prepared by the Legislative Audit Bureau (LAB) on voter registration in Wisconsin requested by the Joint Legislative Audit Committee. The LAB documents a wide variation in the implementation of existing voter registration laws and includes a number of recommendations to improve the voter registration process. The report provides a thorough analysis of the existing voter registration practices. The findings of the LAB buttress the federal mandate for a single statewide voter list controlled by the state set out in the Help America Vote Act of 2002 (HAVA).

Many of the issues identified by the LAB will be addressed by the implementation of the Statewide Voter Registration System (SVRS) required by HAVA and Wisconsin law. S. 6.36, Wis. Stats. The range of issues described in the report also illustrates the complexity of voter registration. It is much more than producing a list of names of eligible voters.

Our response addresses the recommendations and suggestions set out in the Report and provides additional comment. The response was prepared by the State Elections Board staff under the direction of its Executive Director, Wisconsin's chief election official. It does not represent a formal position taken by the Board or its members. We have organized the response according to the contents of the report.

Introduction

Mandatory Voter Registration

The report accurately describes the current system of voter registration as "a patchwork of requirements that is confusing to municipal clerks, poll workers, and the public..." and that "procedures for maintaining voter registration lists are not consistently applied." The Statewide Voter Registration System (SVRS) will provide the tool for ensuring that voter registration lists are maintained in a consistent manner that eliminates much of the confusion of the current system and provides the public with a readily accessible portal into the election process.

Municipal clerks will follow the same procedures for reviewing and processing voter registration forms. There will be a single registration record for each registered voter in the

state. The list of voters will be matched against existing state records to verify identity and identify ineligible voters.

Help America Vote Act of 2002

One of the complexities added to the registration process by HAVA is the identification requirement for first-time voters. First-time voters are individuals who register to vote by mail and have not voted in a federal election in Wisconsin. They are required to provide identification before voting. State and federal law permit the state to verify a voter's identity by matching the information on the voter registration form with existing state records using SVRS.

Elections Board

HAVA has provided funding to enable the State Elections Board to hire short-term employees to meet deadlines mandated by federal law. The 17 federally funded HAVA positions include three individuals on loan from the Department of Administration's Division of Enterprise Technology. HAVA funding was designed as an infrastructure investment. State and local government will have to add resources to maintain and operate SVRS once it is implemented.

Voter Registration Methods

Current Registration Requirements

The LAB notes that "On Election Day, individuals whose names appear on the registration list are presumed to meet all eligibility requirements and ... are neither required to provide identification or proof of residence nor to otherwise demonstrate eligibility." Wisconsin law permits any elector to challenge a voter's eligibility at the polling place. S. 6.92 et. seq., Wis. Stats., ElBd Chapter 9, Wis. Adm. Code.

Changing the Voter Registration Process

The LAB suggests the Legislature may wish to consider changes to address the concerns of local election officials and ensure consistent requirements statewide such as:

- adjusting the statutory registration deadline so that clerks have sufficient time both for verification and to ensure that all qualified electors who have registered are included in the voter registration lists distributed to the polls;

- increasing the oversight and training of special registration deputies, who may be short-term appointees working for voter registration drives or individuals who are appointed only to register voters at the polls on Election Day; and

- establishing uniform requirements for all registrants that reduce confusion without discouraging qualified electors from voting.

These are excellent suggestions. The Legislative Council's Special Committee on Election Law Review may include the recommendation for adjusting the statutory registration deadline

in its proposed legislation. The Report of the National Task Force on Election Law Reform established by the Election Center also includes this recommendation.

SVRS will enable the State Elections Board and municipal clerks to track the source of voter registration forms, which will increase oversight of special registration deputies. The State Elections Board can include specific training requirements for special registration deputies in administrative rules. In July 2004, the State Elections Board provided municipal clerks with direction on training special registration deputies and setting standards for their performance.

The establishment of uniform registration requirements will not only reduce confusion, but will also engender confidence in the registration process. However, it is important to balance voter registration requirements with concerns about erecting barriers to the exercise of the right to vote.

Concerns with Late Registration

Wisconsin law permits a voter to register in person at the office of the municipal clerk after the close of registration 13 days before the election. This is called "late registration."

The LAB suggests that closing registration more than 13 days before the election would allow municipal clerks more time to prepare voter registration lists. As indicated above, this proposal has significant support.

The LAB also suggests that another option for dealing with late registration concerns is to eliminate late registration altogether. One problem with eliminating late registration is that unregistered electors wishing to vote absentee in the clerk's office will not be able to cast an absentee ballot if they are unable to register in the clerk's office.

Improving Oversight and Training for Special Registration Deputies

The LAB recommends the State Elections Board promulgate administrative rules as required by S. 6.26 (3), Wis. Stats., that:

- specify procedures for appointing and revoking the appointments of special registration deputies; and

- establish training requirements and procedures to verify that all special registration deputies are properly instructed.

We support this recommendation. The State Elections Board has not promulgated rules in this area because before 2004 it was not a high enough priority to devote limited staff resources. When the requirement was enacted, the agency's primary focus was on the administration and enforcement of campaign finance requirements. Voter registration was not required in all municipalities and local election officials had not described any significant concerns with special registration deputies.

The increased activity of voter registration groups brought these issues into focus in 2004. In July 2004, the State Elections Board provided municipal clerks with direction on training

special registration deputies and setting standards for their performance. The agency workload in 2004 did not permit the translation of this direction into administrative rules.

This is now a priority of the staff and proposed rules can be integrated into the operation of SVRS. We have discussed the development of a standard curriculum for use by municipal clerks to train special registration deputies.

SVRS will be able to capture a unique number assigned to a special registration deputy. This will enable better tracking of registration forms submitted by special registration deputies.

The LAB suggests the Legislature may wish to consider changes that will reduce the likelihood that special registration deputies will submit duplicate, inaccurate or improper registration forms such as:

- prohibiting special registration deputies from being compensated based on the number of registration forms they submit;
- requiring municipal clerks to track the registration forms submitted by each special registration deputy; and
- requiring municipal clerks to maintain and make publicly available a list of special registration deputies.

These are also excellent suggestions. The Legislative Council's Special Committee on Election Law Review may include the recommendation for prohibiting special registration deputies from being compensated based on the number of registration forms they submit in its proposed legislation. The Report of the National Task Force on Election Law Reform established by the Election Center also includes this recommendation.

SVRS will enable municipal clerks to track the source of voter registration forms. SVRS will also be able to track all appointed special registration deputies. The information will be publicly accessible.

Establishing Uniform Voter Registration Requirements

The LAB suggests the Legislature may wish to consider:

- establishing uniform proof of residence requirements;
- clarifying the requirement in S. 6.36 (1), Wis. Stats., that municipal clerks track the method by which an individual registers to vote;
- repealing S. 6.55 (7)(b), Wis. Stats., which allows individuals registering to vote to type or hand-print address corrections on documents used as proof of residence; and
- amending S. 6.55 (7)(c), Wis. Stats., so that the list of documents allowable under state law is more clearly defined and is consistent with documents that are acceptable under federal law.

The HAVA identification requirement for first-time voters registering by mail added complexity and confusion to the voter registration process. Election Day registrants and late registrants are required to provide proof of residence as defined in S. 6.55 (7), Wis. Stats. First-time voters are required to provide identification. With respect to identification containing a picture of the voter, the federal requirement is broader than state law governing proof of residence because it does not require a current address. Federal law also expands the use of certain government documents beyond what is permissible for proof of residence by including bank statements, government checks, other government documents and paychecks that are current and contain the voter's full name and current address.

Amending state law to make proof of residence more consistent with the identification requirement for first-time voters would alleviate some confusion. The language permitting updating information by hand on proof of residence documents needs to be eliminated along with items from the statutory list of acceptable forms of proof of residence such as credit cards, library cards and credit plates which do not have addresses and do not qualify as acceptable proof of residence.

When Election Day registration was enacted in 1976, the State Elections Board was directed to adopt emergency rules defining acceptable proof of residence. These rules were incorporated into the statutes in their current form. An administrative rule may provide a more flexible vehicle for addressing these concerns. It is more difficult to change a statute when a form of identification becomes outdated.

SVRS will enable clerks to track the method by which a voter registers to vote. This is a mandatory field that must be entered along with the information on a voter registration form.

Address Verification Cards

The report documents the inconsistencies among municipalities with respect to the use of address verification cards. The LAB recommends the State Elections Board:

- specify procedures in administrative rule for sending address verification cards, validating returned cards, and forwarding questionable cards to district attorneys; and

- conduct post election reviews to ensure municipalities are sending cards consistently.

The State Elections Board recognized address verification cards as a place to leverage the benefits of SVRS. The State Elections Board plans to mail the verification cards to ensure that this follow up is done consistently. We expect that this will reduce costs for municipalities. SVRS will have the capability to record municipal clerk follow up on address verification.

The LAB also suggests the Legislature may wish to consider the following steps to ensure the accuracy of registration lists:

- require address verification cards be mailed to every individual who registers to vote unless the municipal clerk can verify the registrant has moved using other sources of information;

- establishing a deadline for mailing address verification cards; and

- giving municipal clerks more flexibility in the disposition of returned address verification cards by allowing municipal clerks to reconcile returned cards through other sources rather than turning them over to district attorneys.

The Legislature may want to consider requiring all voters to provide their birth date and driver's license number as part of the voting process in 2006. This will enable municipal clerk's to capture essential identification information for all registered voters which can be added to SVRS and ensure more accurate matching of voter records.

Keeping SVRS current and accurate will require using additional sources for reconciliation. Municipal clerks are an essential partner in this process. It is important to provide state and local election officials with more flexibility to utilize other sources to reconcile registration discrepancies.

Voter Registration Lists

Maintaining Voter Registration Lists

The report describes the current practices for maintaining voter registration lists and discusses the treatment of inactive voters, name and address changes, and duplicate records. SVRS will bring added efficiencies to this process because each voter will have a single record and the individuals identifying information can be matched with existing state records.

Ineligible Voters

The report also discusses deceased individuals, felons serving sentences and non-citizens. The LAB recommends the State Elections Board change the registration form so that registrants must certify that they are not currently serving a sentence, including probation or parole, for a felony conviction. The SVRS Team is already working on including this change in the design of the voter registration and absentee ballot application forms.

However, there are limitations to the information available from the Department of Corrections. The Department of Corrections does not track convicted felons who are sentenced to county facilities and it does not track federal felons. The State Elections Board plans to create manual processes to ensure that SVRS is notified of both federal felons and state felons serving in county jails.

The interface with State Vital Statistics will allow records of deceased electors to be marked as inactive.

The LAB suggests the State Elections Board consider obtaining federal data to assist municipal clerks in verifying citizenship. The recent focus on Homeland Security may improve the quality of federal data on citizenship. Until that data can be validated as robust and reliable, it is not a viable use of limited SVRS resources.

Improving Oversight of Voter Registration Lists

The LAB sets out a series of recommendations to prevent data entry errors and other inaccuracies. The LAB recommends that the State Elections Board, in cooperation with local election officials, promulgate administrative rules specifying procedures for:

- detecting and preventing common data entry errors, such as duplicate registration records and invalid birth dates;
- revising and updating voter information; and
- automating the identification of improper and illegal votes.

This is not a good use of the administrative rulemaking process. As part of the operation of SVRS, municipal clerks will be given a detailed set of business processes that describe the procedures for handling voter registration forms, entering information into the system and reviewing reports generated by SVRS that identify data entry errors and inconsistencies. These processes will change with more experience on the system. It would significantly reduce administrative flexibility if administrative rules had to be promulgated and amended to reflect changes in business processes. Training has already begun in our pilot county (Dane) on SVRS business processes.

The LAB recommends that the State Elections Board promulgate administrative rules to clarify the responsibilities of all local election officials in registering voters. As a part of the implementation of SVRS, local election officials are required to enter into a memorandum of understanding (MOU) that delineates the responsibilities of local election officials and the State Elections Board with respect to the use of SVRS. These MOUs establish the roles and responsibilities, along with the associated costs for performing various functions related to voter registration, absentee voting and election administration.

The LAB also suggests the Legislature may wish to consider enacting civil penalties for a local election official's failure to comply with election laws. This may be an unpopular means of ensuring administrative accountability. It is definitely worth considering adding a civil penalty component to the election fraud laws which apply to voters as well as election officials. This may provide a useful tool for district attorneys that ensures more enforcement of election law violations.

Future Considerations

Municipal Clerk Training

The LAB recommends the State Elections Board:

- develop a training curriculum for municipal clerks that explains their roles and responsibilities in elections, including voter registration requirements; and
- ensure municipal clerks have access to sufficient training opportunities, including Internet-based courses or courses offered through other organizations such as technical colleges or the University of Wisconsin System.

This recommendation is consistent with the State Elections Board's plans. As part of the SVRS implementation, local election officials will receive approximately 40 hours of business process, application and advanced application training. This training program has already been developed and is being refined through the SVRS pilot program. The business process training was conducted in Dane County in the first week of September and will continue throughout the state this fall. The business process training consists of six hours of in-person instruction.

The State Elections Board will need to dedicate personnel and resources to coordinating ongoing SVRS training as well as continuing training on election administration for local election officials. Once federal funding has been exhausted, the state will need to commit additional resources to this ongoing need.

Conclusion

As we indicated in our appearance before the Joint Legislative Audit Committee on February 9, 2005, the State Elections Board welcomes this audit. At the time, we believed it would provide a vivid picture of voter registration in Wisconsin before the implementation of the Statewide Voter Registration System. The LAB Report provides a valuable benchmark for evaluating the success of SVRS in 2006.

Respectfully submitted,

State Elections Board

Kevin J. Kennedy
Executive Director

Mr. NEY. Thank you. Ms. Robinson. I went down the order.

STATEMENT OF SHARON ROBINSON, CHAIR OF CITY OF MILWAUKEE ELECTION TASK FORCE

Ms. ROBINSON. Congressman Ney, Congresswoman Moore, and committee members, I am honored to be here today in my capacity as chair of the City of Milwaukee election task force and also remark on the topic of election reform.

The protection of voting rights is perhaps the most fundamental of all rights guaranteed by the U.S. Democratic form of government and implicit in that right is the right to have one's vote count and have an election process that guarantees the cleanest and fairest elections possible.

Both the 2000 and 2004 exposed the many challenges facing our election system. Major cities across America experienced unusually high voter turnouts, record numbers of absentee voters, and questions surrounding how the November 2004 election was conducted.

Like many other cities located in key battleground states, Milwaukee will continue to be a spotlight of national attention in presidential and gubernatorial years. I can assure you that Milwaukee's Mayor and our city workers are committed to improving our election system while honoring the great traditions of our state.

We should all take pride in knowing that Wisconsin has been one of the most progressive states in eliminating barriers to voting and maximizing voter participation.

In 2004, Wisconsin had the second highest voter turnout in the country, second to Minnesota. South Carolina on the other hand which has the most restrictive voting laws on the books, experienced the lowest turnout in the entire country.

Recognizing the needs to modernize Milwaukee's election system, Mayor Barrett formed the Milwaukee—City of Milwaukee Election Task Force. The Mayor charged the task force with proposing specific, practical changes to improve the city's election process in ways that would guarantee efficient elections and restore pride and confidence in our system.

As a result of our comprehensive review, the task force found imperfections with the city's election system and mistakes that occurred in the November, 2004, that were unacceptable. Most of the problems can be attributable to the sheer size of the election as well as staffing and training issues.

Under the capable leadership of election commission executive director Susan Edman, the city has already taken steps to document standard operating procedures, enhance training, and recruit more poll workers.

Poll workers do their jobs admirably and often under very difficult situations; however, the task force found tremendous potential for improvement in the recruitment, training, and development of poll workers.

When conducting a post-election review of the November 2004 election, the election commission found inspector statements that were not filled out accurately and completely. In addition, many election poll list vote totals were not reconciled to the machine recorded vote totals at the end of election day.

As a result of these inconsistencies, inaccuracies, and incomplete poll books and inspector statements, there were discrepancies between the total number of voters recorded and the total number of ballots cast.

These discrepancies have been the subject of intense media scrutiny, but contentions of fraud have been overblown.

The task force has not found any evidence to conclude that these mistakes were based on fraud or the willful neglect of any poll worker.

This find is consistent with the preliminary findings of the joint task force led by the U.S. Attorneys Office. A recent investigation by the Wisconsin legislative audit bureau also reflects similar findings. Last fall, over 200 felons did cast votes illegally. There was virtually nothing the city could have done to stop these citizens from voting who, by the way, ironically used their own names.

However, a major task force recommendation would discourage felons from casting votes by requiring municipalities to include a clear statement on voter registration cards explaining that felons on paper are prohibited from voting.

Another key recommendation calls for tighter controls for deputy registrars such as tracking their activity and banning pay based on a quota system.

Perhaps the most important message I want to convey today is the need to infuse more resources into elections.

If we really want to improve the way we conduct elections in this state, the solution is that management and adequate funds so cities don't have to continue trying to conduct elections on the cheap. Without adequate funding, we will get what we pay for.

As we continue to explore the topic of election administration in Wisconsin and ponder proposals for reform, I hope that everyone in this room will walk away with a spirit of bipartisan cooperation and a real willingness to work together to implement meaningful election reforms.

We all owe a tremendous debt of gratitude to the brave men and women who gave their lives for the cause of civil rights and the right to vote in this country.

So let's approach our work with honor and in recognition of their tremendous sacrifice. Thank you for the opportunity to testify.

[The statement of Ms. Robinson follows:]

Remarks by Sharon Robinson
U. S. House of Representatives - House Administration Committee Hearing
"Election Administration in Wisconsin and Proposals for Reform"
October 24, 2005

Chairman Ney, Congresswoman Moore and Committee members...I am honored to be here today in my capacity as Chair of the City of Milwaukee Election Task Force and offer remarks on "Election Administration in Wisconsin and Proposals for Reform."

The protection of voting rights is perhaps the most fundamental of all rights guaranteed by our U. S. democratic form of government. And implicit in that right is the right to have one's vote count and have an election process that guarantees the fairest and cleanest elections possible.

Both the 2000 and 2004 elections exposed the many challenges facing our election system. Major cities across America experienced unusually high voter turnouts, record numbers of absentee voters, and questions surrounding how the November 2004 election was conducted.

Like many other cities located in key battleground states, Milwaukee will continue to be a spotlight of national attention in presidential and gubernatorial election years. And I can assure you that Milwaukee's Mayor and our City workers are committed to improving elections while honoring the great traditions of our state.

We should all take pride in knowing that Wisconsin has been one of the most progressive states in eliminating barriers to voting and maximizing voter participation. In 2004, Wisconsin had the second highest voter turnout in the country (at 76.13 %), second to Minnesota (at 77.21 %). South Carolina, on the other hand, which has the most restrictive voting laws on the books, experienced the lowest turnout in the entire country (at 52.79%).

Recognizing the need to modernize Milwaukee's election system, Mayor Tom Barrett formed the City of Milwaukee Election Task Force following the November 2004 election. The Mayor charged the task force with proposing specific, practical changes to improve the City's election process in ways that would guarantee efficient, well-run elections and restore pride and confidence in the system.

As a result of our comprehensive review, the task force found imperfections with the City's election system and mistakes that occurred in November 2004 that were clearly unacceptable. Most of the problems can be attributed to the sheer size of the election as well as staffing and training issues. Under the very capable leadership of Election Commission Executive Director Susan Edman, the City is already taking steps to document standard operating procedures, enhance training and recruit more poll workers.

Poll workers do their jobs admirably and often under difficult situations. However, the task force found tremendous potential for improvement in the recruitment, training and development of poll workers.

EXHIBIT 8
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When conducting a post-election review of the November 2004 election, the Election Commission found Inspector's Statements that were not filled out accurately and completely. In addition, many election poll lists voter totals were not reconciled to the machine recorded vote totals at the end of Election Day. As a result of inconsistencies, inaccuracies and incomplete poll books and Inspector's Statements, there were discrepancies between the total number of voters recorded and the total number of ballots cast.

These discrepancies have been the subject of intense media scrutiny, but contentions of fraud have been overblown. The task force has not found any evidence to conclude that these mistakes were based on fraud or the willful neglect or intent of any poll worker. This finding is consistent with the preliminary findings of the Joint Task Force investigating possible fraud in Milwaukee led by the Milwaukee Police Department, Milwaukee County District Attorney's Office and U. S. Attorney's Office. A recent investigation by the Wisconsin Legislative Audit Bureau also reflects similar findings.

Last fall, over 200 felons did cast votes illegally. There was virtually nothing the City could have done to stop these felons from voting – who by the way ironically used their own names. However, a major task force recommendation would discourage felons from casting votes by requiring municipalities to include a clear statement on voter registration cards explaining that felons on probation or parole are prohibited from voting.

Another key recommendation calls for tighter controls for deputy registrars - such as tracking their activity and banning pay based on the number of registrants they engage. Prohibiting pay on a quota system would eliminate the incentive for deputy registrars to submit duplicate registration cards and cards that are incomplete and illegible.

Perhaps the most important message I want to convey today is the need to infuse more resources into election. If we really want to improve the way we conduct elections, the solution is better management and adequate funds so cities don't have to continue trying to conduct elections on the cheap. Without adequate funding, we will get what we pay for.

As we continue to explore the topic of election administration in Wisconsin and ponder proposals for reform, I hope that everyone in this room will walk away with a spirit of bipartisan cooperation and a real willingness to work together to implement meaningful election reforms. We owe a tremendous debt of gratitude to the brave men and women of this country who gave their lives for the cause of civil rights and the right to vote. So let's approach our work with honor and in recognition of their tremendous sacrifice.

Once again, thank you again for the opportunity to be here today. I would be happy to respond to any questions you may have.

Mr. NEY. Thank you. Ms. Edman.

STATEMENT OF SUSAN M. EDMAN, EXECUTIVE DIRECTOR OF CITY OF MILWAUKEE ELECTION COMMISSION

Ms. EDMAN. Good morning Chairman Ney, Congresswoman Moore, and committee members, as the newly appointed executive director of the City of Milwaukee's election commission, I would like to thank you for the opportunity to speak this morning on election reform. I believe it is highly advantageous to the process of initiating effective changes to Wisconsin election systems to include those individuals with direct involvement in elections.

I believe that it is these individuals that have the greatest capacity to determine what election administrative changes will improve the integrity and accuracy of future elections as well as maintain Wisconsin's long-standing commitment to fair, open, and accessible elections.

As election reform leaders, our work must be thoughtful, appropriate, and warranted. It cannot be impulsive, superficial, politically motivated, or enacted to distill a false sense of public confidence.

At this time there is unprecedented activity in the state of Wisconsin and across the country relative to election reform.

I am confident that administrative systems are being assessed in Wisconsin municipalities to ensure that systemic problem experienced in the 2004 election will not reoccur in future elections. Additionally, the bipartisan legislative committee on election reform has recently completed a two-year review of Wisconsin election laws and are in the process of compiling a legislative package that fully addressed the state's statutes that are outdated and applicable, and in some instances a hindrance to clean elections.

Completion of this work coupled with a comprehensive reform package will further Wisconsin's position as a state with clean, fair elections.

I am respectfully asking the members of this committee, Wisconsin legislators, and Governor Doyle to support the thorough and thoughtful work of the Milwaukee Election Task Force, the special committee on election law and the legislative council on election reform.

I ask for your support in allowing for the full implementation of the work of these three groups before proposing additional legislation.

Allow me to share with you a recent statistic regarding voter participation in the City of Milwaukee. There are an estimated 430,000 eligible voters in the City of Milwaukee.

Of that 430,000, 85 percent are registered with the election commission to vote. That number is significant and represents a voter dedication and parties participation far higher than many municipalities throughout the country.

Allegations of voter fraud during the 2004 presidential election warranted a comprehensive review of the city's election system as well as state statutes regarding elections.

The city is sincerely grateful to Sharon Robinson, the chair of the Election Task Force, as well as the other city government and community leaders that conducted that assessment and completed a

plan of action that is appropriate and one that will result in effective election reform measures.

You already heard Ms. Robinson speak to the opportunities for improvement that were identified through the work of the Milwaukee Election Task Force. I am here to assure you that the Milwaukee Election Commission has already made significant progress in implementing these recommendations.

We have begun the process of purging the Milwaukee's registered voters of over 40,000 inactive voters to ensure reliable poll lists.

We have promoted a system for processing absentee ballots that will allow the highest level of quality assurance.

We have restructured the staff of the Milwaukee Election Commission to establish greater levels of efficiency effectiveness, and accountability.

We have contributed to the full implementation of the statewide voter registration system that will greatly reduce voter registration database issues including duplicate registration, deceased voters, and voters that moved outside of the municipalities.

We have facilitated several poll worker feedback sessions in order to ensure that all—to establish standardized best practices for operating a polling places.

We have partnered with community groups and persons with disabilities in order to ensure that all eligible voters, regardless of a disability, can vote independently and privately in the City of Milwaukee.

We have initiated a split shift for poll workers to alleviate poll worker fatigue on busy election days.

We have fully revised our poll worker training program to expand the training from one hour to two hours and made participation in training mandatory. We are about to launch a poll worker recruitment campaign. Our hope is to recruit another 250 workers by spring election and another 500 additional poll workers prior to the fall election.

Mr. NEY. I would note your time has expired. If you would like you may summarize and enter the rest for the record.

Ms. ROBINSON. I would like to point out that the City of Milwaukee remains fiscally dedicated to clean, accurate, and accessible local elections at a time when significant reductions to the City's budget have become necessary.

It is equally important to note that while Wisconsin legislators are exploring election reform legislation, there has not been a meaningful discussion of appropriating state or federal funds to support improving election systems.

As we move ahead on election reform, we must ensure that our responses to the problems identified in the 2004 presidential election are again appropriate and warranted. Thank you.

Mr. NEY. Thank you very much.

[The statement of Ms. Edman follows:]

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U.S. House of Representatives - House Administration Committee Hearing
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October 24, 2005

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As election reform leaders, our work must be thoughtful, appropriate and warranted. It cannot be impulsive, superficial, politically motivated or enacted to instill a false sense of public confidence.

At this time, there is unprecedented activity in the State of Wisconsin and across the country relative to election reform. I am confident that administrative systems are being assessed in Wisconsin municipalities to ensure that the systemic problems experienced in the 2004 election will not re-occur in future elections. Additionally, the bipartisan Legislative Committee on Election Reform has recently completed a two-year review of Wisconsin election laws and are in the process of compiling a legislative package that fully addresses the state statutes that are outdated, inapplicable and, in some instances, a hindrance to clean elections. Completion of this work, coupled with a comprehensive election reform package, will further Wisconsin's position as a state with clean, fair elections.

I am respectfully asking members of this Committee, Wisconsin's legislature, and Governor Doyle, to support the thorough and thoughtful work of the Milwaukee Election Task Force, the Special Committee on Election Law Review and the Legislative Council on Election Reform. I ask for your support in allowing for the full implementation of the work of these three groups before proposing additional legislation.

Allow me to share with you a recent statistic regarding voter participation in the City of Milwaukee. There are an estimated 430,000 eligible voters in the City of Milwaukee. Of that 430,000, 85% are registered with the Election Commission to vote. That number is significant and represents a voter dedication and participation far higher than many municipalities throughout the country.

EXHIBIT 9
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Allegations of voter fraud during the 2004 Presidential Election warranted a comprehensive review of the City's election systems as well as the state statutes governing elections. The City is sincerely grateful to Sharon Robinson, Chair of the Election Task Force, as well as the other city government and community members that conducted that assessment and completed a plan of action that is appropriate and one that will result in effective election reform measures.

You have already heard Ms. Robinson speak to the opportunities for improvements that were identified through the work of the Milwaukee Election Task Force. I am here today to assure you that the Milwaukee Election Commission has already made significant progress in implementing these recommendations. We have:

- **Begun the process of purging Milwaukee's registered voters of over 40,000 inactive voters to ensure reliable poll lists.**
- **Promoted a system for processing of Absentee Ballots that will allow for the highest level of quality assurance.**
- **Restructured the staff of the Milwaukee Election Commission to establish greater levels of efficiency, effectiveness and accountability.**
- **Contributed to the full implementation of a Statewide Voter Registration System that will greatly reduce voter registration database issues, including duplicate registrations, deceased voters and voters who move outside of the municipality.**
- **Facilitated several poll worker feed back sessions in order to establish standardized best practices for operating a polling location.**
- **Partnered with community groups and persons with disabilities in order to ensure that all eligible voters, regardless of a disability, can vote independently and privately in the City of Milwaukee.**
- **Initiated a split shift option to alleviate poll worker fatigue on busy election days.**
- **Fully revised the poll worker training curriculum, expanded the training from one to two hours and made participation in the training mandatory.**
- **We are about to launch a poll worker recruitment campaign. We hope to recruit 250 new poll workers in time for the spring elections, and 500 additional poll workers prior to the fall election.**
- **We are working to create partnership opportunities for Milwaukee's private sector, particularly corporations, organizations and community groups, to support and participate in the production of elections.**

I am sharing these accomplishments with you so that you can understand what types of measures are in fact necessary to ensure future clean elections.

I would also like to point out that the City of Milwaukee remains fiscally dedicated to clean, accurate and accessible local elections at a time when significant reductions to the City's budget have become necessary. It is equally important to note that, while Wisconsin legislators are exploring election reform legislation, there has not been a meaningful discussion of appropriating state or federal funds to support improving election systems.

Having spent over 28 years as a law enforcement officer with the Milwaukee Police Department, I understand and appreciate allegations of voter fraud. I also understand that to solve problems, they must first be properly identified. The 2004 Presidential election resulted in unprecedented voter turnout that overburdened Milwaukee's election system and raised allegations of voter fraud. A May 10, 2005 preliminary findings report released by the Joint Election Fraud Task Force identified that the true problems in the 2004 election were not voter fraud, but were instead the result of numerous clerical and administrative irregularities.

As we move ahead on election reform, we must ensure that our responses to the problems identified in the 2004 Presidential Election are again, appropriate and warranted.

Board of Election Commissioners

Commissioners
Allen E. Campos
Robert F. Spindell, Jr.
Victoria L. Toliver
Executive Director
Susan M. Edman

October 26, 2005

The Honorable Robert W. Ney
Chairman
Committee on House Administration
U. S. House of Representatives
1309 Longworth House Office Building
Washington, D.C. 20515-6157

Dear Chairman Ney:

I am writing to provide clarification relative to my testimony on election administration before the Committee on House Administration on Monday, October 24, 2005 held at the United States Federal Building in Milwaukee, Wisconsin. There appears to be some misunderstanding about my position on Governor Jim Doyle's election reform package.

During my testimony, I recognized the work of the Special Committee on Election Law Review for drafting a comprehensive legislative package of election reform acts. I inadvertently forgot to mention the outstanding work of Governor Jim Doyle and questions were raised by two attendees about my position on the Governor's election reform package (AB 542 and SB 249). Therefore, I ask that you submit this letter into the hearing record to clarify my strong support for the Governor's proposed reforms.

Sincerely,

Susan M. Edman

Susan M. Edman
Executive Director

C: Congressman Vernon Ehlers
Congresswoman Gwen Moore
Congressman Mark Green

Room 501, City Hall, 200 East Wells Street, Milwaukee, Wisconsin 53202. Phone (414) 286-3491 Fax (414) 286-8445

Mr. NEY. The last witness is Ms. Nickolaus.

STATEMENT OF KATHY NICKOLAUS, WAUKESHA COUNTY CLERK

Ms. NICKOLAUS. Chairman Ney, members of the committee on House Administration, thank you for the opportunity to appear before you today to speak about election administration in Wisconsin and possible proposals for reform.

As the county clerk, one of my jobs is to protect and promote public trust and confidence by administering accurate and fair elections. I ask that you consider some changes and additions to current laws that would give me the tools to better serve my constituency as well as ensure fair elections. I will cover them in the next five minutes.

As you heard, the Carter-Baker Commission in September made some recommendations in a report on federal election reform, recommendation 2.5.1 was to require voters to use an ID to ensure the person on the poll list is the person voting.

You also heard mentioned that our state legislature has passed three bills requiring photo ID to ensure that integrity, but our Governor has vetoed them.

In a poll conducted at the beginning of this month by the Wisconsin policy research institute, Wisconsin residence were asked their opinions on photo ID requirement. Statewide the results were 69 percent in favor. My county, 93 percent surveyed favored the requirement, and in areas of the state such as the City of Milwaukee and the City of Madison, 60 percent were reported in favor. This is not a partisan issue.

During the trial in Milwaukee for a person accused of voting twice, the jury was hung. The district attorney from Waukesha County has been quoted as saying I know a person voted in Waukesha County and voted once in Milwaukee, but because I don't have written documentation of it, I can't move on it.

His investigation investigators were unable to prosecute other cases of people voting twice in the 2004 presidential election because there was not adequate proof according to the D.A.

Requiring a photo ID such as proposed by Congressman Green's Vote Act would rectify these situations. As an election administrator, it is difficult to answer the questions of a voter who calls after going to vote and found that someone has voted for her or someone notices his deceased wife has marked—was marked as having voted.

Also included in the Carter-Baker Commission report was a remark, and I quote, "uniformity and procedures of voter registration identification is essential to guarantee the free exercise of the vote by all U.S. Residents."

In Wisconsin we have same day registration with the ability to have someone vouch for residency. Let's take a look at a possible scenario. It is the presidential race and Wisconsin has same day registration with a residency requirement of 10 days.

If someone would like to change that outcome of the election by swinging Wisconsin votes towards one candidate, they could have people come from out of state, live in Wisconsin for 10 days, maybe work on the campaign.

This gives them the ability to vote in Wisconsin instead of the state in which they came from. They don't need documentation because they can ask the person that they are staying with to vouch for them.

State auditor Jan Mueller wrote that "current voter registration practices are not sufficient to ensure the accuracy of voter registration lists used by poll workers."

This is not a small number of people who register the same day on election. In Milwaukee alone in the city there were 77,000 people who voted at the polls and of the 77,000, 4,900 of them could not be verified as valid.

As a state by the Commission—as stated by the Commission's report, uniformity is essential. Residency for voting should be the same length of time no matter what state you live in and you should not have the ability to have someone vouch for you.

We know that voter verified paper audit trails were not required by the Help America Vote Act, but are being considered as a requirement in many states. As part of the legislative election reform committee, we discuss the inconsistencies in our state between counties.

According to selection line dot org, 15 states require the recount to be done on the paper ballot or on a paper trail instead of the electronic machines, but two states require a recount to be done on the election machines.

Either way, there are possibilities for failure again, but again the consistency throughout the United States would help electorate stop questioning why one state's election process is different from another.

In the legislative reform committee, we discuss training our poll workers. Currently only our chief inspector is required to go through training provided by the state. We believe that all poll workers should require some training.

When I speak to people, other election administrators outside of the state, their requirements for poll workers are either lacking like ours or required many hours of training.

A federal requirement would ensure excellence and competence in maintaining the highest level of accuracy of elections across the nation.

Mr. NEY. Your time has expired so if you like you may summarize.

Ms. NICKOLAUS. In closing, I want to reiterate that the problems we see in Wisconsin and elsewhere are urgent ones, they demand speedy and decisive action. Free and fair elections are a bedrock component of American democracy. Any diminishment of integrity our electoral process damages our democracy, undermines our people's faith in their government, and threatens our nation as a whole.

Thank you for coming to our part of the country.

Mr. NEY. Thank you very much.

[The statement of Ms. Nickolaus follows:]

Testimony of Kathy Nickolaus, CERA
Waukesha County Clerk
Before the Committee on House Administration
Election Administration and Proposals of Reforms
October 24, 2005

Chairman Ney, Members of the Committee on House Administration, thank you for the opportunity to appear before you today to speak about election administration in Wisconsin and possible proposals for reform.

As a county clerk, one of my jobs is to protect and promote public trust and confidence by administering accurate and fair elections, which reflect the intent of the electorate. I ask that you consider some changes and additions to current laws that would give me the tools to better serve my constituency, as well as ensure fair elections.

The Carter-Baker Commission in September made some recommendations in its report on federal election reforms. Recommendation 2.5.1 was to require voters to use ID cards to ensure the person on the poll list is the person requesting to vote by that name. Currently our state Legislature has passed bills to require a photo ID to help ensure the integrity of the poll list, but our Governor has vetoed them all. In a poll conducted at the beginning of this month, by the Wisconsin Policy Research Institute, Wisconsin's residents were asked their opinions on a photo ID requirement. Statewide, the results were 69% in favor. In my county, 93% surveyed favored the requirement, and in areas of the state such as the Cities of Madison and Milwaukee, both recorded 60% in favor. This is not a partisan issue. During a trial in Milwaukee for a person accused of voting twice, the jury was hung. The District Attorney from Waukesha County has been quoted as saying "I know a person voted once in Waukesha and once in Milwaukee, but because we don't have written documentation of it, we can't move on it." His investigators were unable to prosecute many other cases of people voting twice in the 2004 presidential election because there was not adequate proof according to the DA. Requiring a photo ID such as proposed by Congressman Green's VOTE Act would rectify these situations. As an election administrator, it is difficult to answer the questions of a distraught voter, who calls after going to vote and has found that someone has voted for her - or someone notices his deceased wife was marked as having voted.

Also included in the Carter-Baker Commission report has the remark, and I quote, " Uniformity in procedures for voter registration and identification is essential to guarantee the free exercise of the vote by all US citizens." In Wisconsin, we have same-day registration with the ability to have someone vouch for your residency. Let's take a look at a possible scenario with our system. It is a presidential race and Wisconsin has same-day registration and a residency requirement of ten days. If someone would want to change the outcome of the election by swinging Wisconsin votes toward one candidate, they could have people from out of state come and live here to help on a campaign for at least ten days. This gives them the ability to vote in Wisconsin instead of the state in which they live. They don't need documentation to prove they live here because the person they are staying with will vouch for them. State Auditor Jan Mueller wrote that "current voter registration practices are not sufficient to ensure the accuracy of voter registration lists used by poll workers" in Wisconsin. This is not a small number of people who register on the day of

EXHIBIT 10
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the election. In Milwaukee there were 77,000 people who registered at the polls and of the 77, 000 new registrations, 4,900 of them could not be verified as valid. As stated by the commission's report, uniformity is essential. Residency for voting should be the same length of time no matter what state you live in and you should not have the ability to have someone vouch for you. I would like you to consider requiring a photo ID for all registrations.

Absentee balloting is used nationwide, but again the rules are different in each state. The days to request, how the request is made and how to determine the ballot is valid vary widely. In Wisconsin we don't require a match of signatures on our absentee ballots or a notary to validate a signature on the ballot. We don't know if the person who cast the ballot and signed is the person to whom the ballot was sent. Authorizing the Election Assistance Commission to establish standards would again create consistency nationwide.

In Wisconsin, our state elections director announced that our state is not likely to meet the deadline requirements of the Help America Vote Act. Wisconsin has been in the process of development, but has fallen short of making the necessary links with the Department of Corrections and the Department of Motor Vehicles and the statewide voter registration system. We are also behind in the requirement for new electronic voting equipment that allows the disabled voter to vote unassisted. We are waiting for the vendor's machines and systems to go through the federal certification before we can certify at the state level. The idea that we could purchase and have delivered all the machines needed for Wisconsin by January 1st is not looking like it will be possible.

I would like you to consider waiving the HAVA deadlines for states such as Wisconsin that have shown a good faith effort towards compliance and request that you allow for an additional six months to comply without penalty or loss of funding, as long as compliance is completed prior to any federal elections. I agree that it is important to give everyone the right to vote independently, but we should also have the ability to make fiscally sound decisions, Without a clear understanding of penalties it makes decisions for the future difficult.

We know that Voter Verified paper audit trails (VVPAT) were not required by the Help America Vote Act, but are being considered as a requirement in many states. Watching the recount done in Florida after the 2000 election, I wondered how such a recount would be done in Wisconsin and as part of the Legislative Election Reform Committee we discussed those inconsistencies within our state between counties. I think VVPAT would be a wise decision to assist us in handling the federal recount. According to Electionline.org, 15 states require the recount to be done on the paper trail and not the electronic machines, two require the recount to be done using the electronic machine. Either way there are possibilities for failure, but again, the consistency throughout the United States would help the electorate stop questioning why elections are run so differently in each state.

In the Legislative reform committee we discussed training all of our poll workers. Currently, only the chief inspector, (the person in charge of the polling place) is required to go through training provided by the state. We agree that all poll workers should be required to have training. When I speak with other states, their requirements for poll workers are either lacking like ours or

require many hours of training. A federal requirement would ensure excellence and competency in maintaining the highest level of accuracy of elections across the nation.

In closing, Mr. Chairman, I want to reiterate my staunch belief that the problems we've seen in Wisconsin and elsewhere are urgent ones that demand speedy and decisive action. Free and fair elections are a bedrock component of the American democracy our founders envisioned. Any diminishment of the integrity of our electoral process damages our democracy, undermines our people's faith in their government, and threatens our nation as a whole. I thank the committee for coming to our part of the country to examine the many problems we've faced here, and I encourage you and your colleagues to take whatever action is needed to address these vitally important issues.

Mr. NEY. In drafting the Help America Vote Act, we were very careful to do a few things. One, the EAC that was established which is two and two, Democratic, Republican has no rule-making ability. I did not want to create the EPA of elections where you get a new rule and regulation every week and then they say. "Well, the authors of the bill, did you mean this, no? Well we are going to do that any way." I did not want the federal bureaucracy to run your elections here in Milwaukee or in Utah or Ohio or anywhere in the nation. So we kind of had a balance between trying to do things we thought were standard without federalizing the elections.

I was a large believer and still believe today that the blind have the right to vote in secrecy. The Help America Vote Act, for the first time in people's lives, allows the blind to vote in secrecy.

Now, you do have some complications and that's what I wanted to ask you when you got the paper ballots. As of 2006, how do you intend to have the one precinct equipped for people who have a form of a disability.

Mr. KENNEDY. We have set aside $18 million of our Help America Vote Act Title II money which is roughly $6,000 for each polling place in the state to acquire a piece of equipment that will enable an individual with disabilities to vote privately and independently. The challenge of that is of course we put the equipment in there, the poll workers will have to be trained on that, the municipality will be responsible for the programming and the cost may be shared.

The ongoing costs are going to be a real challenge and some of those places we are dealing with individuals who are complete municipality where this equipment—anyone may be able to use it. There may be no one who really benefits from it from that advantage and that's the push back that I get from the locals is we have not had to deal with this.

We explain the law to them, we are prepared to deal with it. We tested the equipment. We have got two vendors that finally got through our process in Wisconsin. We don't just let any vendor walk in and sell, they have to go through the process of qualifying standards, voluntary standards that have been established in the new ones.

We have gone through two vendors now that we will be recommending to the board for that and will be prepared. My sense is it that for the April elections, every polling place will be in the position to have that. We have put a condition on that though that we will not give that $6,000 for reimbursement unless the polling place is physically accessible and we have surveyed all of the polling places, of the 2800 polling places, a 1,000 that may still need some changes.

Mr. NEY. That was the one requirement we had. When it came to a person who had some form of a disability, we use the blind as an example, but there are height issues, there is access, wheelchairs, there is a lot of different considerations.

But the one requirement was that one polling place—some people argue. "Well, a small area where we only have 300 voters, we have no one that is blind"—well, you might have somebody that moves into the community that is blind or has some type of access issues, or is in a wheelchair. That was the one thing we did.

Now, this is the first federal money in the history of the United States through the Help America Vote Act, Partisan Hoyer and I pushed quite heavily and worked with the leader Dick Gephardt and now Leader Pelosi and Speaker Hastert and we reached the three billion mark. We have about $900 million more so this is not an unfunded mandate.

We are pretty intent on trying to get that money from the federal government, but we always do work with groups across the country, advocacy groups, that would never pay a dime for that. We do—what we do that.

But I was curious to see how you would meet that one requirement.

I just want to ask very quickly what is your reaction to the joint task force finding that there were 4500 more ballots cast than individuals recorded as having voted in the city of Milwaukee?

Mr. KENNEDY. If I could address that first I would like that opportunity.

I have been working as Wisconsin's chief election officer for 23 years, and I think the disparity quite frankly is poll workers' record keeping issues. There is no question that we are able to document certain individuals should not have been able to vote, but that is not the record keeping issue. The felons voting more than once.

But in Milwaukee we have situations where we issue a number as the voter comes in, gives their name on that, but we also for election day registration are processing them through a separate line. We have noticed poll workers are sometimes not sharing that numbering system, we have noticed that absentee ballots which we process, a number may not be assigned to that, and we had a unique situation in this election in Milwaukee because the voter registration system that they use was antiquated, the staff was not prepared, and this is going to change. I am—I have every confidence.

Mr. NEY. So what you are saying is the 4500 were live human beings? They were not recorded, is that what you are saying?

Mr. KENNEDY. Not properly recorded and did not go through the process we have in state law to reconcile that and the county did not go through the secondary review process.

There is no reason why the Milwaukee Journal Sentinel should have discovered this two weeks after the election. It should have been caught at the polling place on election night. It should have been corrected there. We have processes for doing that or should have been caught in the Milwaukee County board of election commissioner's office.

Mr. NEY. I will listen to anyone else who has something to say on this issue, I think your answer: obviously it is 4,500 extra votes being dumped in there—that you don't know what happened. And the study the newspaper released caused quite a debate.

What you are saying is that it was "record" keeping at the local level, they did vote; it was just not marked down.

But the thing that I noted, too, preliminary findings of joint task force possible election fraud and this is an interesting thing for the future based on the investigation to date, the task force has found

wide-spread record keeping failures and separate areas of voter fraud which could have been the one felon.

This is an interesting statement on the task force. These findings impact each other. Simply put, it is hard to prove a bank embezzlement if the bank cannot tell how much money was there in the first place. Without accurate records, the task force will have difficulty proving criminal conduct beyond a reasonable doubt in a court of law. With that caveat, the task force has made the following specific determinations.

So what they are saying is fraud, but you don't know if—in the first place you don't have the same page information to work off of.

Mr. KENNEDY. I think you are right. That record keeping would have illustrated the problems we had were limited to a handful of felons, a handful of individuals who the process quite frankly can't catch at this point without narrow investigation, and it is one of our responsibility of election officials right up to our office to make sure that the record keeping is adhered to because that is what is designed to install confidence for the public and the courts.

Mr. NEY. Would Milwaukee election officials like to comment on the future of this.

Ms. ROBINSON. Sure. I want to point out to the members of this committee that I served as the executive director of the Election Committee on an interim basis and during my tenure there, I actually after the spring election worked side by side with my counterpart at the county, Janice Dunn, and we scrutinized very closely the spring election and in fact we found similar problems that occurred in the spring election with discrepancies in voter counts versus ballots cast even though that was a very small election.

And what I want to point out is what a consistent problem among the wards was the voter pink slip. We found that poll workers forgot to tear off the pink slip so therefore they used the same voter number twice.

Mr. NEY. I am sorry. What is——

Ms. ROBINSON. There is a pink slip that says number 1. So in many instances even though this was an extremely small election, I had like for instance a polling site that 202 voters where a poll worker used the duplicate voting number twice. They forgot to tear that pink slip off.

So basically what I am trying to point out is if you look at the spring election, we were careful in calling these poll workers, looking at every single vote, every single polling site, but there was discrepancies and imbalances.

So it did demonstrate the need that we have some serious problems with poll worker training.

But if you look at the discrepancies that occurred in the spring of 2004 versus November and looked at the proportions, similar error rates like the error rates actually were not that high when you looked at the—the total number of votes, so the error rates were way less than like 2 or 3 percent, but basically I am just trying to say that we have problems with poll worker training and we definitely are committed to enhancing our training and also want to point out that I am—I abhor any instance of fraud. I think it is horrible. But the real problems that occurred in November, 2004,

and in the spring election again a lot of it was attributed to administrative error and errors that definitely need to be fixed.

Mr. NEY. I want to keep on time. We have another panel, so I just wanted to ask one brief question.

With the Help America Vote Act, we gave flexibility and I think it is important for training poll workers, and poll workers are great background. Carson Hoyer started a college program, I started a high school program to get young people involved in the election process to help at the polls.

How did you distribute that, or is HAVA monies for voter education being concluded? Each state does it a little bit differently. Were you able to do that so you have the flexibility to use the money for poll worker education.

Mr. KENNEDY. Basically the state is controlling all of the money, almost all of the money under the Help America Vote Act. As I said, we set aside 18 million for the statewide voter—accessible voting equipment. The bulk of the money was set aside for the statewide voter registration system because saw on the map, we are building from the ground up with 1500 municipalities that did not have voter registration or any kind of system.

The state has taken the lead in terms of training election officials. Our state legislature actually requires the chief election inspector to go through a series of training, they set aside small amount of money with the Help America Vote Act, money came through. We took that over as a result of that.

Prior to the 2004 election 8,000 poll workers and municipal and deputy clerks were trained through the basic training program. They are in the process. And we have an administrative rule that requires the chief election inspector, the person in charge of the polling place, to have six hours of training.

Mr. NEY. And the state—the Help America Vote Act goes through the state and it went down through to poll workers.

Mr. KENNEDY. Well, the state provides the training for the poll workers.

Mr. NEY. So the state is paying for education.

Mr. KENNEDY. The state is paying for it.

Mr. NEY. California did it in a unique way; there were problems with it.

Mr. KENNEDY. That's right. Training the state.

Mr. NEY. Training other people. So each state, I have not—this is one issue I have not heard a lot of complaints except after the California controversy how they used the money. We never told the states how to use the money but we surely intended it for poll worker education and voter education, so you have things to put up at the polls to tell people their rights, provisional balloting for example.

We would have people that are told, "Oh, no, you already voted." This happened in Ohio. And the young man was smart enough to say, "I don't care. I want that ballot. Give it to me."

And he got the ballot and showed there was improper voting in his name. That's also part of the voting education process of the voter knowing their rights and being educated.

So through HAVA, those monies have come down to the local——

Mr. KENNEDY. Money has not been distributed to the locals. It has been handled by the state.

Mr. NEY. Do you have access to it?

Mr. KENNEDY. The locals do not have access to it in that sense. The state takes the lead on that, and that was done quite frankly, we have so many municipalities. To develop a formula how to treat it, you end up—we get a bigger bang for the buck if the state is handling it.

Mr. NEY. That is the last question, if you have a response.

Ms. ROBINSON. No.

Mr. NEY. Thank you.

Ms. MOORE. Thank you, Mr. Chair. This is very informative. This has been a great panel. The worker bees panel, people who get into the nuts and bolts of election.

It is nice to see all of you again. Mr. Kennedy and Ms. Robinson, Edman and Nickolaus.

I guess the first thing that I guess I want to sort of just congratulate all of you for really getting down to the nitty-gritty, participating on all the task force and really trying to come up with good solutions.

I want to commend you for taking ownership for the administrative errors and problems and not try to figure out who to blame it on, but really confirming that there just are some problems with elections, administration, and I am hearing you as a member of Congress that you need the adequate resources in order to be able to do your jobs and to do them well.

I was really happy to hear Mr. Kennedy in particular clear up the mysterious 7,000, 4600, 4900 votes that we hear about. They were largely due to administrative errors.

Ms. Robinson in talking about how the poll workers did not place the appropriate numbers on there, but these were actual people who actually had a right to vote.

But there were administrative errors.

I guess my question for all of the panel is—are a couple of things.

First of all, how would—it doesn't seem that anyone except for Ms. Nickolaus thinks having a voter ID would have cleared up any of the—the problems that we faced on election day, that having a voter ID would have solved those problems.

So I am asking you all again what your reaction is to the requirement for having a voter ID, and I want it in the context of the numbers of people, particularly in the City of Milwaukee, who would be disenfranchised were it for such a requirement.

I have mentioned earlier those data that indicates that there is a huge disparity between people of color, young people, the elderly, who have photo IDs and those who do not.

And also I want to ask you all about absentee ballots. About a quarter of the problems that were found were related to absentee balloting, and how would photo IDs and the requirement for photo IDs fit in with absentee ballot.

I can have you all go down the line. First question is all of these administrative errors that were found, would photo IDs have kept these errors from occurring.

Ms. ROBINSON. Well, I—again, I was the chair of the City of Milwaukee Election task force and the administrative errors that we talked about with regard to discrepancies and vote total versus ballots cast, a photo ID would not have addressed that problem. Again, that was an administrative error problem.

Even if you look at the issue with the felons that voted illegally, again, I think anyone who voted illegally you need to investigate that, but those people used their name.

So I am not even convinced that a photo ID would have helped in that regard because photo IDs don't even note that a individual is a felon anyway.

Ms. MOORE. Or if they are a citizen or if they moved six times.

Ms. ROBINSON. Right.

Ms. MOORE. The last time they voted.

Ms. ROBINSON. How many people might be disenfranchised in Milwaukee, we did have discussions among the task force about the whole issue of disenfranchisement and Milwaukee is probably a lot different than some of the districts of some of the other members of the congressional panel so there is a concern in Milwaukee about disenfranchising voters.

For instance, Senator Colon actually pointed out some statistics about how many Hispanics don't have photo IDs which was really high, how many African-Americans, how many women, so my concern is again that I think fraud is horrible, but I don't necessarily think it is wise to institute a policy whereby basically you are punishing the innocent for the crimes of the guilty, and there were not many guilty people that we found to have committed fraud in Milwaukee on election day.

Ms. MOORE. Ms. Nickolaus, with your permission.

Ms. NICKOLAUS. When I was referring to voter ID being able to help, I was not stating that all of the problems that we had in Wisconsin elections would be rectified by showing a photo ID. I was stating that there are some that would be rectified.

The idea that somebody is voting in your place, somebody that voted for someone deceased. It is also—a voter ID or photo ID would also help a poll worker that when some of them are having trouble hearing, if I say Nickolaus, they might be looking down the list and pick up Nicholas in a different area. Because we spell our names a little differently, looking at the photo ID, they can—they have something in front of them to match the name up. That's another area that would help.

Ms. MOORE. So I am Mary Smith and there are zillions of Mary Smiths. I present you with a photo ID. Does that tell you anything? When you consider the scale, the hundreds the 275,000 people that could be disenfranchised in the state, do you think it is worth it for that poll worker to have Mary Smith's driver's license in front of you which doesn't tell you whether she is a citizen, doesn't tell you whether she has voted in her home state of Ohio, doesn't tell you anything except that she has passed the driver's test.

Ms. NICKOLAUS. I think what it will help to be able to prosecute. I quoted the district attorney stating that if—if a person were to vote in one place and vote in another place because they didn't have to prove who they were, it could have been two different people who voted for me saying that——

Ms. MOORE. I don't want to be argumentative, but I want to point out that we—we would be able to prosecute one person more efficiently, but on balance, there is 275,000 people in the state that don't have a photo ID, and that's the point I am trying to make. Thank you very much.

Mr. NEY. Time has expired. Mr. Ehlers.

Mr. EHLERS. Thank you Mr. Chairman.

Ms. EDMAN. I would like to respond to the Congresswoman Moore if I could.

Mr. NEY. We have exceeded the time, so respond, but stop Mr. Ehlers' time with the clock.

Ms. EDMAN. I recently retired from the Milwaukee Police Department after twenty-eight years. We have seven police districts, three shifts at each district. Each shift does things differently, so we have 21 ways of doing things.

They do things differently because of personalities, people like to do things differently.

In the City of Milwaukee we have 202 polling sites. If you divide that into the 4,900 votes that we are concerned about, that's 24 votes per polling site.

Some of our poll workers have very strong personalities and they like to do things their way. That created a lot of the problems that we had in the 2004 election. In future elections, they will have to follow the procedures in place because we won't accept anything less than that.

Mr. NEY. Mr. Ehlers.

Mr. EHLERS. Perhaps you should hire ex-military people who know how to follow rules.

Just a quick question for Mr. Kennedy. Did I understand you correctly that in yellow areas, there is no voter registration of any sort.

Mr. KENNEDY. That's correct. Since the state was created in 1848, there has been no voter registration in those municipalities. They are all populations of less than 5,000. Very similar to North Dakota. You walk into the polling place, they either know you or recognize you.

If they don't, they may ask questions, and they are required to ask for identification if they don't.

Mr. EHLERS. I am surprised to hear that in a state as advanced as Wisconsin.

Mr. KENNEDY. I think that's one of the unique factors as we implement voter registration and talk about the uniformity issues identified through the various studies.

Mr. EHLERS. Ms. Robinson, your comment about civil rights, we have all worked hard for and certainly one of the civil rights is every citizen has the right to vote, but the other part that we worry about in the Congress is not only that every single person has the right to vote but to have the assurance that no one else is voting improperly or illegally, which is a civil right as well, and that their vote not be diluted by that.

And I just wanted to get that on the record because I think that is equally important.

I am still troubled, a lot has been made by the voter ID. Wisconsin has to sort that out. If you are really worried about verifying

or the difficulty getting people to get voter ID, it would be simple to set up now that we have electronic cameras, set them up in the voting place and take a picture of everyone who comes in to vote along with the address that they have given and so forth. At least you have a record then. If you don't want to do it before then.

You can certainly have a record and also use that to create a voter ID card which you can hand to people on the way out.

I happen to be a physicist. I could design and build that system very simply and very cheaply if you really want to.

That doesn't take care of absentees, but it solves the problems that we have been talking about here.

I am not as worried about that, and I am not as worried about the felons voting. I am very worried about the 7,000 votes greater than the number of people who were signed in as voting and another 1,300 or some people who have created similar problem.

I am worried about the number of cards that were not mailed which the law says have to be mailed after someone has registered same day registration, and cards were filled out with addresses that don't even exist, 1300 of them. That's a lot.

I am worried about the return cards that were sent back with no such address. 3,600. Don't worry about the felons, that's only 98 or whatever. 3,600 people voted and gave an address which doesn't exist, and I am worried about the fact that 3,600 were not turned over to the D.A.

I am also worried that many of those turned over to the D.A. have not been acted upon. I understand it is an overwhelming task, and I am not here to criticize Milwaukee or Wisconsin or anything, but at the politest rule I can think it is extremely sloppy work, and I don't think you are going to solve those problems without some very firm steps on how you operate the elections.

I don't really have a question, but I certainly would be happy to answer any comments you have.

Mr. KENNEDY. I would have one comment to that. I think you indicated it is very sloppy work and I think Ms. Edman made the comment it is not going to be tolerated, and I think she comes from a background send a message in Milwaukee and it is important as election officials to send a message that we are the ones that are responsible for people's comfort level in the integrity of the process, and that means that we need to be sticklers for detail when it comes to that and I think that is an important message that has to come and it comes from our local election officials and it comes from the state election officials.

Mr. EHLERS. I suggest you carry your weapon or sidearm. Mr. Kennedy, just a quick question for you. I started to read between the lines of your testimony and I get the impression that the Wisconsin state election board and you as executive director don't have a great deal of authority or have not been given great authority under the constitution and law to deal with enforcing the restrictions on the Help America Vote amendment. Am I misreading you or is that part of the problem?

Mr. KENNEDY. We have the authority to order election officials to conform with law. We have the authority to train them on what the legal requirements are. We don't—we have civil enforcement

authority for campaign finance which we have been doing for 30 years but we do not have any civil enforcement authority.

We do rely quite heavily on the moral suasion at our office, and we quite frankly rely on the fact that we have a very dedicated group of local election officials who by far are committed to that and they come to our presentation and they come to us with suggestions.

Our county clerks don't have direct responsibility for administering license, but they are ears in the process by and far. That is one of the reasons why Ms. Nicholaus is here.

And I think people definitely can take some confidence that Milwaukee is going to have a much tighter ship based on my experience working with the folks that are there now.

Mr. EHLERS. It is not just the city. I understand the county canvas did not even look over the results. Do you have enforcement authority over the counties?

Mr. KENNEDY. The only enforcement authority we have would be we can order them to conform to the conduct of law. In terms of punishment, we don't have much in terms of that.

I think the action that led to the county looking at that publicly described event when the county revealed in the special committee that they did not do that activity for the city. They did it for everybody else and not the city and they could not explain it and they promptly changed their behavior as a result of that when I raised a question why they have not set a hearing on it.

Mr. EHLERS. Well, maybe we need Mr. Green's law after all.

Ms. ROBINSON. I wanted to submit the official report of the election task force for the record and I appreciate your concerns and we are taking those seriously.

In fact, every concern you raised is noted in this report, and we have had numerous recommendations for reforming our processes and practices at both the administrative and legislative level. For the record, I want to put this on the record it reflects we are serious about all those issues.

Mr. EHLERS. Let me just make clear, I am not criticizing any one of you. You did not have the responsibility in this one, but I just wanted to give you my point of view on that.

Mr. NEY. Mr. Green.

Mr. GREEN. Thank you. And Ms. Robinson, I think—what you are hearing—I think—Milwaukee is a great city this is a great state and we do have great progressive traditions. I think part of the concern is if it can happen in Milwaukee, it can happen anywhere in the country. That's why you hear such a focus on Milwaukee obviously with the history of the elections being so close as well.

Mr. Chairman, I want to apologize in advance, as you know, I have a prior commitment and may not be able to stay for the questions for the third panel.

As a result I would like to return one more time to the issue of photo ID. Obviously in many ways, it is the most controversial part of our discussion today.

Remind folks nearly 70 percent of the people in state, statewide, all parts of the state favor a photo ID requirement including 60

percent right here in the City of Milwaukee and 60 percent in the City of Madison.

So there is widespread for this because I think people do see it as the first step in returning some faith to the election process.

Now Ms. Nicholaus, in your written testimony you made some reference to one of the reasons for photo ID requirement. You said as an ex-election administrator it was difficult to answer the questions of a distraught voter who calls after going to vote and has found that someone has voted for her or someone notices his deceased wife was marked as having voted.

Those are the obvious concrete ways, but it would seem to me it is more than that, and Ms. Robinson made a reference a few moments ago about concerns over changes that might punish the innocent. But Ms. Nicholaus, aren't you concerned when people read stories of others having voted that are not legally entitled to vote, don't you think that they're concerned their vote gets canceled out. So election fraud, election irregularities whether or not they arise to the level of fraud or the level of being prosecuted, any time someone votes who should not have voted, they have wiped out the vote of an innocent person, an innocent voter somewhere else.

Isn't that the real reason it is so supported in your council?

Ms. NICKOLAUS. Sure.

Mr. GREEN. It seems to me when we talk about the rights of the innocent which we should, which should be our paramount concern, we have to be concerned about the rights of that innocent voter who does everything that we have asked he or she to do, goes to the polls fully believing that his or her vote is going to count, that they are making a difference in election, and then they go home and read of felons illegally voting, other people illegally voting, and then they say gee, I stood in line for a hour, I went to the effort, I am trying to support in democracy, I guess my vote doesn't count because so and so voted who shouldn't have voted.

So it seems to me as we talk about the innocent here, we also have to remember the innocent voter who gets frustrated with the process because they read their vote has been canceled out who is not innocent.

Ms. Edman, I think that we are all optimistic about what will happen in Milwaukee in the years ahead as Milwaukee tries to make changes to improve what we have all seen. Let me ask you this real quickly.

You are fairly new on the scene in this process of election administration. What was your biggest surprise when you stepped into your appointed post of out of what you found in the current situation in Milwaukee with the elections?

Ms. EDMAN. I think the amount of paperwork involved in the elections, the massive registration—number of registration cards and the—just the amount of work that is involved. People don't understand. They don't have a clue until they have experienced it.

Mr. GREEN. In the Vote Act, and again obviously we are all focussing on the photo ID requirement, one of the things I would commend to you and everyone here, I agree with you in terms of the paperwork challenges and the administrative challenges and the challenges for poll workers to implement the requirements.

We worked hard to make sure that there is federal grant money available and we require the training of poll workers and require helping out states to administer the training of poll workers.

Having these record high turnouts is a great thing, but obviously it puts a strain on the system and I think we recognize that so we are trying to take steps to make sure the funds are available in the future. Some would argue that it is not a federal issue. Those days are gone.

Obviously people in Minnesota have to care about what goes on in Wisconsin because the future of the presidency may be in doubt.

So I think you will see that Members of Congress on both sides of the aisle will do everything we can to make sure that training does take place and that we step up to the plate to try to make some of the funds available because it is a real challenge. We recognize that.

Mr. NEY. And I would note for Mr. Green, and I realize he has another commitment, the third panel at the end of this hearing, we will request the member to keep open the record for 30 days so we can ask questions or insert additional materials.

Mr. GREEN. Thank you.

Mr. NEY. I am now going to go on to the third panel, but I wanted to point out that the Milwaukee Journal Sentinel recently reported that 3,600 verification cards were returned as undeliverable . . . these are cards sent to verify same day registrations and 1,300 could not be sent at all. This is not the "over vote" we spoke about earlier today, but 4,900 ballots that we learned could not be verified after they were already counted.

I will follow up with a question on that. I just want to conclude by saying I think it is productive for us.

We get questioned all the time about the Help America Vote Act. Should we do more? Should we mandate the paper trail? Should we mandate photo ID? I think the Carter-Baker Commission, something we talked about today, is helpful and I think you can see from the tone of Mr. Green's request to come here that it is helpful to have member participation. As we look down the road of elections, we don't want to federalize them, but we do have to have some type of standardization on certain issues.

But at the end of the day, my state and your great state, whatever state in this nation, there are certain things that the federal government isn't able to solve.

If there were lines, should the Congress say, "Well, in precinct B in Belmont County, Ohio, you are to put in three more machines, but in Milwaukee, precinct 4, you need to take away a machine." I don't think we can do that.

A lot of the information we learn in these elections is helpful, and some of the problems will be solved at the local level, but again, some of it will be solved with the federal government, and has to be addressed by the federal government.

And in situations like the last two elections, if these were blow out elections and were not close, we would all be sitting here talking about things in the country. But it was productive having the close elections to look at our whole election system, even with flaws and mistakes here.

Ms. MOORE. Mr. Chairman, I do think the issue that you just raised really deserves a quick response. You talked about the 3600 undeliverables. I think a lot of that has to do with the—the class or status of the mail and perhaps they can answer.

For example, if it is Layton Street instead of Layton Boulevard, that would be undeliverable.

If you give an address of an apartment building and you don't put apartment 306 on it, that will be undeliverable.

Am I wrong about that.

Mr. NEY. I want to move on with the third panel. I will put it in writing. I am going to put it in writing. If you would like to put that——

Ms. MOORE. It deserves an answer.

Mr. KENNEDY. My quick comment is legislative counsel made it one of its recommendations that poll workers ensure that the election day registration forms are legible and that is an issue. They have to provide identification that——

Mr. NEY. Don't ask me to fill one out.

Mr. KENNEDY. This is the poll worker's responsibility. Election they have to provide identification and opportunity to match the information with that.

And that's again something where from my observations I don't think we have spent the attention to detail that needs to be done at the polling place and that may require more workers.

Mr. NEY. Again, I don't want to take away the third panel's time. In small areas, small towns where you are dealing with 300 people, people know where each other are from, who they are, who your dad and mom are and where you got your car loans from.

But larger areas, of course, this comes more into question where people don't know each other.

Mr. KENNEDY. I will tell you that county seat of Trepelleau County, there are no street addresses. Everyone has a P.O. Box. They know where they live, but their mailing address is all P.O. Box.

Mr. NEY. Any other——

Ms. ROBINSON. Just again, if you get a chance to review the election task force report, I think it will be helpful because it does highlight all the problems and provides solutions to the problems that occurred including the issues you just raised about the cards that were—the 1400 cards or whatever.

Ms. EDMAN. I will make one additional comment. Kevin spoke about the errors that the poll makers make, the fact that the cards are illegible. Now, you come to when a data clerk enters these addresses, there is another set of errors that could occur in the processing of registration cards, so these are areas where errors could occur.

You are talking 77,000 registration cards with errors.

We don't know if they are errors or people that don't live at the locations. So there are many things going on we have to look at.

Mr. NEY. Just to correct the record, noncitizens with a green card should have the right to drive in the United States, illegal aliens do not have the right. I want to thank the panel for your time.

We will move on to panel 3, Kay Coles James, member of the Carter-Baker Commission on Federal Election Reform. We have

Andrea Kaminski, executive director of League Of Women Voters Of Wisconsin, I am sorry, we don't have name tags. Jeff Erlanger, community activist; Matt O'Neill, Attorney, Friebert, Finerty, and St. John, and Don Millis, attorney, Michael, Best, and Friedrich, LLP. Thank you and welcome.

We will start with Kay Coles James.

STATEMENT OF KAY COLES JAMES, CARTER/BAKER COMMISSION ON FEDERAL ELECTION REFORM

Ms. COLES JAMES. Good morning, Mr. Chairman, and thank you for the opportunity to be here. It was a privilege and I would like to submit my written statement for the record.

Mr. NEY. Without objection.

Ms. COLES JAMES. For the sake of brevity it was a privilege serving on the Carter/Baker Commission for me on several levels. First of all, I grew up in Richmond, Virginia, at a time when voting was a risky endeavor in some parts of the south. My family was very involved in the civil rights struggle and remain so today.

For me, it is indeed a privilege to be a part of a commission whose charge was to make sure that the voting process both had integrity and access for a lot of the American population.

While I have presented to the committee a resume that lists several things, I want to highlight two things that were particularly germane.

One, when I was director of the United States office of personnel management, it came as a surprise to many people that that particular job had a great deal to do with voting and with protecting the access for voting for several Americans. I was responsible for the portion of the voting rights act that authorized OPM to both train and provide observers to certain political subdivisions and other political units as determined by the attorney general, and also my service on this commission that I already mentioned, both I think provides some background for my particular interest in this subject.

While Wisconsin has its own unique set of challenges, I can assure you based on the work of our commission they are not that unique for things that we see going on all around the country.

I would also like to say that while the Carter/Baker Commission addressed a whole host of issues, I want to focus on one that seems to be the most controversial here today, and that is on the voter ID portion of that.

I would like to, sort of I guess, stand the issue on its head. Coming out of my perspective and my background what was important to me was we look at making sure that every American who had the opportunity to vote, could do that and that their vote in fact counted.

I would—I would ask you to look at the title of our commission report which was Building Confidence In U.S. Elections, and that is why after a great deal of discussion and a great deal of debate the members of this commission came to a conclusion that a voter identification was in fact necessary and we recommended that to the American people.

To assure that the requirement of providing identification does not prevent, however, any eligible voter from participating, it was

important to us that the ID be free of charge to all voters and that it also be accessible.

The requirement of a photo ID combined with accurate State voter rolls, we believe, will prevent most opportunities for fraud and will increase voters confidence in the outcome of the election.

And while I know there is a great deal of debate whether there is fraud or inconsistencies or inaccuracies, sort of the sense of the commission was never attribute malice where you could easily attribute and then fill in the blank. If it is lack of training, if it is lack of ability for funds, whatever the reason is, our ultimate goal was to increase the confidence in the system without delaying or pointing fingers at individuals.

Some have mistakenly suggested that requiring voters to use ID would be a poll tax, and I want to say for the record that we believed it to be nothing of the sort.

The vast majority already have a form of the required voter ID and others should be able to easily obtain the ID. States should take steps to assure the opportunity for all voters to obtain said ID.

We have heard some testimony today about the fact that it would be cumbersome for students or poor people or minorities and a burden there, and quite frankly from my perspective, the desire to have a voter ID is in fact to assure that those very same people when they present themselves at the polling place are not denied the access to vote.

So I think we all have the same goal in mind and we may get it—get at it from very different perspectives.

My friend on the Commission, former Democratic congressman Lee Hamilton has noted that the recommendation of a photo ID will increase the confidence of the voters especially minorities and those low income voters that we have talked about.

In the post 9/11 society where ID is required to enter a federal building, to cash a check, to board a plane, to take the SAT or to do most anything, I don't think it is an undue burden to ask all American citizens to have that sort of ID.

As a matter of fact in most emerging democracies it is really a badge of honor that one has acquired such an ID and is participating in the process.

I think it is just good public policy, and I would also say that our commission was so diverse in its perspectives, and that you had strong advocates that were not shrinking violets and managed to express their opinion, yet we came together after debating this issue quite a bit and I would note that President Carter, Lee Hamilton, both well-known democrats and civil rights activists, like former Atlanta Mayor Andrew Young, as well as people that we all would recognize like Juan Williams all support voter ID, but maybe for different reasons or different perspectives but I think we all want the same thing and that is a process we all feel good about that guarantees access and the integrity and restores to the American people the confidence of our voting process.

Mr. NEY. Thank you.

[The statement of Ms. Coles James follows:]

Testimony of Kay Coles James before the

United States House of Representatives Committee on Administration

October 24, 2005

Milwaukee, Wisconsin

Mr. Chairman, Members of the Committee,

Thank you for inviting me to testify before this Committee. This Committee is to be commended for holding these hearings into election administration and proposals for reform of our elections.

I grew up in Richmond, Virginia at a time when voting was a risky endeavor in some places in the South. This conflict between the American ideal and the painful reality is well documented in U.S. history including the deaths of civil rights advocates and voter registration activists. I heartily acknowledge the great progress made since then; however, I would not rest comfortably if I stated that we, in America, have arrived.

This background has given me, I believe, a particular appreciation for the right to participate as a voter in our local, state, and national elections. While all voters should be certain of the right to participate in elections free from violence and intimidation and to be certain that their vote is fairly counted, this right is especially appreciated by members of the African American community.

Mr. Chairman, I have presented my resume to this Committee; therefore, I will not review my background in these remarks. I do wish to note my experience in three positions. First, I was Director of the U.S. Office of Personnel Management. In this capacity I was responsible for the portion of the Voting Rights Act that authorizes the U.S. Office of Personnel Management (OPM) to provide observers to certain political subdivisions (counties) and other political units as determined by the Attorney General. In such subdivisions, observers may enter any place where an election is being held to monitor (1) whether persons who are entitled to vote are being permitted to vote, and (2)

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whether votes cast are being properly tabulated, if so requested by the Attorney General. The observers then prepare reports that are submitted to the Civil Rights Division of the U.S. Department of Justice (DOJ), which enforces the Voting Rights Act. Voting Rights observations are held for elections throughout the year. OPM provides observers to monitor elections for ethnic and racial discriminatory practices, and for compliance with the language minority provisions of the Act. Second, I was a member of the Commission on Federal Election Reform chaired by former President Jimmy Carter and former Secretary of State James Baker. This Commission met on several occasions during the past nine months and worked to produce what I believe is a very fine report outlining specific recommendations for state and federal election reform. This report is available and I commend it to the members of this Committee. As a member of the Carter-Baker Commission testifying before this Committee, I have included a copy of the report with my prepared remarks and submit it for the record.

Today this Committee is taking testimony in Milwaukee, Wisconsin. This is a good thing because voters and volunteers in Wisconsin experienced two of the unfortunate events that were far too common during the last election. I am speaking of violence and intimidation directed against voters and volunteers and of vote fraud. Let me first address the violence and intimidation. No one seeking to participate in an election as either a volunteer or as a voter should fear violence or intimidation. Unfortunately, in Milwaukee some political operatives dressed in camouflage used the cover of the dark of night to slash tires and disable vans of vans of their political opponents. These vans were intended to take voters and volunteers to polling places. Mr. Chairman, these individuals were rightly prosecuted for this despicable act.

This incident, and others like it in other parts of the nation, prompted me to encourage my fellow members of the Carter-Baker Commission to support a recommendation that "In addition to the penalties set by the Voting Rights Act, it should be a federal felony for any individual, group of individuals, or organization to engage in any act of violence, property destruction (of more than $500 value), or threatened act of violence that is intended to deny any individual his or her lawful right to vote or to participate in a federal election."

Wisconsin also experienced an unacceptable level of vote fraud. The U.S. Supreme Court has said, "Free and honest elections are the very foundation of our republican form of government. Hence any attempt to defile the sanctity of the ballot cannot be viewed with equanimity. And it must be remembered that the right of suffrage can be denied by debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise." It is unacceptable that any lawfully cast votes are cancelled by illegally cast votes. I am sure that you are aware of the report prepared jointly by the U.S. Attorney, the FBI Special Agent in Charge, the Milwaukee Chief of Police, and the Milwaukee Director of Elections. The task force found numerous instances of fraud and record discrepancies that demonstrate at best incompetence and at worst deliberate fraud.

The Carter-Baker Commission made two recommendations that address these concerns. Specifically, the Commission recommended that states require voters to present a government-issued photo ID in order to vote. This recommendation is intended to assure voters that the only ballots cast were those cast by lawful voters who cast only one ballot.

To assure that the requirement of providing identification does not prevent any eligible voter from participating in an election we called upon states to provide the necessary photo ID free of charge to all voters and to make the ID accessible to all. The requirement of photo ID combined with accurate and current state-wide voter rolls will prevent most opportunities for vote fraud and will increase voters' confidence in the outcome of the election.

Some have mistakenly suggested that requiring voters to use a photo ID will be a poll tax. It is nothing of the sort. The vast majority of citizens already have a form of the required photo ID. Others should be able to easily obtain the ID. States should take steps to assure the opportunity of all voters to obtain an ID.

My friend on the Commission, former Democrat Congressman Lee Hamilton, has noted that this recommendation of Photo ID will increase the confidence of voters, especially minorities and low income voters, to participate in the election with confidence and that they will be allowed to vote. In our post 9-11 society where ID is required to enter a

federal building, to cash a check or board a plane it is good public policy to provide photo ID free to low income and minority persons. It is also good public policy to safeguard our election with the requirement of photo ID. The Wisconsin legislature has passed a voter ID measure; I encourage Governor Doyle to support this as have other Democrat statesmen such as President Carter, Lee Hamilton, and civil rights advocates such as Juan Williams and former Atlanta mayor, Andrew Young.

Wisconsin is not alone in these concerns. A comprehensive report prepared by the American Center for Voting Rights documented the unacceptable number of incidents of violence and intimidation directed at voters and volunteers seeking to prevent them from participating in the election as well as examples of vote fraud that disenfranchised those who legally cast a ballot.

Mr. Chairman, I encourage you to consider the recommendations of the Carter-Baker Commission and specifically the common sense recommendation of requiring voters to present a photo ID and working to assure that all voters have ability to obtain an ID without cost. Thank you for the opportunity to appear before you today.

Mr. NEY. Ms. Kaminski.

STATEMENT OF ANDREA KAMINSKI, EXECUTIVE DIRECTOR, LEAGUE OF WOMEN VOTERS OF WISCONSIN

Ms. KAMINSKI. Thank you, Chairman Ney, for inviting me to appear before you. My name is Andrea Kaminski and I am executive director, League of Women Voters of Wisconsin. I brought copies of my testimony as requested and I submit them to the committee.

Mr. NEY. Without objection.

Ms. KAMINSKI. The Wisconsin league is proud of our state's open and fair election process as well as our high voter turnout in the 2004 election. We have no doubt that the two were related.

Based on our long-standing principle that every citizen should be protected in the right to vote, we support legislation that improves accessibility and ease for voting for all eligible citizens and promotes voter confidence in the integrity of our election process.

The League's support of free and fair elections goes back to our founding in 1920. In the late 1970s, we supported the Wisconsin legislature's enactment of major election reform including the establishment of registration at the polls and the definition of what kind of identification is needed for registration.

We will continue to fight to protect citizens' rights to participate in government and to oppose any major threats to our constitutional right to vote.

We are not sure why the committee has come to Milwaukee to hold this hearing when Milwaukee's 2004 election already has been heavily scrutinized by local, state, and federal agencies as well as by the media.

The findings of these investigations show that virtually all of the discrepancies were the result of the inevitable incidence of human error on a hectic day.

The League has opposed the efforts of several sessions in the Wisconsin legislature to require all citizens to show a government issued photo identification card in order to vote. Proponents of voter ID base their position on the assertion that it would reduce fraud and somehow keep felons from voting.

The League agrees it is imperative to reduce fraud but voter ID does nothing to address the problem. It certainly would not have prevented the felons who voted in their own names from casting a ballot in Wisconsin last November.

More important, the proposed Wisconsin voter ID bill places an unfair burden on certain groups of people including the elderly, low income, minorities, students, homeless and disabled, the very people for whom it is most difficult to take off work, get transportation, go to the DMV and wait in line, and apply for the documentation.

At a hearing earlier this year, a disabled woman in Madison, where services are about as good as you are going to get in Wisconsin, described what she would have to go through to get to the DMV and get identification and it was a major undertaking.

With all due respect, a photo ID is not definitive proof of address, nor does it tell us if someone is a felon who may not vote or, for that matter, a former felon whose voting rights have been restored.

The statewide registration lists that will be implemented in 2006 will be a far more effective and fair tool for minimizing abuse of the system. So, voter ID would do nothing to protect the integrity of Wisconsin elections and it would restrict voting particularly by certain groups of people. That's a net loss for democracy.

In a recent report, the Wisconsin legislative audit bureau recommended that the state elections board use its existing authority to improve and enforce the election rules that ensure a smooth and fair election process.

The bureau's findings highlight the need for a more uniform system as well as adequate resources and requirements to implement existing rules and policies. The report says, quote, "the system alone will not be sufficient if municipal clerks and other local officials do not detect and prevent common data entry errors, appropriately revise and update voter registration and information, and follow uniform procedures for identifying improper registrars and ineligible voters," end quote.

Poll workers and election officials do a remarkable and vitally important job under great stress, but the system is failing them just as it is failing the voters. Let's focus on the real problem at hand, the need for more resources for carrying out our elections.

There are dozens of measures being reviewed by senator Leibham's special committee here in Wisconsin that promise positive election reform. The League supports those that specifically improve accessibility and ease of voting for all eligible citizens. We heartily support measures that put more workers at the polls on election day and require uniform standards for the training of all poll workers and election officials.

We strongly believe Congress should provide substantial new and ongoing funding for election improvements in the states. To sum up, last week in Georgia, U.S. District Judge Harold Murphy granted an injunction on a new voter ID law in that state knowing it would do nothing to address voter fraud.

He said he had great respect for the Georgia legislature but he added "the Court, however, simply has more respect for the constitution," end quote.

Let's not compromise anyone's constitutional right to vote with a misguided attempt to fix a system that is not broken. Thank you.

Mr. NEY. Thank you.

[The statement of Ms. Kaminski follows:]

STATEMENT BY THE LEAGUE OF WOMEN VOTERS OF WISCONSIN
BEFORE THE COMMITTEE ON HOUSE ADMINISTRATION
Presented by Andrea Kaminski, Executive Director

Milwaukee, Wisconsin
Submitted October 21, 2005

The League of Women Voters of Wisconsin is proud of our state's open and fair election process, as well as of our relatively high turnout of voters at the last Presidential election. We have no doubt the two are related. Based on our long-standing principle that every citizen should be protected in the right to vote, we support legislation that improves accessibility and ease of voting for all eligible citizens and promotes voter confidence in the integrity of our election process.

The League's support of free and fair elections goes back to our founding in 1920. We supported the 1977-78 legislature's enactment of major election law reform, including the establishment of registration at the polls and the definition of identification needs for registration. We will continue to fight to protect citizens' rights to participate in government and to oppose major threats to our basic constitutional rights, including the right to vote.

We question why the Committee is coming to Milwaukee to hold this hearing, when Milwaukee's 2004 election already has been heavily scrutinized by local, state and federal agencies, as well as the media. The findings of these investigations show that virtually all of the discrepancies that were found were the result of the inevitable incidence of human error on a hectic day.

The discrepancies have led to a questioning of election administration in our state. We want to rebuild public confidence in our election system, but not at the expense of the constitutional rights of any group of citizens.

The League has opposed the efforts of several sessions in the Wisconsin Legislature to require all citizens to show a government-issued photo identification card in order to vote. In the current session this measure has been proposed in Assembly Bill 63 and Senate Bill 42. These bills have passed both houses of the Legislature but been vetoed by Governor Doyle. Proponents of Voter ID have tried unsuccessfully to override the veto. Even more deplorable is Assembly Joint Resolution 36, which would write this misguided legislation into our State Constitution!

Proponents of Voter ID in Wisconsin base their position on the assertion that it would reduce fraud and, somehow, keep felons from voting illegally. The League agrees it is imperative to reduce fraud, but we believe the push for Voter ID does nothing to address the problem. It certainly would not have prevented the felons who voted in their own names from casting a ballot in Wisconsin last November.

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More importantly, the proposed Wisconsin Voter ID bill places an unfair burden on certain groups of people – including the elderly, low-income, minorities, homeless, or handicapped. These are the very people for whom it is most inconvenient to take off work, get transportation, wait in line, and apply for the documentation. For example, at least 170,000 Wisconsin seniors do not have the identification they would need to vote under this proposal. A recent study by UW-Milwaukee showed that 78 percent of African American men and 66 percent of African American women between the ages of 18 and 24 do not have a valid driver's license. Fifty-nine percent of Hispanic women do not have identification that would allow them to vote. That is a lot of people to force to go to the DMV to exercise their constitutional right to vote!

A photo identification card is not definitive proof of address, nor does it tell us if someone is a felon or a former felon whose voting rights have been restored. The statewide registration list that will be implemented in 2006 will be a far more effective and fair tool for minimizing abuse of the system and identifying felons.

So the proposed Wisconsin Voter ID bill would do nothing to protect the integrity of our elections, and it would restrict voting, particularly by certain groups of people. The result would be a net loss for democracy!

In a recent report the Wisconsin Legislative Audit Bureau has recommended that the State Elections Board use its existing authority to improve and enforce the election rules that ensure a smooth and fair election process. While the Legislative Audit Bureau also recommended establishing uniform, statewide requirements for demonstrating proof of residence, it did not recommend photo identification cards. The League supports uniform standards which promote accessibility and preserve the integrity of our elections.

The Legislative Audit Bureau's findings highlight the need for a more uniform system as well as adequate resources and requirements to implement existing rules and policies. For example, the evaluation found that some municipalities had not notified registered but inactive voters before removing their names. Forty-six percent of municipalities had not removed ineligible felons from those lists prior to Election Day

The report says, "The system alone will not be sufficient if municipal clerks and other local officials do not detect and prevent common data entry errors, appropriately revise and update voter registration and information, and follow uniform procedures for identifying improper registrations and ineligible voters."

League of Women Voters of United States President Kay Maxwell notes that, "Poll workers and election officials in this country do a remarkable and vitally important job. But the system is failing them just as it is failing the voters."

Let's focus on the real problem at hand – the need for more resources for carrying out our elections. To improve our election process, the League has long believed we should focus on positive reform measures, rather than enact legislation that inhibits voting and places an unfair burden on certain groups of voters. Governor Doyle and others have

proposed dozens of legislative measures that promise election reform. Among the proposed measures, we support those that specifically improve accessibility and ease of voting for all eligible citizens. We heartily support measures that put more poll workers at the polls on Election Day and require uniform standards for training of all poll workers and election officials.

The League of Women Voters of the United States has identified four steps for improving the election system:

- Professionalize election management with uniform standards, training to the standards, and accountability.
- Adopt a "service" focus that places the voter at the center of the election system. The voting process should be convenient, accessible and efficient.
- Establish a wide-ranging research and development effort to improve every aspect of elections and adapt to the ongoing process of change in election management.
- Increase funding to implement these improvements.

We strongly believe that the Congress of the United States should provide substantial, additional, ongoing funding for election improvements in the states.

This week in Georgia, U.S. District Judge Harold Murphy, in granting an injunction on a Voter ID law recently passed in that state, noted that the law "does nothing to address the voter fraud issues that conceivably exist in Georgia". He noted that he had great respect for the Georgia Legislature, which passed the Voter ID law, but he added, "The court, however, simply has more respect for the Constitution."

Let us not compromise any group's constitutional right to vote with a misguided attempt to fix a system that is not broken.

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October 26, 2005

RECEIVED
NOV 07 2005
Robert W. Ney, M.C.
Washington, DC Office

Robert W. Ney, Chairman
Congress of the United States
Committee on House Administration
1309 Longworth House Office Building
Washington, D.C. 20515-6157

Dear Congressman Ney:

Thank you for the opportunity to respond to the Committee on House Administration hearing on election administration in Wisconsin and proposals for reform, held October 24, 2005, in Milwaukee. I would like to provide some information with regard to your questions at the end of the session.

Attached are a press release and fact sheet about the League of Women Voters of Ohio's July 2005 lawsuit against the State of Ohio, with which the League and others are seeking to redress decades-old Constitutional defects in the way the state of Ohio conducts federal elections. As I mentioned yesterday, there has been no discussion in the League of Women Voters of Wisconsin about filing a similar lawsuit because we have not seen the same level or type of problems here that have historically plagued the elections in Ohio. The Wisconsin League is proud of our state's open and fair election process, as well as of our high level of citizen participation. Although we are always working to seek improvements, the problems have been greatly overblown by individuals who wish to use them as a rationale for the misguided and, so far, failed attempt to enact a requirement for all citizens to show a photo identification card in order to vote.

As for our support of Democrat-sponsored vs. Republican-sponsored bills, you should know that our state Legislative Committee weighs each relevant proposed bill against our positions, which are based on years of research and member consensus. The Legislative Committee then decides whether to support, oppose or take no position on the bill. In the last Wisconsin Legislative session we supported State Senator Michael Ellis' (R-Neenah) campaign finance reform bill, Senate Bill 12. In the current session, we opposed Assembly Bill 226, a highly truncated version of the earlier bill, because it did not address the serious problems that have developed under the 1977 statute which currently regulates campaign financing in Wisconsin.

Although we support Wisconsin Assembly bill 542, which is Governor Jim Doyle's (Democrat) election reform package, we have stated that we do not have positions on many specific measures included in the bill, for example on how poll workers are appointed or trained and on how municipal clerks should supervise elections and count votes. In particular, we have recommended that the bill be amended to require that all absentee ballots be counted on Election

Day. It is too much to hope for or expect that preliminary results of absentee voting will be kept from the public. We heartily support measures in this legislation to put more poll workers at the polls on Election Day and provide better training for poll workers and election officials.

We support bills that improve accessibility of voting and advance the integrity and fairness of elections. We oppose bills that restrict participation or compromise integrity.

On a related note, we would like to thank you for your work on the Help America Vote Act and your work to ensure funding for the programs under that Act.

I am enclosing the following documents to be included along with this letter in the hearing record:

- League of Women Voters of Ohio press release, July 28, 2005
- League of Women Voters of Ohio Fact Sheet on Complaint Filed Against State of Ohio Charging Unconstitutional Administration of Elections
- Helping America Vote: Statewide Voter Registration Databases (League of Women Voters Education Fund, June 2005)
- Helping America Vote: Safeguarding the Vote (League of Women Voters Education Fund, July 2004)

Again, I thank you on behalf of the League of Women Voters of Wisconsin for the opportunity to participate in this hearing.

Sincerely,

Andrea Kaminski
Executive Director

Cc: Juanita Millender-McDonald, Ranking Minority Member
Melanie Ramey, President, League of Women Voters of Wisconsin
Angela Canterbury, League of Women Voters of the United States

FOR IMMEDIATE RELEASE

Contact: Josh Epstein, 212-575-4545

OHIO VOTERS FILE HISTORIC LAWSUIT AGAINST STATE CHARGING UNCONSTITUTIONAL ADMINISTRATION OF ELECTIONS

Non-Partisan Lawsuit Seeks to Redress Decades-Old Constitutional Defects in the Way Ohio Conducts Federal Elections

July 28, 2005 – (Toledo, OH) – Seeking to redress decades-old Constitutional defects in the way Ohio conducts federal elections, the League of Women Voters of Ohio, the League of Women Voters of Toledo-Lucas County, and more than a dozen Ohio citizens today filed a historic, non-partisan lawsuit against the State of Ohio.

The lawsuit alleges that Ohio Secretary of State J. Kenneth Blackwell, Governor Bob Taft, and their predecessors have failed to protect the fundamental rights of eligible Ohio voters to cast a meaningful ballot, as required by the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the United States Constitution. In addition, the complaint contends that Ohio has not met its obligations under the Help America Vote Act. The lawsuit does not challenge the results of any past elections, but instead seeks to bring about changes necessary to protect the rights of Ohio voters in future elections.

Filed in federal court in Toledo, the complaint chronicles deficiencies over more than three decades, including widespread problems with the voter registration system, the absentee and provisional ballot processes, the training of poll workers, the organization of polling places and precincts, and the allocation of voting machines. The lawsuit seeks to compel the state to uphold its constitutional obligation to provide for the voting-related needs of its citizens in time for the November 2006 general election. The relief sought would require the state to repair the problems at all stages of the electoral process that have disenfranchised and overly burdened Ohio voters and made the ability to vote and be counted vary widely from county to county.

"This lawsuit is not about overturning election results, it's about fixing a broken election system that is preventing people from having their vote counted," said Peg Hull Smith, spokesperson for the League of Women Voters of Toledo-Lucas County.

Linda Lalley, Co-President of the League of Women Voters of Ohio said, "This is a very important day for the voters of Ohio. Through its nonpartisan, good-government activities, the League of Women Voters of Ohio has been working for 85 years to guarantee that the voices of all eligible Ohioans are heard when they go to the polls. This lawsuit will bring us much closer to that goal. We are excited to join with voters from all over Ohio to help bring an end to the inadequate system of elections provided by the state."

"We are proud to represent this dedicated group of Ohio voters. This lawsuit will begin the process of restoring the infrastructure of democracy so we can honor the promise that the Constitution provides for every Ohioan," said Jon Greenbaum, part of the plaintiffs' legal team and Director of the Lawyers' Committee's Voting Rights Project. "Regardless of your political affiliation or county of residence, the right to vote is precious and we must have a system that guarantees and protects that right."

"Long lines, inadequate facilities for voting, registrations that are not processed on time, and absentee ballots that never arrive have deprived far too many Ohioans of the right to vote for far too long. The system needs reform now," said Brenda Wright, Managing Attorney of the National Voting Rights Institute and one of the attorneys for the plaintiffs.

"This lawsuit seeks to remedy what is not working in Ohio's election system," said Elliot Mincberg, Vice President and Legal Director of People for the American Way Foundation. "We know that voters' rights are being violated, and we want to stop it. Every eligible voter must be able to cast a vote that is counted. Fixing Ohio's election system can help restore trust in the democratic process."

"There is nothing more fundamental to ensuring a fair process than making sure that every person who is eligible and wants to vote is able to do so," said Caroline Press, attorney at Proskauer Rose LLP, which is representing the plaintiffs in the complaint. "Unfortunately, for the people we are representing here today and too many others like them across the state, the system has failed. That should not happen."

Robert Rubin, Legal Director of the Lawyers' Committee for Civil Rights of the San Francisco Bay Area, stated: "The disregard for voters' rights shown by Ohio's election officials was as effective a method of suppressing the vote as the more blatant poll taxes of the past. These barriers impede, delay, and deny the right to vote; they must be removed."

Voting deficiencies outlined in the complaint chronicling voting problems in Ohio from the 1970s to the present, include:

- Thousands of Ohioans unable to vote in November 2004 because lines in many precincts were more than two hours – and up to nine hours – long
- Thousands of voters casting provisional ballots in 2004, only to have them thrown out when poll workers failed to advise that the voter was standing in the wrong precinct line
- More than one third of precincts in Miami County running out of ballots in the November 2001 election
- 3,556 Cuyahoga County votes in the November 2000 election that were processed twice, causing a computer to throw them out
- Thousands of Cincinnati and Franklin County voters arriving at their regular polling places during the 2000 election, only to find they were no longer polling places or no longer their polling places
- Registered voters in Franklin County in 2000 who were not able to vote because their names had been purged from voting lists or because the Bureau of Motor Vehicles had failed to process their registration cards
- Dozens of precincts in Cuyahoga County running out of Republican ballots during the March 2000 primary, forcing them to turn registered voters away
- Franklin County's registration rolls containing tens of thousands of erroneous entries in 1999
- In 1998 and 1996, the registration rolls in Cuyahoga County containing tens of thousands of duplicate and inaccurate entries
- Thousands of legitimate votes in Franklin County in 1998 that were counted for the wrong candidate due to wrongly programmed electronic voting machines
- The fundamental failure to adequately hire and train election workers since at least 1994, resulting in unfilled positions and untrained, first-time workers at polling places
- Identical breakdowns in elections in 1971 and 1972 in Hamilton and Cuyahoga counties that included disenfranchisement of thousands of voters

because dozens of precincts never opened or opened late; failure to deliver an adequate number of voting machines to precincts; misprogramming of voting machines; distribution of incorrect ballots; lack of adequate staffing; and failure to train poll workers

The plaintiffs are represented by the Lawyers' Committee for Civil Rights Under Law, the law firms of Proskauer Rose LLP, Arnold & Porter LLP, and Connelly, Jackson & Collier LLP, along with the People for the American Way Foundation, the National Voting Rights Institute, and the Lawyers' Committee for Civil Rights of the San Francisco Bay Area.

# # #

Fact Sheet on Complaint Filed Against State of Ohio Charging Unconstitutional Administration of Elections

Following is a summary of key points outlined in a complaint filed July 28, 2005 against the State of Ohio seeking to redress decades-old Constitutional defects in the way the state conducts federal elections.

The League of Women Voters of Ohio, the League of Women Voters of Toledo-Lucas County, and more than a dozen Ohio citizens filed the historic, non-partisan lawsuit in federal court in Toledo.

Voting deficiencies outlined in the complaint, which begin in 1971 and continue through 2004, include:

- Thousands of Ohioans unable to vote in November 2004 because lines in many precincts were more than two hours – and up to nine hours – long
- Thousands of voters casting provisional ballots in 2004, only to have them thrown out when poll workers failed to advise that the voter was standing in the wrong precinct line
- More than one third of precincts in Miami County running out of ballots in the November 2001 election
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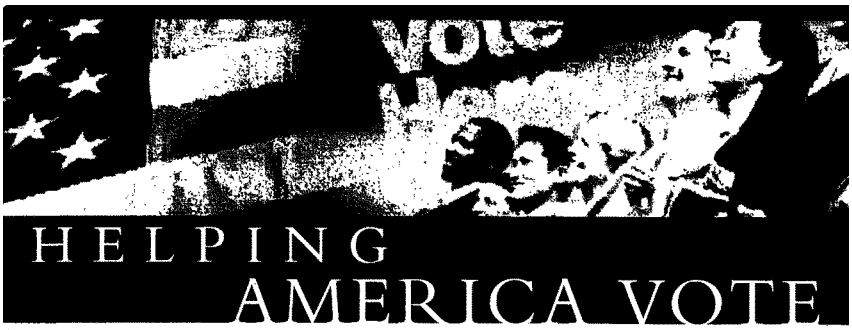
- Thousands of Cincinnati and Franklin County voters arriving at their regular polling places during the 2000 election, only to find they were no longer polling places or no longer their polling places
- Registered voters in Franklin County in 2000 who were not able to vote because their names had been purged from voting lists or because the Bureau of Motor Vehicles had failed to process their registration cards
- Dozens of precincts in Cuyahoga County running out of Republican ballots during the March 2000 primary, forcing them to turn registered voters away
- In 1999, Franklin County's registration rolls contained tens of thousands of erroneous entries
- In 1998 and 1996, the registration rolls in Cuyahoga County contained tens of thousands of duplicate and inaccurate entries
- Thousands of legitimate votes in Franklin County in 1998 that were counted for the wrong candidate due to wrongly programmed electronic voting machines
- The fundamental failure to adequately hire and train election workers since at least 1994, resulting in unfilled positions and untrained, first-time workers at polling places
- Identical breakdowns in elections in 1971 and 1972 in Hamilton and Cuyahoga counties that included disenfranchisement of thousands of voters because dozens of precincts never opened or opened late; failure to deliver an adequate number of voting machines to precincts; misprogramming of voting machines; distribution of incorrect ballots; lack of adequate staffing; failure to train poll workers



Statewide Voter Registration Databases

When Congress first began looking into the election system following the 2000 presidential election, it became clear that poorly designed and administered registration systems posed a very significant problem. Hundreds of thousands of eligible voters were disenfranchised because their registration applications were not being processed and because of other systemic problems.

In 2002, Congress passed a set of election reforms known as the Help America Vote Act (HAVA). Among these changes, Congress mandated that states establish a statewide computerized voter registration list. Specifically, the law requires each State to implement a "single, uniform, official, centralized, interactive computerized statewide voter registration list...in a uniform and nondiscriminatory manner." The system is to be "defined, maintained, and administered at the State level" and must contain the "name and registration information of every legally registered voter in the State."

Most states requested waivers from this new federal requirement for the 2004 elections. Today, more than three years after its passage, the full impact of HAVA's reforms has yet to be realized.

The 2004 election was far from perfect. Although voter turnout approached record levels, the election system showed signs of stress and voters faced real problems. Reports demonstrate that registration-related issues were the most commonly cited problem by voters in 2004. These problems – from failures to fully process registration applications in time to bureaucratic requirements that blocked voter registration – kept eligible voters from casting votes.

As of January 1, 2006, all states will be required to have a statewide voter registration database. If done right, these databases hold the potential to reduce registration-related problems, enfranchise eligible voters and help elections run more smoothly. But many states are already behind in getting their databases up and running and there is little agreement on how a good database should work.

While statewide voter registration databases are an important tool for streamlining election administration, they are no panacea. State election officials are going to need to work closely with local officials and other concerned individuals and organizations to design systems that ensure fairness, transparency and efficiency.

In this report, the League of Women Voters offers a set of recommended operational and management practices for election officials as they work to build good voter registration systems. These recommendations were first outlined in an earlier League publication in the Helping America Vote series, *Safeguarding the Vote,* and remain instructive and timely today. Drawn from interviews with election officials and other experts conducted in the spring of 2004, this report outlines a set of practices that can provide useful guidance in developing a more secure foundation for a key component of election administration – voter registration databases.

RECOMMENDATION #1: Establish electronic transmission of voter information to the election authority from motor vehicle and other agencies offering voter registration.

A well-run registration system will provide an electronic link between the election agency and the agencies specified in the National Voter Registration Act (NVRA) as registration agencies, including agencies serving persons with disabilities and public assistance agencies.

Electronic transmission is timelier and more accurate than physical transmission. In Michigan, the information is transmitted instantaneously since the motor vehicle and the election authority share the same database. Electronic transmission also eliminates the need to enter the data a second time, thus reducing costs and minimizing the opportunity for clerical error.

Jurisdictions that transmit voter information from one agency to another electronically are much less likely to experience registrations falling through the cracks. Conversely, voters in jurisdictions that still transfer paper applications are far more likely to show up at the polls believing they have registered, only to find their names are not on the list. States that fail to provide for electronic transmission will likely have far more provisional ballots, increasing their post-election administrative burden. A large number of Los Angeles County's provisional ballots are cast by voters who registered at the motor vehicle agency but whose registrations either got lost in the system or were not processed in time.

MODEL PRACTICE: Michigan's Qualified Voter File is a unified database shared by the state election agency and the motor vehicle agency. Changes and updates made to the voter registration record are automatically made to the driver's license record, and vice versa (in Michigan the address for voter registration and motor vehicle registration must be the same). Electronic transmission allows new registrations and updates to be processed in real-time and significantly reduces the likelihood of losing applications in transmission.

RECOMMENDATION #2: Ensure the registration process enfranchises all eligible citizens.

The voter registration process can assure good administration of the election process, or it can serve as a barrier to voter participation. The design and implementation of a statewide computerized voter registration system holds great promise if it is properly designed to ensure enfranchisement of all eligible citizens.

In creating a statewide database, states must establish where responsibility lies for adding, deleting and updating voter records and specify, in law or regulation, the rules for determining both eligibility and ineligibility.

States must assign each voter a unique identifier, a change that will significantly reduce the deadwood on voter lists over time by allowing states to track voters as they move within the state. State election officials can either create their own system by assigning randomly generated numbers to each new voter or piggy-back on another system such as the motor vehicle agency numbering system.

In establishing rules for the voter registration process, the state should ensure that information is used to complete accurate registrations, rather than setting up obstacles to the voter registration process. For example, if a voter registration applicant fails to provide a driver's license number or inadvertently transposes numbers, the database administration system should help correct that application so it can be processed and accepted. The state should have a transparent administrative process that includes information on the acceptance or rejection of applications.

HAVA requires that a voter registration application include the driver's license number, or the last four digits of the Social Security Number (SSN) if the applicant has not been issued a current and valid driver's license. The appropriate number can be provided by the applicant or by the state's databases. The chief state election official and the official responsible for the state motor vehicle authority are required to enter an agreement to match data, and the motor vehicle official must enter a similar agreement with the commissioner of Social Security.

As HAVA is silent on how states should treat the results of this database matching, states must determine how to conduct these matches as well as what to do with the results. According to the Social Security Administration (SSA), at least ten percent of the information obtained as a result of matching the name and last four digits of the SSN will likely be inaccurate. Two types of errors may result: First, matching the last name and the last four digits can produce multiple apparent matches, called "false positives." In addition, errors such as inaccurate name spellings and transposed numbers can result in the appearance of no match.

Given this high rate of inaccuracy, it would be a mistake to reject voter applications when there is no identical match; doing so would almost certainly result in disenfranchising eligible voters. In the event the attempt to match produces no match, states have the option of assigning a randomly-generated unique identifier. In the event that a database match produces information suggesting ineligibility, such as when the voter's last four SSN digits and name correspond to someone who is deceased, states should develop procedures for following up with the applicant to verify the information. (See "Purging of Voters Lists" for a more detailed discussion of the challenges involved in database matching.)

Matching with motor vehicle records poses other difficulties: addresses are likely to be different; driver's license numbers may be accidentally transposed by the applicant; and the types of data may be different. All of these indicate the need for officials to use DMV data to supplement the registration process rather than use it as a reason to reject an applicant. To resolve inconsistencies, election officials will need to follow up with the voter by mail or other means.

CHECKLIST FOR STATEWIDE VOTER REGISTRATION DATABASES

✓ Ensure that state agencies that engage in voter registration activities, including the Department of Motor Vehicles (DMV), disability agencies, and public assistance agencies such as Medicaid, are fully and electronically integrated in the computerized system.

✓ Establish clear lines of responsibility for adding, deleting and updating voter records.

✓ Establish clear procedures for using information provided by other databases, such as DMV data, to supplement the information provided by voters, thereby helping to correct an application so it can be processed and accepted, if the applicant is eligible, instead of rejected.

✓ Provide security measures that prevent unauthorized access to the database, protect voters' sensitive information and require tracking and documentation of all transactions, including by whom and when.

✓ Establish clear voter registration processing guidelines to ensure that procedures are followed uniformly throughout the state. Ensure that the process is transparent.

Election officials would be well-advised to study the matching process, particularly at the beginning, to determine the reliability of the information received from either the motor vehicle agency or the SSA.

While HAVA gives the state responsibility for defining, maintaining, and administering the official voter registration list, local registrars will likely retain responsibility for important steps in the process. A well-run registration system will necessarily involve close cooperation between state and local offices. States must spell out the details of processing voters and take steps to ensure the procedures are followed uniformly throughout the state.

MODEL PRACTICE: In California, the state searches the motor vehicle database to pull the driver's license number, which then is added to the voter record. The state also compares voter records to health records. The practice not only helps the voter, it also ensures more accurate records.

RECOMMENDATION #3: Protect voter privacy and database security.

HAVA requires that the appropriate "State or local official shall provide adequate technological security measures to prevent unauthorized access to the computerized list..." States therefore must establish strict rules for administering the database and ensure each locality adheres to those rules.

Creating a protocol for access to voter records should be part of establishing a regulatory framework for administering the database. This protocol would create hierarchical levels of access to the database, giving certain users discrete authority to perform certain tasks. Not all election staff have authority to perform the same functions. Very few staff, for example, would have authority to remove names from the list.

On the one hand, of course, the registration list will be a very public document: Almost every state allows political organizations and parties to purchase the list, which contains voters' addresses, party affiliation and voting participation history. On the other hand, information such as the voter's driver's license number or SSN requires strong protection. The database must be structured in such a way as to accomplish both goals.

As with the administration of voting machines, thorough and rigorous documentation of all operations is necessary to ensure public confidence in the security as well as the accuracy of the list. List administrators must be able to track who has accessed the list as well as what transactions, such as updates and additions, have been performed, and when.

Protecting database security includes providing physical protection as well. Moreover, the server should be in a protected location that does not offer public access.

MODEL PRACTICE: In Michigan, local election officials have authority to add, delete and update voter records; however, any change must ultimately be approved by the state in order to be made official. Michigan also has in place rules governing which employees can perform which tasks.

MODEL PRACTICE: In the District of Columbia, the chief technology officer can monitor both successful and unsuccessful attempts to enter the voter registration database. In addition, all users are now required to change passwords on a monthly basis in order to prevent former employees from gaining access or allowing others to gain access to the database.

RECOMMENDATION #4: Require transparency in the administration as well as in the creation of statewide voter registration systems.

A computerized voter registration system is more than just a database — the details of its creation and administration will determine if and how well the rights of eligible citizens are protected. Many states are seeking consultants to help them write the "Request for Proposal" (RFP) for technical assistance in constructing the registration system; some states are developing the database themselves. In either case, the process for designing the system should be public and transparent. It should involve stakeholders, including the local election officials, parties, voter advocates and the public. These stakeholders should have a voice in defining the system — particularly the procedures for adding, deleting and modifying records.

In many states, involving local election officials at the beginning of the process will reduce the likelihood of problems when it comes time to implement the system. Such officials bring a practical understanding of the registration process and will have insight on the details of the system's construction.

States may divide up the administrative work between state and local officials differently. For example, in Michigan the localities submit voter information to the state which has ultimate authority for adding and deleting voters to the database. In Kentucky, the state has authority to remove registrations while localities have authority to add and update registrations. In the end, however, the state has sole responsibility for the system and for ensuring its accuracy.

MODEL PRACTICE: Pennsylvania made both the initial study of what would be required to create a statewide list as well as the RFP publicly available. Soon after Pennsylvania began implementing its statewide system, the state contracted with a private firm to review and evaluate the implementation process. The firm conducted a thorough review of the system and made dozens of recommendations for improvements. The state posted the report on its Web site.

RECOMMENDATION #5: Require tracking and documentation of all changes to the database.

States should have a method for monitoring all changes — additions, deletions and updates — made to the list.

PURGING OF VOTER LISTS

In 1993, Congress passed the National Voter Registration Act (NVRA) to expand the opportunities for eligible citizens to register to vote In addition, the NVRA encouraged states to coordinate voter records with other databases in order to keep lists accurate and up-to-date At the same time, however, the law also established safeguards to prevent eligible voters from being erroneously purged

HAVA adopts the NVRA list maintenance standards. Nothing in HAVA alters the requirements under NVRA to protect voters from erroneous purges.

The consequences of flawed list-cleaning procedures were clearly evident in November of 2000 when thousands of Florida voters found themselves unable to vote after they had been purged from the rolls based on erroneous information sent to county election officials by the Secretary of State

In 2000, the Florida Secretary of State's office contracted with an outside firm to match voter registration records against felony records. Not only was the underlying data from the Florida Department of Law Enforcement unreliable, but the matching criteria were so broad that thousands of eligible voters were erroneously tagged as felons The resulting match had an error rate of approximately 20 percent. Despite the inaccuracy of the information, the state made the data available to the counties and encouraged them to use the information to purge the voting rolls.

Several counties then purged voters from the registration records without bothering to verify the accuracy of the information

The lesson from Florida is simple: database matching to remove felons, deceased voters and duplicates, cannot, in itself, substitute for an accurate verification process Accordingly, states and local election officials must build sufficient time into the list-cleaning process to conduct proper verification And the reliability of the underlying data should always be checked before it is used. (See page 4 for details of the settlement agreement between the state of Florida and the NAACP.)

Still, even using stricter standards, database matching is not foolproof; further verification is advisable. Providing notice to the voter before any purge is carried out allows that voter to correct an error before it results in erroneous purging. ■

This monitoring might include electronic signatures within the database or it might include a requirement for thorough documentation.

MODEL PRACTICE: In the District of Columbia, the voter registration database tracks who made changes — additions, updates, deletions — to the voter registration records.

RECOMMENDATION #6: Conduct accurate voter registration list maintenance.

Elections are a unique governmental function; the use of database technology in election administration will require different procedures and more stringent safeguards than in other areas of government.

Nothing in HAVA allows election officials at the state or local level to bypass protections intended to prevent voters from being disenfranchised for administrative errors, specifically, the protections for voters established in the NVRA. Under NVRA, election officials are prohibited from removing a voter who they believe has moved unless the voter confirms the information in writing. Nothing in HAVA alters this safeguard.

Even if it appears that several records belong to a single voter — who has moved from one jurisdiction to another and registered after each move — the election official cannot remove any of the apparent duplicates without written confirmation by the voter.

NVRA requires states to perform list-cleaning procedures to keep voter registration lists current and accurate, including obtaining data from other sources such as the National Change of Address program, death records and felony records. While this data can provide useful information, it must always be verified. Stories abound of people who have died continuing to receive Social Security checks posthumously and, conversely, people still very much alive erroneously being included among the dead. One jurisdiction in 2000 matched the voter list against a tax assessor's list and required voters whose addresses did not match the assessor's list to vote by provisional ballot at the central election office. However, the assessor's list was ten years old, and some of the addresses identified by the assessor as invalid or "vacant lot" had since been developed into residences. Voters should not be penalized for inaccurate or out-of-date record keeping.

The polling place on Election Day can be a key point in the list-cleaning process if voters are allowed to update their registration information when they come in to vote. Poll worker training should, therefore, include easy-to-follow guidelines on how to note change of address, spelling corrections and other changes. Election officials must be vigilant in following up on this information.

MODEL PRACTICE: The following rules for determining multiple registrations, sometimes known as "duplicates," were taken from the settlement agreement between the state of Florida and the NAACP. Following this model will guard against faulty matches.

To determine multiple registrations, the state may match:

- the last name, first name, least common denominator of the middle name, and the date of birth (DOB);
- full nine digits of the SSN, last name, and either first name or DOB;
- driver's license or state ID number, and last name;
- SSN and last name, or DOB; or
- Florida ID and last name, or DOB.

In applying these matching criteria, the following conditions apply:

- the last name in both records must be exact;
- the DOB in both records must be exact;
- there can be no conflict in race data or gender data; and
- there can be no conflict in SSN — transpositions will not be accepted.

Of course, the data that is matched against the voter registration list must be accurate.

RECOMMENDATION #7: Give voters access to review and check their voter records.

Voters can and should be a part of the process to ensure the accuracy of their voter records. Voters should be able to view their registration information in order to check the accuracy of the address, party affiliation, voting jurisdiction, polling place and age.

In smaller jurisdictions, voters can call the registration office to obtain their voter information. In larger jurisdictions, the administrative burden can be reduced by making a copy of this information available on a Web site.

Encouraging voters to check their registration information for accuracy prior to the deadline should allow for a reduction in the number of provisional ballots cast during an election. The more voters who can straighten out registration problems prior to the election, the fewer voters whose eligibility will be in doubt on Election Day.

MODEL PRACTICE: Virginia's elections Web site allows citizens using a personal identification number to view their voter registration information, including their proper polling place, online. Voters do not view this information directly in the database, but review a public copy of this information.

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Safeguarding the Vote

In 2002 Congress enacted the Help America Vote Act (HAVA) authorizing $3.9 billion to modernize and improve federal elections. Debate over how to fulfill the requirements of the new law has focused on new technology, both new voting machines and computerized statewide registration systems. Yet, as election officials well understand, new, sophisticated technology alone will not solve the ills that surfaced in the 2000 presidential election. Sound administrative practices are equally necessary to ensure that elections are run both fairly and accurately. And much less has been said on this subject.

According to the law's congressional authors, HAVA is intended to ensure that eligible voters are able to cast a vote and have that vote counted accurately. The law established minimum federal requirements to protect both eligible voters and valid votes, thus providing stronger security for the election process.

In this report, the League of Women Voters focuses not on the technology, about which much has already been said and written, but on the administrative framework that will deploy new technologies and management systems to meet the goals of greater accuracy and security. The report sets forth a set of recommended operational and management practices for election officials that protect eligible voters, ensure valid votes will be counted and bolster voters' confidence.

In "Election Reform and Electronic Voting Systems (DREs): Analysis of Security Issues," (2003) a report issued by the Congressional Research Service, three widely accepted elements of defense against security risks are cited: technology, personnel and operations. This League report adopts that framework, but focuses primarily on the latter two elements, personnel and operations. Technological security defenses will be addressed by guidelines developed by the federal Election Assistance Commission (EAC) in cooperation with the National Institute of Standards and Technology (NIST).

In 2002, elections officials in Florida discovered the cost of focusing on technology without equal emphasis on personnel and operations. One county purchased all new electronic voting systems only to discover in the 2002 gubernatorial primary that its process for administering the new machines was flawed — ballots were incorrectly loaded — and its poll workers had not been adequately trained on how to operate the new machines. As a consequence, many polls opened late and some never opened at all.

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The same principle holds true with regard to voter registration. Example: In 2000, Florida paid a firm to conduct a computerized match of the voter rolls against felon lists. The resulting list of felons that the state then transmitted to counties for purging had an accuracy rate of only 80 percent. Counties that purged the voters without verifying the information found that they had erroneously removed eligible voters from the rolls. In both cases, technological solutions provided voters no protection against flawed management of that technology.

As states purchase new voting machines and create statewide registration systems, they will need to pay equal attention to administrative and management practices.

This report culls from interviews with election officials and other experts a set of practices that can provide a more secure foundation for two key components of election administration: voting systems and voter registration systems. The recommendations offered below are based on practices already in use. In other words, they are not theoretical but practical. ■

RECOMMENDED PRACTICES FOR ELECTION OFFICIALS

SECTION ONE: VOTING SYSTEMS SECURITY

ACCOUNTABILITY, OPENNESS AND TRANSPARENCY

- Require bipartisan or third-party monitoring of sensitive election procedures.
- Require tracking and documentation of all procedures from the testing of machines to the handling of ballots.
- Require transparency in the operation and management of voting systems.

UNIFORMITY

- Establish statewide practices for the management and operation of voting systems.
- Require that all systems, at a minimum, have been state certified and meet all federal voluntary voting system standards.

TESTING

- Test every voting machine to ensure it is operating properly.
- Perform uniform, public testing of voting systems.
- Verify that the electronic and optical scan machines used are the same as the systems that were certified.

PHYSICAL PROTECTION OF VOTING SYSTEMS

- Restrict physical access to all components of voting systems.
- Maintain and operate voting systems in isolation from networks and the Internet.

PREPARATION PRIOR TO ELECTION DAY

- Educate voters on the use of all voting equipment both in advance of the election and in the polling place on Election Day.
- Provide adequate training for all Election Day workers.

ON ELECTION DAY

- Ensure adequate technical support to poll workers on Election Day.
- Provide a back-up plan in the event of machine failure.

AFTER ELECTION DAY

- Design a routine process that checks for problems that may have occurred but not been visible on Election Day.

SECTION TWO: VOTER REGISTRATION SYSTEMS

- Establish electronic transmission of voter information to the election authority from motor vehicle and other agencies offering voter registration.
- Ensure the registration process enfranchises all eligible citizens.
- Protect voter privacy and database security.
- Require transparency in the administration as well as in the creation of statewide voter registration systems.
- Require tracking and documentation of all changes to the database.
- Conduct accurate voter registration list maintenance.
- Give voters access to review and check their voter record.

MODEL PRACTICE: The computer system that administers Georgia's election system incorporates information used to produce a comprehensive set of audit data. For transactions occurring on the system, the system records the nature of the transaction, the time of the transaction and the person that conducted the transaction in an audit log. The audit log allows an investigator to reconstruct the sequence of events surrounding any incident or system failure.

RECOMMENDATION #3: **Require transparency in the operation and management of voting systems.**

In order to ensure public confidence, the administration of a voting system in its entirety — from purchase to post-election maintenance — should be open and transparent. Election officials must take extra steps to assure voters that not just the systems themselves but the procedures involved in readying systems for Election Day are fully open and accountable.

Certain tests, such as those that verify that machines are running properly — logic and accuracy tests — should be conducted in public. Counting operations such as running punch cards through counting decks and the counting of absentee ballots should be open to public scrutiny as well.

All procurement should be conducted through a bid process that is open to public scrutiny. Reviews and evaluations of various options should be made available to the public. Several jurisdictions formed committees that included technology experts, as well as public interest organizations and stakeholders to evaluate and select new voting systems.

MODEL PRACTICE: Georgia formed a partnership with Kennesaw State University (KSU) to provide in-house expertise in the administration of the state's new statewide uniform voting system including purchase, testing, maintenance, and Election Day trouble-shooting. KSU also helped train the poll workers and educate voters on the new system. The voting systems are tested and approved for use in elections at KSU's Center for Election Systems. The Center ensures the systems meet state requirements and conducts a mock election.

MODEL PRACTICE: Ohio developed a statewide procurement process for the purchase of voting systems using HAVA funds that included a four-phase evaluation of all voting systems. In addition, the Secretary of State kept the public informed at each step of the process, and evaluation reports were posted on the state's Web site. As part of the evaluation, the state hired two independent firms to review the security risks of each voting system. The reports are posted in their entirety on the state's Web site as well.

UNIFORMITY

RECOMMENDATION #4: **Establish statewide practices for the management and operation of voting systems.**

The scrutiny that occurred during the 2000 presidential election demonstrated the lack of uniformity throughout the nation's election systems. Some jurisdictions experienced voting error rates as high as 30 percent while in other jurisdictions only one or two percent of the votes were not counted. The minimum "uniform and non-discriminatory" requirements established in HAVA were intended to introduce greater uniformity among all election jurisdictions.

Traditionally, while most states have statewide standards for voting systems, the purchase and administration of such systems have been left to local jurisdictions. Local management practices vary widely, leading to disparities in the functioning of voting machines. In the wake of the U.S. Supreme Court's decision in *Bush v. Gore*, however, states have a responsibility to ensure the equal treatment of all votes statewide.

States such as Maryland and Georgia elected to establish a statewide uniform voting system. In Georgia, the state purchased the voting system that would be used in every precinct in federal elections. Every voter casts his or her vote on the same type of touchscreen voting machine. Ohio issued a request for proposals for voting systems and negotiated contracts with four vendors; localities using HAVA funds to replace equipment may purchase equipment only from these vendors. Both approaches recognize that the state now has a responsibility to ensure greater uniformity.

As recent elections have made clear, the management and administration of voting systems can dramatically affect the performance of those systems. Jurisdictions using punch card systems that neglected to keep the vote recorders free of chads experienced problems with votes not registering. Some jurisdictions using electronic systems failed to recharge the voting machine batteries. Other jurisdictions using optical scan systems have run into problems with the scanners' displays when they stored the machines in a room without climate control. These examples demonstrate that all voting systems require diligent maintenance.

States should address this challenge by developing statewide practices for maintaining and administering voting systems and, in addition, providing for uniform testing of all voting systems. Such procedures might include, for example, a schedule for recharging voting machine batteries, physical storage requirements for certain voting systems or required maintenance for

SECTION ONE: VOTING SYSTEMS SECURITY

The voting machines on which Americans cast their votes have been called into question. From the now-infamous punch card systems to brand-new electronic voting equipment, voting machines no longer have the automatic confidence of America's voters. While much of the controversy has focused on the voting machines alone, the voting equipment does not constitute the entire voting process. Voting machines function within a larger legal and administrative structure; they are a single component in a larger system. Operational and management issues are very important in the functioning of any system. Many of the risks inherent in the use of particular voting systems — optical scanners, punch card systems, lever machines, and electronic systems — can be substantially reduced by improving such management practices as personnel training and by instituting rigorous administrative procedures. With the November 2004 general elections close at hand and public scrutiny of elections growing more intense, election officials will want to demonstrate their commitment to security. By following relevant best practices that can be implemented in time for the 2004 general election, such as many of those described below, election officials can better protect their voting systems and shore up public confidence in the voting process.

ACCOUNTABILITY, OPENNESS AND TRANSPARENCY

RECOMMENDATION #1: **Require bipartisan or third-party monitoring of sensitive election procedures.**

A time-honored and effective method to guard against fraud is to open the election process up to bipartisan or nonpartisan scrutiny. Procedures that may be vulnerable or perceived as vulnerable to tampering and manipulation should be conducted under the watchful gaze of partisan and nonpartisan observers. Sensitive election procedures — that is, procedures where cheating might occur — include, but are not limited to, distribution of ballots and deployment of voting systems to polling places; programming and testing of voting machines, including optical scanners; opening and closing the polls; maintenance and trouble-shooting; and the process of counting ballots, including provisional ballots.

The use of increasingly sophisticated voting equipment raises concerns that sensitive election functions will be administered by technology experts, including outside consultants, with little or no oversight precisely because the work is so technical. In the absence of bipartisan technical oversight, election officials may choose to conduct a third-party review of technical processes.

MODEL PRACTICE: In Puerto Rico, representatives from the major political parties play a strong role in almost every aspect of election administration. On Election Day votes are tallied both at the polling place and at the state election headquarters. Both counts are conducted jointly by a team of officials from each of the three major parties.

MODEL PRACTICE: In New Mexico, the state contracts with an independent certified public accounting firm to conduct a thorough audit of the vote counting process. This independent audit follows the state's own audit of all vote totals.

RECOMMENDATION #2: **Require tracking and documentation of all procedures, from the testing of machines to the handling of ballots.**

Documentation, that is, a thorough and precise record of all relevant operations and procedures, provides the foundation for security in elections. The benefits of sound documentation are two-fold: First, requiring staff and poll workers to record their activities, particularly activities to protect security, helps ensure those tasks get done. Documentation also allows election officials to retrace what happened in the event of a machine or administrative failure. Requiring staff and poll workers to document their actions will allow for an audit to determine whether security measures were bypassed.

Tasks that should be documented include, but are not limited to, the following: receiving and verifying that the correct number of each ballot style has been received from the company printing the ballot; conducting tests to ensure voting machines are running properly; performing scheduled maintenance of all types of voting systems; transfer of ballots or memory cartridges from the polling place to the central office; and any trouble-shooting or repairs on Election Day.

Documentation may not necessarily be paper documentation. For example, a protocol of electronic signatures can track who did what to the machines and when they did it. Some software now allows officials to monitor who gains access to the computer system.

MODEL PRACTICE: In New Mexico, after polls close, the presiding election judge mails to the Secretary of State documentation of the number of voters and the vote totals. The Secretary of State's office reviews the documents, comparing the total voters with the votes cast according to the tapes. Poll workers are required to explain any anomalies. When the county sends the Secretary of State the canvass sheet, the state office compares the machine tapes to the totals on the canvass sheet and investigates any discrepancies.

punch card counting decks and other voting systems. In addition, states should develop mechanisms to monitor local compliance.

Procedures associated with poll closing are a critical point in the election process. States are well-advised to have in writing statewide poll-closing procedures that guarantee the process is observable, secure and well-documented.

MODEL PRACTICE: Maryland is developing and implementing a statewide security plan based on a framework recommended by the National Institute of Standards and Technology (NIST) in the publication, "Guide for Developing Security Plans for Information Technology Systems." The state is involving local election officials in the development of the plan.

MODEL PRACTICE: California directs poll workers to post the results for each precinct on the door of the polling place at the close of the polls. These tallies serve as an audit of election night tallies conducted at the central office.

RECOMMENDATION #5: **Require that all systems, at a minimum, have been state certified and meet all federal voluntary voting system standards.**

Prior to the enactment of HAVA, 38 states required that voting systems meet federal voting system standards. All major U.S. voting systems manufacturers participate in the independent testing process, which qualifies systems according to the federal standards. Once systems have been qualified, the states certify them for purchase or use by localities. Several states impose additional requirements. California, Georgia and Florida, for example, conduct their own certification programs to ensure systems meet state-specific requirements. State certification programs should supplement but not supplant federal testing, standards and guidelines.

If a state requires that voting systems meet federal standards, then the state — as well as the local jurisdiction — has an obligation to prevent bypassing the testing and qualification process. In the 2004 presidential primaries multiple counties used new voting systems with software that had not been federally qualified, a process that includes testing for reliability. According to news reports, a lab hired by the vendor performed only cursory testing prior to the election. The real test came on Election Day when there were not only significant problems with the mechanism for encoding ballots, but the vote tabulating software also attributed thousands of votes erroneously.

While the EAC is developing guidelines for protecting voting systems, states may consider requiring voting system manufacturers to abide by information technology standards already developed by NIST. NIST develops these standards, called Federal Information Processing Standards (FIPS), to fill the vacuum when there are no accepted industry standards. There are FIPS, for example, that address encryption, the security of computer applications and data authentication. Recommendations in the FIPS guidelines for physical security of automatic data processing systems address such issues as preventing access by unauthorized individuals and appropriate climate controls. These recommendations could easily be adapted to voting systems.

MODEL PRACTICE: Ohio issued a statewide Request for Proposals (RFP) from voting system manufacturers and required localities wishing to use HAVA money to purchase new voting systems to purchase only voting systems that have been approved by the state. Ohio required that all voting systems be state certified to meet the federal standards. In addition, the state rigorously tested all potential voting systems, hiring two outside firms to conduct a thorough security review of each system.

TESTING

RECOMMENDATION #6: **Test every voting machine to ensure it is operating properly.**

Performing tests on every voting machine provides assurances that the system will operate properly on Election Day. This task is time-consuming so election officials will have to plan ahead to allow sufficient time to test every machine. Time spent testing machines prior to Election Day can save time in the end. For example, in a recent primary, a manufacturer technician in one jurisdiction failed to calibrate the optical scan machines to accept ballots marked with a certain type of ink; all ballots marked with that ink had to be recounted.

MODEL PRACTICE: In Georgia, voting machines are arranged by precinct and the memory cards inserted. Each machine is tested to ensure that it is running properly and that the proper ballot information is stored on the machine.

RECOMMENDATION #7: Perform uniform, public testing of voting systems.

This testing should include, at a minimum, (1) logic and accuracy testing for electronic and optical scan systems, (2) testing to ensure the proper ballot has been loaded in the systems, and (3) checking to ensure that paper and optical scan ballots have been properly distributed to the polling places.

Election Day testing and monitoring may also include:

- Verification that the number of voters entering the polling place is equal to the number of votes cast in that polling place. There may be a small discrepancy in these two numbers since sometimes voters will leave the polling place without casting a vote. Nevertheless, this test effectively verifies that ballots have not been fraudulently added.

VOTER-VERIFIABLE PAPER TRAIL: WHAT ARE THE ISSUES?

The Help America Vote Act (HAVA), authorized federal funds to replace poorly-functioning voting equipment. Some have raised concerns about the security of new Direct Recording Electronic (DRE) voting systems — also known as "touchscreen" voting machines and have proposed a particular solution — the voter-verifiable paper trail (VVPT).

Most VVPTs are add-on systems that print out voters' individual ballot choices after they have been cast on the DRE. Proponents of the VVPT argue that this allows the voter to confirm his or her vote and that it provides an opportunity for recounts since the paper record of each individual ballot is retained by election officials.

Because VVPTs are relatively new, federal voting system standards for security, accuracy, accessibility, reliability, availability and maintainability have yet to be developed. Therefore, VVPT systems have yet to be qualified to meet these currently unknown federal standards. VVPT systems also have yet to be widely tested under the rigorous conditions of major elections.

As a potential solution to election problems, VVPT systems deserve and require a close and critical examination. A number of questions have been raised:

- Does the VVPT add security, and if so, how?
- What does it mean to be voter-verified? Does every voter have to verify his or her ballot? What is the value of unverified paper records?
- How will the process of voter verification, whether it is required or optional, be carried out at the polling place?
- What happens if a voter says the paper record is incorrect? What is the process if the voter affirmatively does NOT verify? In this case, how is the electronic record or the paper record, or both, corrected and the ballots accurately counted?
- How will the paper records be counted or recounted? What are the standards of accuracy that must apply to the counting of the paper records? What mechanisms for protecting the paper records will be put in place to guard against manipulation or loss?
- What is the official record of the vote? When will the electronic tally count under the VVPT system, and when will the paper records be relied on? What are the effects of an ambiguous outcome?
- How will the system work mechanically? What certification and other standards will apply to the printers, the paper records, the counting devices and the security systems for the paper records?
- What is the effect of the VVPT system on voting access for persons with visual and physical disabilities, persons of limited English proficiency and persons of limited literacy?

The answers to these questions should reflect practical changes to election procedures.

Often the debate over DRE voting systems has been limited to the proposal to require a VVPT. However, a paper trail is not the only means available for auditing the voting process. The Caltech/MIT Voting Technology Project stated that, "an auditable voting system need not be based on paper. Other technologies might emerge in the coming years that would guarantee confidence in election results and would improve on paper ballots in other ways." Caltech/MIT has proposed an alternative solution: separate the vote-recording and the vote-counting processes. This and other approaches, such as instituting a third-party audit, should be explored. Many of the security measures outlined in this report, primarily preventing physical and electronic access to the voting system, would reduce the risk from hacking and manipulation of voting systems. ■

- Parallel monitoring. This test requires randomly pulling voting machines that have been readied for voting — "live" machines — from the polling place on Election Day and testing them to verify that they are accurately recording and tallying votes.

MODEL PRACTICE: In Marshall County, Iowa, election officials perform logic and accuracy testing on each optical scanning device, and perform a hand tally of the test deck. In addition, Marshall County officials employ a written chain-of-custody documentation for all paper optical scan ballots, both to track ballots before Election Day and after they have been scanned and counted.

RECOMMENDATION #8: **Verify that the electronic and optical scan machines used are the same as the systems that were certified.**

To ensure meaningful compliance with federal and state standards, jurisdictions must develop procedures to confirm that the software being used in an election is the same software that was qualified by an Independent Testing Authority and certified by the state.

MODEL PRACTICE: Georgia tests its voting equipment to ensure that only the certified software has been installed. To conduct this test, the Kennesaw State University Election Center creates and administers a "validation program" that tests whether the software installed on systems at the county level is the same as the certified software. Election officials run this validation program both before and after the election.

PHYSICAL PROTECTION OF VOTING SYSTEMS

RECOMMENDATION #9: **Restrict physical access to all components of voting systems.**

Election authorities should have systems and procedures in place to guarantee that at no time are ballots, optical scanners, voting machines or records physically vulnerable. Providing such protection may be as simple as storing the computer server in a locked cabinet or it may involve working with the police to provide security for the transportation of ballots. In this context, the voting system encompasses not only voting machines, but also servers and other computer equipment involved in the process of administering the election. Indeed, Section 301 of HAVA defines a voting system broadly as "the total combination of mechanical, electromechanical or electronic equipment (including the software, firmware and documentation required to program, control and support the equipment) that is used to — (A) define ballots; (B) cast and count votes; (C) report or display election results; and (D) maintain and produce any audit trail information." A voting system also includes the "practices and documentation" used to identify the components, test the systems, maintain records of defects and errors, determine any system changes to be made after the system has been certified, and provide materials to the voter.

Providing physical security means restricting access to offices and warehouses storing voting systems. Access to all election facilities should be carefully monitored and controlled.

Providing physical security also means protecting ballots. Election officials should have a plan for managing and documenting the trail of optical scan, punch card or paper ballots, as well as electronic records and paper back-up systems. The plan should aim to allow officials to maintain strict control over the ballots at all times. If feasible, election officials, not poll workers, should take responsibility for transporting ballots from the polling place to election headquarters. Stories abound of poll workers losing ballots or leaving ballots unprotected.

Physical security also encompasses the voting process on Election Day. Neither ballot boxes nor voting machines should ever be left unattended. Even lever machines have physical vulnerabilities: Standing at the back of the machine, it is possible to jam the vote tally mechanism using a device as simple as a paper clip. The mechanism for overriding the error notification feature of optical scanners needs to be protected to ensure that this significant voter protection is not intentionally or inadvertently turned off. Finally, the mechanisms used to end voting are very important and should be protected. Polling place operations should be set up to ensure that poll workers can monitor the voting process.

MODEL PRACTICE: In Georgia, the servers are kept in locked offices within the county election office. No person is allowed access to the computer until his or her identity has been established by the county Election Superintendent. In addition, the PC memory cards in the touchscreen voting equipment are in locked compartments. Only the Precinct Manager has keys.

MODEL PRACTICE: In Virginia and Maryland, the poll workers insert the smart card for the voter to prevent the possibility that a voter might use a "home-brew" generic smart card that could add fraudulent votes to the machine's tally. Smart cards initiate the voting process.

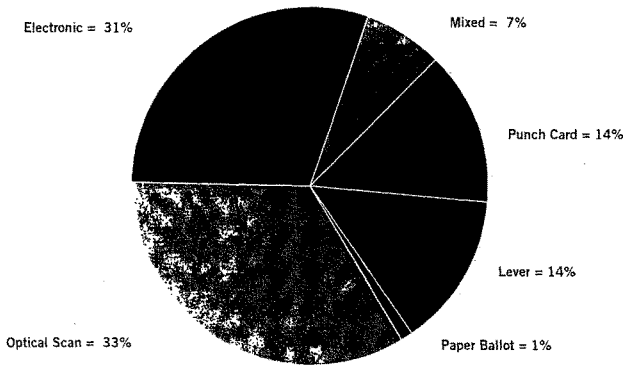
CHECKLIST FOR VOTING SYSTEMS

ALL VOTING SYSTEMS

- Work with design or usability professionals to ensure the readability of the ballots. In particular, the ballot design and instructions should aim to prevent overvoting and undervoting.
- Use only systems that meet federal qualifications and state certification guidelines and standards.
- Educate voters on how to cast a vote properly on their election system, including how to review their ballots, and how to check for overvotes and undervotes. Instructions should be written clearly and simply and provide illustrations.
- Test voting machines and counting machines, including their hardware and software, prior to Election Day. Carry out testing in a public process.
- Educate media, campaigns and elected officials on security measures to protect the voting system and encourage them to disseminate this information to their constituents.
- Ballots, voting machines, memory cartridges and counting machines should never be left unattended.
- Preferably two election officials will oversee all processes, including the transfer of ballots and other election materials to the central office.
- Educate poll workers on how to provide assistance to voters without compromising the secrecy of the ballot.
- Educate poll workers on use of the voting system, including troubleshooting common problems. Poll workers should have a checklist for starting and ending voting on their voting system.
- Do not remove machines from the polls for repairs or for any other reason until voting has ended.

EXPECTED VOTING EQUIPMENT USAGE IN 2004 (PERCENTAGE OF REGISTERED VOTERS)

(SOURCE: Election Data Services, Inc., May 2004.)



CHECKLIST FOR VOTING SYSTEMS

PUNCH CARD SYSTEMS

- Instructions should include directions to check for hanging chads and to review the ballot.
- Provide voters with information regarding what constitutes a spoiled ballot and a clear and no-fault system for replacing a spoiled ballot so the voter can vote on a new ballot.
- Ensure that routine maintenance has been completed before Election Day, including making sure the voting machines are free of chads.

LEVER MACHINES

- Instructions should include illustrations of proper positioning of levers for voting, as well as clear directions on how to write in a candidate and how to cast the vote.
- Ensure that routine maintenance has been completed before Election Day.
- Perform a hundred-vote test count on each machine prior to Election Day.
- Test to make sure mechanism for preventing overvotes is functioning properly.

OPTICAL SCAN: PRECINCT-COUNT SYSTEMS

- If the scanner requires the use of a particular marking device or color, this information should be prominently displayed.
- Provide clear instructions that explain the ballot review process so that voters will feel comfortable correcting a ballot with an overvote or other problem revealed by the scanning process.
- Provide voters with information regarding what constitutes a spoiled ballot and a clear and no-fault system for replacing spoiled ballots so the voter can vote on a new ballot.
- Ensure that scanners are properly calibrated before Election Day.

OPTICAL SCAN: CENTRAL-COUNT SYSTEMS

(also applies to absentee optical scan ballots)

- Voters should receive clear instructions, particularly with absentee ballots. Instructions should be written simply and should include illustrations of properly filled out ballots.
- Both in-person and absentee voters should receive instructions on what constitutes a spoiled ballot and what to do if they spoil their ballot.
- If the scanner requires the use of a particular marking device or color, this information should be prominently displayed.
- Ensure that scanners are properly calibrated before Election Day.
- After 2000, many voters believe that absentee ballots will not be counted unless the election is close. Election officials may want to clarify this process by including a description of the absentee ballot vote counting process and timeframe with the instructions.
- Establish procedures for determining voter intent using uniform vote counting standards and for counting ballots that cannot be scanned. The process for counting ballots should be open and conducted under bipartisan scrutiny.

TOUCHSCREEN VOTING SYSTEMS

- Many of the newer electronic voting systems allow the voter to check if the ballot was actually cast; if so, this process should be included in the instructions.
- Test audio and magnification systems for each machine.
- On Election Day, periodically check to make sure machines are properly calibrated and that cords remain plugged into the socket.
- Double-check to ensure that the device used to encode ballots — the encoder or card activator — has been sent to the proper polling place.
- Configure the polling place to allow full view by poll workers of voting and voter activity to guard against unauthorized access while protecting voter privacy.

RECOMMENDATION #10: Maintain and operate voting systems in isolation from networks and the Internet.

In the debate over the vulnerability of electronic systems to hacking and software tampering, critics have cited the danger of viruses and hacking. Election officials can reduce this risk by maintaining the system in isolation. In other words, no component of the system should ever be connected to the Internet.

Many jurisdictions require unofficial results for optical scan systems and DREs to be sent by modem from the polling place to the central office. According to security experts, the results should be encrypted during the transmission. Even though these election night results are not the official results, discrepancies that show up between election night results and certified results will diminish public confidence in those results

MODEL PRACTICE: Maryland has implemented cryptographic protocols for all data transmitted via modem. These protocols apply to all systems statewide.

PREPARATION PRIOR TO ELECTION DAY

RECOMMENDATION #11: Educate voters on the use of all voting equipment both in advance of the election and in the polling place on Election Day.

The Caltech/MIT report, "Voting: What Is, What Could Be," found that nationwide 2.5 percent of votes cast were not counted. The number was much higher in some jurisdictions: In some Georgia precincts that used punch card or optical scan systems in 2000, upwards of 12 percent of the votes were lost because of problems with the voting equipment — a percentage that exceeded the margin of victory. Georgia subsequently adopted a statewide system that solved this problem. Their new electronic voting system fully eliminated the possibility of an overvote — the largest source of voting errors on punch card or optical scan voting systems — and reduced the undervote in the top ticket races from 4.8 percent in 1998 to less than 0.9 percent in 2002. Of significant interest were the considerable reductions in overvoting and undervoting in minority precincts. Without replacing voting systems, the number of lost votes can be reduced with thorough, aggressive voter education.

Voters need clear instructions on the voting process. Many jurisdictions conduct extensive pre-Election Day outreach, taking voting systems to malls, grocery stores and community centers to familiarize voters with the process. Hands-on demonstrations are more effective than written instructions. Written instructions are necessary, however, and should include illustrations.

Voters using punch card ballots need to understand that unless the stylus fully punches through the card their vote may not be counted. Voters using precinct-count optical scan ballots need to understand that if the scanner rejects their ballot it may not be counted, and that they should have the opportunity to correct the problem. Voters using electronic voting systems need to understand the process for changing their vote, and that once they have hit "cast ballot," their ballot is irretrievable. And all voters need to understand the ballot, whether it be the layout of a paper ballot or a touchscreen.

Jurisdictions that have replaced their voting systems will find that voter education is key to promoting a successful transition.

MODEL PRACTICE: When Detroit, Michigan, replaced its punch card voting system with a precinct-count optical scan system, election officials undertook a city-wide voter education campaign. The percentage of uncounted votes for president decreased by almost two-thirds, from 3.1 percent in 1996 to 1.1 percent in 2000. Precincts that had over 7 percent uncounted votes in 1996 had less than 1 percent uncounted votes in 2000. Detroit spent approximately $100,000 on voter education, taking systems out into the community, conducting daily demonstrations at community centers, churches, festivals and government buildings. The city also produced public service advertisements for television, radio and billboards, and blanketed the city with flyers and pamphlets.

MODEL PRACTICE: Montgomery County, Maryland, and Los Angeles County, California, both provide live-streaming video instructions on the voting process on their Web sites.

RECOMMENDATION #12: Provide adequate training for all Election Day workers.

On Election Day, the voting system lies in the hands of poll workers. The importance of adequate poll worker training, therefore, cannot be overemphasized. Poll workers must be trained to ensure the physical security of the voting system, to start and end the voting process correctly, to assist voters who may have difficulty voting, and to protect the voter's privacy.

Poll workers need to understand the security vulnerabilities in order to effectively guard against security breaches. They need to understand the purpose of the

optical scanner's error notification features so they can explain it to the voters. Poll workers need to be trained on how to close down the poll properly and document the vote tallies accurately.

After the 2000 presidential election, Florida overhauled its election system, replacing voting systems in 2002. As most election officials remember, two counties experienced serious problems when new systems made their debut in the 2002 primary.

On September 20, 2002, the Miami-Dade Inspector General (IG) issued a report following an inquiry into circumstances surrounding the primary election. While the IG's report faults problems with the voting systems and with administrative planning, the report also focused on the inadequacy of poll worker training.

Beyond the problems poll workers experienced with equipment, two reports, including the IG's report, noted that poll workers did not have a clear understanding of basic procedures. The problem did not lie with the poll workers themselves, " the matter does not lie in the caliber or technological experience of the poll worker, but is grounded in the absence of quality training sessions and written training materials," the IG concluded.

MODEL PRACTICE: In Los Angeles County, California, election officials are preparing for an eventual transition to electronic voting systems by actively diversifying the poll worker workforce, and by recruiting tech-savvy municipal employees, students and private-sector volunteers.

MODEL PRACTICE: Maryland's statewide security plan requires training Election Day workers, "election judges," on the security procedures outlined in the plan. In addition, the state will also train other key Election Day officials, including local election officials and staff on the new plan.

ON ELECTION DAY

RECOMMENDATION #13: Ensure adequate technical support to poll workers on Election Day.

While many election officials rely on the voting system manufacturer to provide technical support on Election Day — provided they included such service in the contract with the vendor — they also need a plan in place to supplement the manufacturer's support with independent technical support. Such a plan would likely provide tiers of technical expertise ranging from a troubleshooting checklist at each polling place to manufacturer technical support. The aim is to reduce the burden on the response system by giving poll workers the tools to fix routine problems themselves.

To reduce the reliance on voting system vendor support over time, election officials should plan on developing their own in-house expertise. Election administrators may consider developing a cadre of trained professionals to handle the demand for technical support on Election Day. This cadre of technicians would be available either to resolve problems over the phone or to go to the polling place. Knowing how to operate a computer does not qualify as adequate technical expertise. The technical support personnel must understand the larger administrative process as well.

The support plan must not only cover ensuring the availability of technical support, but also a communications strategy to guarantee that poll workers can access that support. A common sense solution is to provide a hotline for poll workers on Election Day — and to make sure the hotline is adequately staffed!

Jurisdictions may wish to consider conducting an assessment of poll workers' comprehension and comfort level with basic operations and troubleshooting to ensure they have adequate knowledge to carry out their duties.

MODEL PRACTICES: The District of Columbia Board of Elections recruited, trained and deployed "precinct technicians" to help poll workers and voters operate new electronic voting equipment. Following a trouble-filled primary in 2002, Miami-Dade County, Florida, brought in computer specialists from other county agencies to provide Election Day support to poll workers. Likewise Montgomery County, Maryland, called on county information technology workers to assist at the polls on Election Day.

RECOMMENDATION #14: Provide a back-up plan in the event of machine failure.

The reality of technology is that individual machines — individual touchscreen units, ballot encoders, scanners — will fail. And when that happens on Election Day, whether the result of human error or machine error, voters can be disenfranchised. Accordingly, there must be a back-up option. In jurisdictions that use DREs, additional machines should be available in the event of machine failure. In other jurisdictions, additional ballots should be available in case sufficient ballots did not arrive at the polling place.

AFTER ELECTION DAY

RECOMMENDATION #15: **Design a routine process that checks for problems that may have occurred but not been visible on Election Day.**

States may conduct an audit of the election after Election Day to provide the public with additional assurance that all votes were counted properly and accurately. This practice may also alert election officials to problems that occurred that may not have surfaced on Election Day.

MODEL PRACTICE: In New Mexico, poll workers keep duplicate copies of all documents, such as machine tapes, poll books and hand tally sheets. These documents are mailed separately to the state election office. After the state's canvass, an independent certified public accounting firm conducts an audit of the entire election, checking the documents received from the poll workers against those received from the local election officials. Any discrepancies are investigated.

SECTION TWO: VOTER REGISTRATION SYSTEMS

When Congress first began looking into the election system following the 2000 presidential election, it soon became clear that poorly administered registration systems posed a bigger problem affecting more voters than antiquated voting machines. Eligible voters were disenfranchised because their registration applications were not being processed and because of other systemic problems. Ten years after passage of the National Voter Registration Act (NVRA), some states and localities had not yet found an efficient, reliable means to transmit voter registration applications from motor vehicle and other agencies, which are required to provide such applications to citizens, to the proper election authority.

In Section 303 of HAVA, Congress mandated that states establish a statewide computerized voter registration list in order to address these types of problems. Forty-four states requested waivers from this new requirement and are therefore not required to implement this provision until 2006. The design of these statewide computerized registration systems is key to establishing a well-administered election process.

RECOMMENDATION #16: **Establish electronic transmission of voter information to the election authority from motor vehicle and other agencies offering voter registration.**

A well-run registration system will provide an electronic link between the election agency and the agencies specified in NVRA as registration agencies, including agencies serving persons with disabilities and public assistance agencies.

Electronic transmission is timelier and more accurate than physical transmission. In Michigan, the information is transmitted instantaneously since the motor vehicle and the election authority share the same database. Electronic transmission also eliminates the need to enter the data a second time, thus reducing costs and minimizing the opportunity for clerical error.

Jurisdictions that transmit voter information from one agency to another electronically are much less likely to experience registrations falling through the cracks. Conversely, voters in jurisdictions that still transfer paper applications are far more likely to show up at the polls believing they have registered, only to find their names are not on the list. States that fail to provide for electronic transmission will likely have far more provisional ballots, increasing their post-election administrative burden. A majority of Los Angeles County's provisional ballots are cast by voters who registered at the motor vehicle agency but whose registrations either got lost in the system or were not processed in time.

MODEL PRACTICE: Michigan's Qualified Voter File is a unified database shared by the state election agency and the motor vehicle agency. Changes and updates made to the voter registration record are automatically made to the driver's license record, and vice versa (in Michigan the address for voter registration and motor vehicle registration must be the same). Electronic transmission allows new registrations and updates to be processed in real-time and significantly reduces the likelihood of losing applications in transmission.

RECOMMENDATION #17: Ensure the registration process enfranchises all eligible citizens.

The voter registration process can assure good administration of the election process, or it can serve as a barrier to voter participation. The design and implementation of a statewide computerized voter registration system holds great promise if it is properly designed to ensure enfranchisement of all eligible citizens.

In creating a statewide database, states must establish where responsibility lies for adding, deleting and updating voter records and specify, in law or regulation, the rules for determining both eligibility and ineligibility.

States must assign each voter a unique identifier, a change that will significantly reduce the deadwood on voter lists over time by allowing states to track voters as they move within the state. State election officials can either create their own system by assigning randomly generated numbers to each new voter or piggy-back on another system such as the motor vehicle agency numbering system.

In establishing rules for the voter registration process, the state should ensure that information is used to complete accurate registrations, rather that setting up obstacles to the voter registration process. For example, if a voter registration applicant fails to provide a driver's license number or inadvertently transposes numbers, the database system should help correct that application so it can be processed and accepted. The state should have a transparent administrative process that includes information on the acceptance or rejection of applications.

HAVA requires that a voter registration application include the driver's license number, or the last four digits of the SSN if the applicant has not been issued a current and valid driver's license. The appropriate number can be provided by the applicant or by the state's databases. The chief state election official and the official responsible for the state motor vehicle authority are required to enter an agreement to match data, and the motor vehicle official must enter a similar agreement with the commissioner of Social Security.

As HAVA is silent on how states should treat the results of this database matching, states must determine how to conduct these matches as well as what to do with the results. According to the Social Security Administration (SSA), at least ten percent of the information obtained as a result of matching the name and last four digits of the SSN will likely be inaccurate. Two types of errors may result: First, matching the last name and the last four digits can produce multiple apparent matches, called "false positives." In addition, errors such as inaccurate

PURGING OF VOTER LISTS

In 1993, Congress passed the National Voter Registration Act (NVRA) to expand the opportunities for eligible citizens to register to vote. In addition, the NVRA encouraged states to coordinate voter records with other databases in order to keep lists accurate and up-to-date. At the same time, however, the law also established safeguards to prevent eligible voters from being erroneously purged.

HAVA adopts the NVRA list maintenance standards. Nothing in HAVA alters the requirements under NVRA to protect voters from erroneous purges.

The consequences of flawed list-cleaning procedures were clearly evident in November of 2000 when thousands of Florida voters found themselves unable to vote after they had been purged from the rolls based on erroneous information sent to county election officials by the Secretary of State.

In 2000, the Florida Secretary of State's office contracted with an outside firm to match voter registration records against felony records. Not only was the underlying data from the Florida Department of Law Enforcement unreliable, but the matching criteria were so broad that thousands of eligible voters were erroneously tagged as felons. The resulting match had an error rate of approximately 20 percent. Despite the inaccuracy of the information, the state made the data available to the counties and encouraged them to use the information to purge the voting rolls.

Several counties then purged voters from the registration records without bothering to verify the accuracy of the information.

The lesson from Florida is simple: database matching to remove felons, deceased voters and duplicates, cannot, in itself, substitute for an accurate verification process. Accordingly, states and local election officials must build sufficient time into the list-cleaning process to conduct proper verification. And the reliability of the underlying data should always be checked before it is used. (See page 16 for details of the settlement agreement between the state of Florida and the NAACP.)

Still, even using stricter standards, database matching is not foolproof; further verification is advisable. Providing notice to the voter before any purge is carried out allows that voter to correct an error before it results in erroneous purging. ■

name spellings and transposed numbers can result in the appearance of no match.

Given this high rate of inaccuracy, it would be a mistake to reject voter applications when there is no identical match; doing so would almost certainly result in disenfranchising eligible voters. In the event the attempt to match produces no match, states have the option of assigning a randomly-generated unique identifier. In the event that a database match produces information suggesting ineligibility, such as when the voter's last four SSN digits and name correspond to someone who is deceased, states should develop procedures for following up with the applicant to verify the information. (See "Purging of Voters Lists" for a more detailed discussion of the challenges involved in database matching.)

Matching with motor vehicle records poses other difficulties: addresses are likely to be different; driver's license numbers may be accidentally transposed by the applicant; and the types of data may be different. All of these indicate the need for officials to use DMV data to supplement the registration process rather than use it as a reason to reject an applicant. To resolve inconsistencies, election officials will need to follow up with the voter by mail or other means.

Election officials would be well-advised to study the matching process, particularly at the beginning, to determine the reliability of the information received from either the motor vehicle agency or the SSA.

While HAVA gives the state responsibility for defining, maintaining, and administering the official voter registration list, local registrars will likely retain responsibility for important steps in the process. A well-run registration system will necessarily involve close cooperation between state and local offices. States must spell out the details of processing voters and take steps to ensure the procedures are followed uniformly throughout the state.

MODEL PRACTICE: In California, the state searches the motor vehicle database to pull the driver's license number, which then is added to the voter record. The state also compares voter records to health records. The practice not only helps the voter, it also ensures more accurate records.

RECOMMENDATION #18: Protect voter privacy and database security.

HAVA requires that the appropriate "State or local official shall provide adequate technological security measures to prevent unauthorized access to the computerized list..." States therefore must establish strict rules for administering the database and ensure each locality adheres to those rules.

Creating a protocol for access to voter records should be part of establishing a regulatory framework for administering the database. This protocol would create hierarchical levels of access to the database, giving certain users discrete authority to perform certain tasks. Not all election staff have authority to perform the same functions. Very few staff, for example, would have authority to remove names from the list.

On the one hand, of course, the registration list will be a very public document: Almost every state allows political organizations and parties to purchase the list, which contains voters addresses, party affiliation and voting participation history. On the other hand, information such as the voter's driver's license number or SSN requires strong protection. The database must be structured in such a way as to accomplish both goals.

As with the administration of voting machines, thorough and rigorous documentation of all operations is necessary to ensure public confidence in the security as well as the accuracy of the list. List administrators must be able to track who has accessed the list as well as what transactions, such as updates and additions, have been performed, and when.

Protecting database security includes providing physical protection as well. Moreover, the server should be in a protected location that does not offer public access.

MODEL PRACTICE: In Michigan, local election officials have authority to add, delete and update voter records; however, any change must ultimately be approved by the state in order to be made official. Michigan also has in place rules governing which employees can perform which tasks.

MODEL PRACTICE: In the District of Columbia, the chief technology officer can monitor both successful and unsuccessful attempts to enter the voter registration database. In addition, all users are now required to change passwords on a monthly basis in order to prevent former employees from gaining access or allowing others to gain access to the database.

RECOMMENDATION #19: Require transparency in the administration as well as in the creation of statewide voter registration systems.

A computerized voter registration system is more than just a database — the details of its creation and administration will determine if and how well the rights of eligible citizens are protected. Many states are seeking consultants to help them write the "request for proposal" for technical assistance in constructing the registration system; some states are developing the database themselves. In either case, the process for designing the system should be public and transparent. It should involve stakeholders, including the local election officials, parties, voter advocates and the public. These stakeholders should have a voice in defining the system — particularly the procedures for adding, deleting and modifying records.

In many states, involving local election officials at the beginning of the process will reduce the likelihood of problems when it comes time to implement the system. Such officials bring a practical understanding of the registration process and will have insight on the details of the system's construction.

States may divide up the administrative work between state and local officials differently. For example, in Michigan the localities submit voter information to the state that has ultimate authority for adding and deleting voters to the database. In Kentucky, the state has authority to remove registrations while localities have authority to add and update registrations. In the end, however, the state has sole responsibility for the system and for ensuring its accuracy.

MODEL PRACTICE: Pennsylvania made both the initial study of what would be required to create a statewide list as well as the RFP publicly available. Soon after Pennsylvania began implementing its statewide system, the state contracted with a private firm to review and evaluate the implementation process. The firm conducted a thorough review of the system and made dozens of recommendations for improvements. The state posted the report on its Web site.

RECOMMENDATION #20: Require tracking and documentation of all changes to the database.

States should have a method for monitoring all changes — additions, deletions and updates — made to the list. This monitoring might include electronic signatures within the database or it might include a requirement for thorough documentation.

MODEL PRACTICE: In the District of Columbia, the voter registration database tracks who made changes — additions, updates, deletions — to the voter registration records.

RECOMMENDATION #21: Conduct accurate voter registration list maintenance.

Elections are a unique governmental function; the use of database technology in election administration will require different procedures and more stringent safeguards than in other areas of government.

Nothing in HAVA allows election officials at the state or local level to bypass protections intended to prevent voters from being disenfranchised for administrative errors, specifically, the protections for voters established in the NVRA. Under NVRA, election officials are prohibited from removing a voter who they believe has moved unless the voter confirms the information in writing. Nothing in HAVA alters this safeguard.

Even if it appears that several records belong to a single voter — who has moved from one jurisdiction to another and registered after each move — the election official cannot remove any of the apparent duplicates without written confirmation by the voter.

NVRA requires states to perform list-cleaning procedures to keep voter registration lists current and accurate, including obtaining data from other sources such as the National Change of Address program, death records and felony records. While this data can provide useful information, it must always be verified. Stories abound of people who have died continuing to receive Social Security checks posthumously and, conversely, people still very much alive erroneously being included among the dead. One jurisdiction in 2000 matched the voter list against a tax assessor's list and required voters whose addresses did not match the assessor's list to vote by provisional ballot at the central election office. However, the assessor's list was ten years old, and some of the addresses identified by the assessor as invalid or "vacant lot" had since been developed into residences. Voters should not be penalized for inaccurate or out-of-date record keeping.

The polling place on Election Day can be a key point in the list-cleaning process if voters are allowed to update their registration information when they come in to vote. Poll worker training should, therefore, include easy-to-follow guidelines on how to note change of address, spelling corrections and other changes. Election officials must be vigilant in following up on this information.

MODEL PRACTICE: The following rules for determining multiple registrations, sometimes known as "duplicates," were taken from the settlement agreement between the state of Florida and the NAACP. Following this model will guard against faulty matches.

To determine multiple registrations, the state may match:

- the last name, first name, least common denominator of the middle name, and the date of birth (DOB);
- full nine digits of the SSN, last name, and either first name or DOB;
- driver's license or state ID number, and last name;
- SSN and last name, or DOB; or
- Florida ID and last name, or DOB.

In applying these matching criteria, the following conditions apply:

- the last name in both records must be exact;
- the DOB in both records must be exact;
- there can be no conflict in race data or gender data; and
- there can be no conflict in SSN — transpositions will not be accepted.

Of course, the data that is matched against the voter registration list must be accurate.

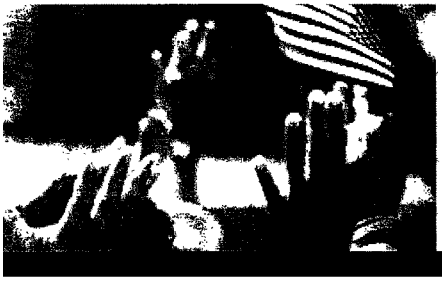
RECOMMENDATION #22: Give voters access to review and check their voter record.

Voters can and should be a part of the process to ensure the accuracy of their voter record. Voters should be able to view their registration information in order to check the accuracy of the address, party affiliation, voting jurisdiction, polling place and age.

In smaller jurisdictions, voters can call the registration office to obtain their voter information. In larger jurisdictions, the administrative burden can be reduced by making a copy of this information available on a Web site.

Encouraging voters to check their registration information for accuracy prior to the deadline should allow for a reduction in the number of provisional ballots cast during an election. The more voters who can straighten out registration problems prior to the election, the fewer voters whose eligibility will be in doubt on Election Day.

MODEL PRACTICE: Virginia's elections Web site allows citizens using a personal identification number to view their voter registration information, including their proper polling place, online. Voters do not view this information directly in the database, but review a public copy of this information.



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Mr. NEY. Mr. Erlanger.

STATEMENT OF JEFF ERLANGER, COMMUNITY ACTIVIST

Mr. ERLANGER. Thank you for the opportunity to come to speak. Today I am here—as you said I am a community activist. My specific things group that I am here to speak on behalf of are the disabled.

I have served on the City of Madison committee people with disabilities and their ADA transit oversight subcommittee.

My understanding is while the state proposal may require disabled people have to have voter ID, it is my understanding that the federal proposal actually exempts people with disabilities. First of all, am I correct about that.

Mr. NEY. Well, the Help America Vote Act just requires the last four digits of your social security number. You can use a photo ID or you can use a bank slip statement. So it doesn't—

Mr. ERLANGER. That's for everybody. My comments will be a little different.

Mr. NEY. I am sorry. The current law that we wrote the Help America Vote Act just requires either a photo, the last four digits of the Social Security number, bank slip, or water utility slip, for first time registrants only, not for existing voters.

And so what you are talking about is Mr. Green's act.

Mr. ERLANGER. Right.

Mr. NEY. As introduced.

Mr. ERLANGER. Right.

Mr. NEY. I am sorry.

Mr. ERLANGER. So that's what I am here for today. Instead of saying I am for or against it, I wanted to ask the committee some questions for you to think about.

One is why would people with disabilities be exempt from Mark Green's proposal? Is it because we might find it hard to get to the DMV to get our voter ID? Is it because we might not be able to pay for it? Or is it so that we can more on our own independently go and vote without having someone go into our wallet or something to get out a ID.

In any case assuming it is for logistical purposes or for our economic purposes, I want to remind you all there are other people out there besides the disabled that have a hard time getting places.

The poor may not have cars, they may have to work all day and not be able to make it to the polls to go vote, for whatever reason.

Students may not be able to for the same reason be able to go and change their—and change their address every time they move. They might find it hard or have just moved to campus and find out in a week or 10 days that they have to—that there is an election so they have to come quickly and get their address changed.

So I want to remind you that there are more people from disability that might find it hard to get there.

I also want to remind people that not all people with disabilities are honest so just because we are disabled doesn't mean that we might not go and commit fraud and as someone reminded me, that doesn't stop someone from finding a wheelchair to just wheel into the polling place and say they are disabled so they don't have to show a voter ID.

So I think if we are going to exempt people with disabilities we have to find a way to exempt other people who may be in similar situations.

Also I believe that the voter ID should be free. If you are going to ask people to constantly go and get it updated and you are going to charge them, to me that is a poll tax. You might not call it a poll tax, well, you need the ID, you might find a way to spin it, if you are requiring them to pay for it in order to vote, it is a poll tax.

I ran as I said in my written statement, I ran for city council in Madison in 2003 and 10 percent of the people in my district voted. Only 10 percent. I don't think it is just because they were not impressed with me and my opponent who eventually won.

In 2001 it was actually less than 10 percent who showed up to vote and I was not in the race so nothing to do with me.

So I don't think, while I am all for avoiding fraud, I don't think our problem is trying to get people—is trying to stop people from voting. It is trying to get more people to vote, and to do that we need to not increase barriers but reduce the barriers.

Mr. NEY. Thank you.

Mr. ERLANGER. So I thank you for your time.

[The statement of Mr. Erlanger follows:]

Dear Committee Members,

Thank you for the opportunity to talk to you about the proposed voter ID requirement, particularly the proposed exemption for people with physical disabilities. The implications of the proposal are complex, and what I would like to do is to propose some questions to think about. In general these questions apply not just to getting an ID, but also to the requirement that it be updated every time the voter changes his or her address.

Is the exemption for people with physical disabilities because we may find it hard to get to the place where the IDs are given out? Is it because we may not be able to afford the cost of the ID? Or is it to make it physically easier for the disabled person when he or she votes, by eliminating the hassle of having to locate and present the ID card?

Each of these reasons separates off people with physical disabilities from other people who are in a similar situation, but aren't disabled. It is important that the proposal attend the needs of all people who will be disadvantaged by the rule, not just disabled people.

For example, physically disabled people are not the only people who find it difficult to travel to a government office to get an ID. Many able bodied people are in a similar situation –because they don't have the money for transportation, they don't have easy access to transportation, or because their life demands would make it hard for them to get to the government office during the hours that it is open.

Physically disabled people are not necessarily more honest than able bodied people. If the cards are needed because of a concern about fraud, then physically disabled people should be required to have them too. Also, fraud could be committed by an able bodied person who pretends to be disabled. (If they would need to prove they were disabled, they might as well just have an ID!)

Finally, there is the concern about cost. Many physically disabled people have low incomes, but so do many able bodied people. A requirement that people pay for a voter ID card seems a bit like a poll tax; it seems that if an ID is required, it should be free.

In considering whether there should be a voter ID requirement, I think it is important to remember that it is hard to get voters to the polls. For example, when I ran for the Madison City Council in 2003, only about 10% of eligible voters voted. I think that it is important to try to eliminate vote fraud, but I also think that it is important to do it in a way that doesn't create barriers to voting. The current proposal would help people with physical disabilities, but would not help a lot of other people who have similar needs.

Thank you and I look forward to your questions

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Mr. NEY. In response to your question, it is not my piece of legislation, but it is in the Committee. Just so you know, I have tended to not act upon a lot of the legislation until HAVA is completely implemented unless there is something that really stands out in 2006 and that's one of the reasons we are here today as an investigatory body—to learn what we can do or maybe can't do, and certain things are going to have to be locally taken care of.

I appreciate your testimony quite a lot.

Mr. O'Neill.

STATEMENT OF MATT O'NEILL, ATTORNEY, FRIEBERT, FINERTY & ST. JOHN

Mr. O'NEILL. Thank you Chairman Ney, Congressman Ehlers, Congressman Moore, I appreciate the opportunity to address the committee today.

I am an attorney in Milwaukee and last year 2004 I served as deputy state counsel for the Kerry Edwards' campaign.

In that capacity my primary job was to help train over 700 lawyers to observe the polls on election day and to help voters exercise their constitutional right to vote.

Our primary focus when we trained our attorneys to work at the polls was to ensure that every eligible and qualified voter that showed up at a poll on election day was allowed to cast their ballot.

We had our attorneys in the field fill out incident reports noting anything that happened on election day that appeared unusual, notable, interesting, anything that might be worth looking at later on after the election. We then analyzed those thousands of incidents that were reported by the attorneys, put together a report summarizing what we learned from our attorneys in the field, and I would like to—I don't know if this had been submitted previously, but I would like to get that to the committee.

Mr. NEY. Without objection it is part of the record.

2004 PRESIDENTIAL ELECTION REPORT

Report from Volunteer Attorneys Observing Voting throughout Southeastern Wisconsin on November 2, 2004

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I. Wisconsin Voter Protection Team Background

The Wisconsin Voter Protection Team was formed to ensure that all eligible voters in Wisconsin were allowed to legally cast their ballots during the November 2, 2004 Presidential election. Two primary objectives guided the effort: (1) ensuring that Wisconsin's open election laws and same-day registration procedures were fully understood and properly implemented by election workers; and (2) combating expected efforts by the Republican Party to use the observation and challenge processes to suppress the vote in Milwaukee and other urban areas.

The Wisconsin Voter Protection Team consisted of over 700 volunteer attorneys, each of whom attended a 3-hour training seminar that covered Wisconsin voter registration laws, voter and ballot challenge procedures, poll observer and other laws for polling places, anti-intimidation statutes and other election laws. The volunteer attorneys were provided with a set of materials outlining the relevant laws as well as a copy of the pertinent statutes, Election Board rules and HAVA provisions.

On Election Day, Voter Protection attorneys were dispatched throughout Milwaukee, Waukesha and Dane Counties, as well as the cities of Racine, Beloit, Janesville, Kenosha and their surrounding municipalities. The attorneys assisted voters and poll workers by answering legal questions, responding to registration challenges, and assisting with logistical issues at the polling places. Specific incidents and legal questions were called in to regional or statewide boiler rooms, where county and state-level counsel were available to respond and to contact Election Board officials or District Attorneys, as appropriate.

In addition, the Voter Protection attorneys were given "Incident Report" forms and asked to record any problems or issues that occurred at the polling places on Election Day. One of the primary purposes for these reports was to gather raw data about Wisconsin's election laws and help to determine, after the election, where problems existed and potential means to address the problems.

This Report summarizes the information set forth in the thousands of Incident Reports collected on Election Day. The Report will first summarize the volume of Incident Reports and the availability for further investigation of specific incidents. It will then set forth a summary of the major problems and issues with Wisconsin's election laws reflected in the Incident Reports. The Report then breaks down the Incident Reports into various categories and reflects the prevalence of problems in this area.

Finally, the Report offers general conclusions and suggestions for improving voting procedures in Wisconsin.

The Incident Reports themselves are available for reference, and generally include the name of the attorney who completed the report. The Voter Protection Team has contact information for all of the volunteer attorneys.

II. Volume of Incident Reports

Voter Protection volunteer attorneys turned in a total of 706 pages of Incident Reports from November 2, 2004, reporting well over 3,000 separate incidents from the election.

The 706 pages of Incident Reports come from the following municipalities:

- 343 pages Milwaukee
- 117 pages Madison
- 58 pages Racine
- 18 pages Waukesha
- 39 pages Beloit
- 15 pages Janesville
- 30 pages Statewide Boiler Rooms
- 86 pages Miscellaneous municipalities across the State.

III. Executive Summary

The Incident Reports reflect problems in three general areas: (1) the abuse of the observation laws in a manner designed to suppress votes in targeted areas; (2) administrative problems caused by extraordinary voter turnout at understaffed polling places, where only the Chief Election Inspector received any formal training; and (3) confusion regarding the procedures for processing absentee ballots.

The Incident Reports reflect that Wisconsin's same-day registration process allowed thousands of qualified voters to exercise their constitutional right to vote, and helped prevent the potential widespread disenfranchisement potentially caused by deputy registrars who did not properly complete registration forms and by the City of Milwaukee's failure to complete the processing of thousands of proper registration cards

prior to the election. The primary problems encountered with the same-day registration process involved the need for additional poll workers designated to handle same-day registration, and clarification of the acceptable forms of proof of residency. There were no reports of wide-spread voter fraud, and no identified problems that could be easily solved with a photo ID requirement.

A. Suppression Efforts

The Republican Party had hundreds of attorneys deployed to targeted wards whose primary function appeared to be the intimidation and suppression of minority voters under the guise of monitoring for "fraud." In addition, the GOP paid hundreds of non-lawyers to "observe" at targeted polls while wearing orange T-shirts emblazoned with "HAVA Volunteer" on the front. Finally, our volunteers encountered law enforcement officials visiting various polls and challenging the propriety of efforts by the Voter Protection attorneys and Election Protection coalition volunteers to assist voters at the polls.

The primary aspects of the carefully planned GOP suppression effort included:

- Placing at least one person behind the election inspectors in targeted wards with a handheld electronic device (primarily Palm Pilots or Blackberries) to stare at each voter while entering their name and address in the device as they identified themselves to the pollworkers and received a ballot.

- Paying individuals $160 to wear orange "HAVA Volunteer" T-shirts and patrol polling places. In large part these individuals (who were not volunteers) knew nothing about the Help America Vote Act, and several wrongly suggested that HAVA required an already-registered voter to produce identification in order to vote.

- Impersonating authorities at the polling places. The Reports reflect instances of orange-shirted observers stating that they were authorities, and instances of persons claiming to be "election officials" and giving out incorrect information about the registration process.

- Walking up and down voting lines with printed lists in hand and suggesting that persons "not on the list" were not allowed to vote.

- Using attorneys to systematically lodge challenges to voters pursuant to § 6.925, Wis. Stats. In many cases Republican attorneys would lodge a challenge, disrupt the voting process, and then abandon the challenge, after forcing a voter to answer questions under oath, by refusing to execute sworn statements supporting the claimed challenges.

- Challenging the authority of election inspectors during every step of the election day process, including: (a) challenging the use of special deputy registrars for same day registration (despite an October 27, 2004 City of Milwaukee Elections Commission resolution authorizing the process); (b) challenging inspectors' attempts to continue to process votes during machine breakdowns; (c) asking an inspector to sign a form stating that a machine was not inspected; and (d) challenging the use of volunteers to help process same day registration cards.

- Using law enforcement agents to harass Election Protection volunteers attempting to assist voters standing in line. For example, at about 5:30 p.m. at Holton School, four men, one with visible handcuffs, walked through the polling place and told Election Protection volunteers not to assist voters attempting to locate the correct polling place.

- Threatening to "call the authorities" if election inspectors did not act as instructed by Republican attorneys.

- Challenging any absentee ballot that did not have a Wisconsin return address in the certificate, despite the fact that an out-of-state return address is legal and appropriate for out-of-state absentee voters.

- Challenging valid student registration with photo IDs matched to student directories, and thereafter challenging any student who corroborated another student's residence.

In addition to these generalized efforts, the Republican Party attempted to potentially disenfranchise thousands of City of Milwaukee

voters through an eleventh-hour challenge (filed literally minutes before the deadline for filing any such challenge) to a list of 5,619 addresses that the Republican Party contended did not exist. As demonstrated during an October 28, 2004 hearing, the Republican Party did not bother to check the validity of 99% of the names and addresses on the list, many of which were the result of clerical errors that occurred when City employees entered information on the computer system. After that effort failed, just days before the election the GOP publicly threatened to challenge an additional 30,000 registered voters based upon unverified assertions that "apartment numbers" did not match up.

B. Administrative Problems

Analysis of the Incident Reports reflects a number of general administrative problems caused or realized by the huge turnout. These problems include the following:

(1) broken or faulty voting machines;

(2) poll staffing shortages;

(3) poll worker errors, such as opening the polls late, failure to post sample ballots or ward maps, and requiring photo ID in order to vote or register;

(4) incomplete or erroneous poll lists;

(5) polling place facility deficiencies, such as cramped registration and voting areas, lack of curbside voting availability and limited handicapped accessibility; and

(6) confusion regarding absentee ballots.

These problems, set forth in greater detail below, reflect a need for legislative reforms designed to increase the staffing of polling places at high turnout elections, require detailed training of all poll workers, revise the deputy registrar process to ensure such registrations are properly completed and processed, and streamline the absentee voting procedures. As a general matter, any reforms that could help defuse the long lines and congestion on election day, such as expanded early voting and increased staffing, will help to solve many of the identified problems.

C. Potential Election Law Reforms

Below is a summary of the potential reforms that could address the matters reflected in the Incident Reports:

Poll Workers

- Require additional poll workers for Presidential elections
- Revise § 7.30 to require at least 6 inspectors per ward
  - 2 separate tables with identical poll lists
  - 1 separate table with at least 2 inspectors for same-day registration

Election Observers/Challenges

- Revise § 7.41 to place constraints on observers
- Preclude observers from standing behind election inspectors
- Prohibit clothing, pins, badges, stickers or other identifying material suggesting an observer has any authority
- Prohibit interaction with voters from the time they approach the election inspectors until they have placed a ballot in the machine
- Revise § 6.925 to clarify that challenger must have subjective knowledge in order to challenge a voter
- Mandate that challenger must sign challenge document, under oath, before any voter will be forced to answer questions

Voter Registration

- Revise § 6.55(7) to add HAVA forms of ID as acceptable proof of residence
- Revise pre-registration procedures in §§ 6.26–6.35
  - Prohibit paying registrars on a per person basis
  - Increase requirements for and accountability of special deputy registrars
  - Specify procedure where registration cards are filed with the wrong municipality or with State Elections Board
- Require that municipalities process all registration cards prior to election day

Voting

- Allow Presidential-only ballots for voter in the wrong polling place

- Have voting over three-day period – open polls from Sunday through Tuesday in Presidential elections (and perhaps all fall even-year elections)

Absentee Voting

- Overhaul entire process
- Allow early voting - ballots counted in clerk's office prior to election day
- Propose opening all polls Sunday through Tuesday in Presidential elections (and perhaps all fall even-year elections)
- Specify that absentee ballots will be counted in the canvass regardless of whether they reach the polling place before 8:00 p.m. (perhaps count all absentee ballots the next day)
- Change § 6.84(1) to specify that absentee voting is a right, not a privilege
- Clarify the manner in which Absentee Ballot Envelopes are marked
  - Include **registered address for voting purposes** on return sticker
  - Separate area for **current residential address**

IV. Summary of Incident Reports

This section details general themes and issues contained in the Incident Reports. There are two broad issue categories: General Republican Interference and City Election Day Procedural Issues, each with sub-issues. The following is a summary of these issues and a breakdown of the reports by municipality.

A. General Republican Interference

1) HAVA "Volunteers" at Polls

Most of the Republican effort focused on Milwaukee. The presence of HAVA volunteers was documented over 40 times by Voter Protection lawyers in Milwaukee. Many of the HAVA "volunteers" admitted to Voter Protection lawyers that they were paid by the Republican Party, and a common observation was that the HAVA volunteers were very uninformed as to the registration laws in Wisconsin. Some voters were reported to have felt intimidated by the HAVA volunteers' baseless challenges or by the HAVA volunteers lingering or hovering close to the registration tables. HAVA volunteers also often claimed that voters needed certain forms of identification, such as a specific utility bill or a picture ID, in order to vote. They also challenged registration by corroboration. In other words, HAVA volunteers were challenging procedures that are permitted under the statutes, and therefore they were either unaware of Wisconsin law or intentionally spreading bad information. Either way, they were at times successful in slowing registration and voting lines. Notably, there was very little HAVA activity reported outside the City of Milwaukee.

For example, in Milwaukee Wards 168 and 169, a HAVA volunteer was asked to leave by the Chief Inspector after the Inspector found that he was intimidating voters by repeatedly stepping close to pollworkers and in front of registration tables. The HAVA volunteer refused to leave, and the Chief Inspector called police to have the volunteer removed.

In Ward 198, a HAVA volunteer incorrectly challenged an African-American voter based upon "same name" (an invalid challenge on its face). The voter's name appeared twice on the poll list because he had a son with the same name. The voter was upset by the HAVA volunteer's treatment of him and walked out. Fortunately, the Chief Inspector got the voter back in and told him he could vote.

The following is a detailed breakdown by municipality and ward of the Voter Protection HAVA incident reports.

Milwaukee
Ward 49, 50 (attempted to create "official" record—told to desist)
Ward 99 (no training, whatsoever)
Ward 120, 124 (generally harassing voters)
Ward 139, 212 (general harassment)
Ward 141 (general close-order intimidation)
Ward 157 (challenged despite corroboration)
Ward 168, 169 (general intimidation)
Ward 188, 189 (general intimidation)
Ward 198 (challenged voters w/o legitimate basis)
Wards 238, 239 (Dist. 14) ('handling' voting machines—confronted, then they desisted)
Wards 242, 248 (HAVA impersonators obstructing vote; Sheriff's Dept. booted)
Wards 263, 264 (insufficiency of bank statement as ID)
Ward 288, 289 (as their car had Illinois plates)
Ward 297, 314 (handling ballots)

Racine
Ward 7, 8 (instituting all voter challenges)

2) Baseless Challenges to Voter Registration

The most common registration challenges were that corroboration was impermissible, that two forms of identification were required or that a specific utility bill was necessary to register. Republicans also targeted college campuses, challenging registration by dorm list and student identification. Each of these challenges have no legal basis. The people attempting to register were generally allowed to vote, but the problem is that baseless challenges create an aura of intimidation or just slow down the voting lines (and there were many long lines on Election Day). Corroboration and/or showing various forms of identification are acceptable ways of registering to vote, and a case might be made that Republican operatives were trying to slow down the voting lines or cause other problems.

For instance, in Milwaukee Wards 1 and 2, a Republican attorney repeatedly challenged registration by corroboration, and also personally handled identification presented by voters.

In Beloit Ward 15, an out-of-state Republican attorney was challenging any student registering using a college ID in conjunction with a dormitory list, despite being informed that the City Clerk had long accepted those forms as sufficient for registering to vote.

Other documented instances include:

Milwaukee
Ward 43, 44 (for ID, voter departed despite Chief Inspector assurances he could vote)
Ward 51 (4 for registering and voting in wrong place)
Ward 65, 66 (GOP challenged several registrations, but not votes)
Ward 100 (ID)
Ward 116 (GOP atty. challenges voter corroboration procedure, twice)
Ward 136 (ID and voting location)
Ward 152, 153 (corroborator process)
Ward 157 (by HAVA despite corroborator)
Ward 170, 171 (erroneously on bank statement ID)
Ward 198 (lacked legitimate basis)
Ward 237 (GOP atty. threatens voter challenge unless utility bill ID-defeated this threat)
Wards 238, 239 (Dist. 14) (GOP v. 34 voters who registered on the street/voters with same last names/relocated voters/deceased voters)
Wards 243, 247 (5—4 bad addresses; 1 voted w/corroborator)
Wards 263, 264 (insufficiency of bank statement as ID)

Beloit
Ward 5, 6, 7 (lack of proper ID – voter left and returned, okay; lacking 10-day ward residency)
Ward 5, 6, 7 (Boiler Room reports of African Americans turned away from polls for alleged lack of ID)
Ward 15 (GOP challenging any college dorm list voter using student ID)

Madison
Ward 13 (several challenges)
Ward 15 (homeless voter—voted regular ballot, but marked challenged)
Ward 40 (1 inept voting, 1 roommate w/same name)
Ward 47 (GOP challenges several voters, and sufficiency of Dorm list)
Ward 50 (2 for providing 1st class mail as ID, ballots accepted/marked)

Racine
Ward 8 (to voters wearing K/E buttons; to election processes, inaccurately claiming no "challenge forms" available; to voter ID)
Ward 11 (possible felon, but withdrawn)

3) General Intimidation Tactics

There are numerous instances where the Chief Inspector at the poll required a Republican or HAVA representative to step back from registration or ballot tables. While a presence at the polling place is permitted, Republican operatives seemed to be instructed to stand right by the registration table. Many had PDA's/Blackberrys and were typing and recording as people gave their names to receive their ballots. There is a difference between GOTV efforts where representatives sit behind the registration and check-off their voters from their own lists versus standing and recording every person that votes in a district where historically the Republican Party has not had success. The former occurred in places like

New Berlin, the latter in Milwaukee. The impression that many Voter Protection attorneys had was that Republicans were trying to get in voters' faces, and would have continued had they not been required to step back.

An example of a reprehensible attempt to intimidate occurred at Milwaukee Wards 170 and 171, where State Senator Tom Reynolds and a Republican attorney stood next to the voter registration table and discussed how Planned Parenthood had originally been created to eliminate the African-American race.

Further, Republican operatives were asked to step away from registration tables for making use of PDAs and staring at voters as they registered at Milwaukee Wards 76, 77, 11, 193 and 237, among others.

Other documented instances include:

Milwaukee
Ward 29, 30, 33 (racial epithets levied at Latino voter)
Ward 32 (voters discouraged and intimidated)
Ward 67 (requesting addresses from voters)
Ward 76, 77 (scrutinizing workers, voters; data input)
Ward 81, 84, 89 (scrutinizing workers, voters; data input)
Ward 90, 91 (Milwaukee Police ticketing voters parked in '15 minute' parking spots)
Ward 92 (scrutinizing workers, voters; data input; threat that police will arrive to close polls precisely at 8 p.m.)
Ward 97, 98 (scrutinizing workers, voters; data input)
Ward 104 (4 men w/badges warn Election attorney not to touch "official materials")
Ward 110 (unspecified conduct by DOJ Special Agents D. Prazkowski and A. Martinez)
Ward 114 (GOP atty. demanding "fictitious" voter list from Chief Inspector)
Ward 116 (scrutinizing workers, voters; data input; repeated queries of Chief Inspector)
Ward 122, 123 (GOP atty. complaining about voter corroboration)
Wards 125, 121 (GOP workers sitting at inspector's tables)
Wards 126, 127 (GOP poll watcher standing next to machine)
Ward 136 (scrutinizing workers, voters; data input)
Ward 139, 212 (scrutinizing workers, voters; data input)
Ward 141(GOP atty. loud, boisterous behavior at polls; HAVA workers, as well)
Ward 142, 243, 244 (GOP atty. requested name of Elect Prot. atty. 4 times)
Ward 148 (scrutinizing workers, voters; data input)
Ward 149 (scrutinizing workers, voters; data input)
Ward 152, 159 (GOP atty. demanding tables moved; scrutinizing workers, voters)
Ward 155 (scrutinizing workers, voters; data input; bullying, brought worker to tears)
Ward 157 (HAVA challenge amounts to harassment)
Ward 168, 169 (scrutinizing workers, voters; data input; bullying—police called)
*Ward 170, 171 (scrutinizing workers, voters; data input—w/ Senator Tom Reynolds)
Ward 172, 173 (scrutinizing workers, voters; data input, photos)
Ward 188, 189 (scrutinizing workers, voters; data input, rude and bullying behavior)
Ward 190, 197 (scrutinizing workers, voters; data input)
Ward 193 (scrutinizing workers, voters; data input)
Ward 198 (scrutinizing workers, voters; data input)

Ward 198 (close proximity to polling table; 'Blackberrying' voters' names/addresses)
Wards 205/207/208 (GOP videotaping voters)
Ward 220 (GOP crowding voters)
Ward 237 (GOP crowding voters)
Wards 238, 239 (Dist. 14) (9 GOP poll-watchers recording names—voters express fear, 1 departs)
Wards 255, 256, 257 (scrutinizing workers, voters; data input)
Wards 261, 262 (scrutinizing workers, voters; data input)
Wards 263, 264 (scrutinizing workers, voters; data input)
Ward 277 (scrutinizing workers, voters; data input)

Beloit
Ward 15 (challenges cause long lines at polls)
Ward 16 (aggressively scrutinizing workers, voters; data input; bullying)
Ward 20 (GOP poll watcher singling African Americans for questions/scrutiny)

Janesville
Ward 14 (scrutinizing workers, voters; data input; bullying)
Ward 19 – 22 (scrutinizing workers, voters; data input; bullying)

Madison
Ward 1 (accosting voter for wearing a button)
Ward 14, 21 (GOP partisan poll workers turn away minority voters)
Ward 15, 21 (suspected GOP volunteers purposely blocking traffic at polling place entrance)
Ward 40 (GOP attempt to slow process)
Ward 47 (media pressure becomes daunting)
Ward 50 (scrutinizing workers, voters; data input; sitting at table; objecting to buttons)
Ward 67 (GOP aggressively challenging voters to join GOP)
Ward 74 (scrutinizing workers, voters; data input)
Ward 80 (scrutinizing workers, voters; data input)
Ward 97, 98 (scrutinizing workers, voters; data input)
Ward (Fitchburg) (cops in entranceway; GOP at registration table)

Racine
Ward 4 (scrutinizing workers, voters; data input; bullying)
Ward 8 (scrutinizing workers, voters; data input; bullying)
Ward 20 (scrutinizing workers, voters; data input)

Various
Ward (City of Bloomer) (scrutinizing workers, voters; data input; bullying)
Ward (Cudahy, Parkside Elementary) (turning away black voters for undisclosed reasons)
Ward (Lake Geneva) (GOP "table" placed next to inspector's station)
Ward (Town of Jefferson) (scrutinizing workers, voters; data input; bullying)

4) <u>Absentee Ballot Challenges</u>

There were some documented proper (*i.e.*, sworn) challenges to absentee ballots, but many more unsworn challenges that were accepted by poll workers. Most of the challenges were based either on an out-of-state

return address (which is obviously not a good challenge since one reason for voting absentee is being outside of Wisconsin) or that the absentee voter was not on the poll list. This occurred at Milwaukee Wards 9 and 155, for example.

The latter problem is more likely a failure of the municipality than the voter's. Republican representatives appear to have been instructed to challenge when an absentee voter was not on the poll list. The presumption, of course, is that the ballot is valid and that the City would only send an absentee ballot to a registered voter. Exaggerating the problem was that responses by the Chief Inspectors and/or poll workers were inconsistent – *i.e.*, some knew the rules and some did not. However, it does not appear that there was any guidance provided by the City of Milwaukee as to how to deal with ballots arriving at the polls after 8 p.m. [NOTE: There may be less reporting of this issue because absentee ballots are often counted at the end of the night – there can be a lot of action on absentee ballots and volunteers may not have taken the time to report.]

Other documented instances include:

Milwaukee
Ward 74 (32 challenged—no ID, votes counted but challenges noted)
Ward 85, 86 (unofficial)
Ward 100 (3 variously)
Ward 103 (14 variously)
Ward 120, 124 (2 on ID)
Ward 177, 178 (diff. last name—counted, but marked challenged)
Ward 220 (20 ballots w/same witness—OK, thus withdrawn; 2 unsigned—rejected)
Wards 261, 262 (10 challenged, erroneously, for lack of signature on envelope)
Ward 283 (7, variously, but counted and marked as challenged)

Beloit
Ward 5, 6, 7 (5 challenged, but had already passed through the machine)

Madison
Ward 40 (by inspector—counted)
Ward 44 (by GOP for alleged lack of ID)

Racine
Ward 23, 24 (informal to military member w/ID and absentee ballot in-hand)

5) Misinformation Tactics

Incidents included flyers with incorrect information on them or directing voters to the wrong polls. At the King Library in Milwaukee, operatives passed out flyers stating that polls would close early. At Milwaukee Ward 265, a memo was posted providing that absentee ballots had been misplaced and voters could re-register in December or January.

Other documented instances include:

Milwaukee
Ward 29, 30, 33 (claim levied by Chief Inspector versus GOP and DNC)
Ward 32 (unidentified officials informing incoming motorists that poll is closed)
Ward 51 (bogus flyer states that party affiliation must accompany write-in candidate)
Ward 149 (GOP "Right to Vote" fliers directing voters to wrong polling places)
Ward 172, 173 (GOP misdirecting voters)
Ward 176 (incorrect ID information)

Madison
Ward 50 (misdirecting voters to wrong ward)

Racine
Ward 8 (spreading false rumors, *i.e.*, busloads of illegitimate voters driven to polls)
Ward 24 (GOP bullying uncertain voters from the polls)
Ward 31 (GOP volunteer mis-directing voters)

Various
Ward (Beaver Dam) (misdirecting minority voters to wrong polls; distributing ballots that listed only GOP candidates)
Ward (Fitchburg) (likely GOP poll workers and signs directing black voters to wrong polling place)

6) Challenging Chief Inspectors or Other Poll Workers

There are documented incidents of Republican challenges to deputizing registrars, even though this procedure had been authorized by the City of Milwaukee. For example, this occurred at Milwaukee Ward 40, where the District Attorney's office was called because voters felt intimidated by these tactics.

Other documented instances include:

Milwaukee
Ward 40 (CI deputized several workers, GOP challenges party affiliations)
Ward 141 (challenge to CI requests for polling place assistance from Election Protection worker)

Ward 249, 250 (GOP seeks Chief's signature on pre-marked form designed to invalidate entire voting machine as "insecure." Chief refused on DNC advice.)
Wards 263, 264 (regarding disabled voters and their choice of assistant)
Ward 288, 289 (despite police interference, "Move On" workers may remain at polls)
Ward 290, 293, 294 (voter challenged presence of Election Protection crew, citing electioneering, called police, Chief moved poll workers back 100 ft.)
Ward 298 (voter challenged presence of Election Protection crew, citing electioneering)
Ward 303 (Absentee ballot reconstruction)

Madison
Ward 26—29 (EP wants to destroy initial, "bad" ballots of those re-voted)
Ward 78 (voter complaint logged after CI ripped Kerry/Edwards poster from car in lot)
Ward 99 (whether CI initially certified vote counter at zero)

Racine
Ward 2 (GOP criticized CI for allegedly giving partisan voting instructions, CI almost removed)

Various
Ward (City of Whitewater) (GOP challenged explanation of corroborator process)

B. City Election Day Procedural Issues

The Incident Reports confirm many of the problems that have been reported in the media as well as the January 6, 2005 Election Protection Report regarding the City of Milwaukee Election Day procedures. An all too common problem in Milwaukee was that absentee ballots were delivered late to polling places for counting. Compounding the problem was that there was not a uniform response – some Chief Inspectors counted the ballots, others sent them back to City Hall. Additionally, many absentee ballots were sent to the wrong polling places, again with varying responses by Chief Inspectors.

Voters statewide often experienced very long lines and cramped facilities. A poll worker staffing shortage is another common theme in the reports. The Incident Reports confirm the findings and affirm many of the suggestions in the above-mentioned Election Protection Report.

The following summarizes the procedural problems and errors recorded by the Voter Protection attorneys.

1) Broken or Faulty Voting Machines

This was a widespread problem that slowed voting lines considerably at some polls. Equipment should be updated to help ensure a

speedy voting process, especially in high-turnout elections. Faulty machines caused logistical problems at Milwaukee Wards 34 and 35, where a machine continuously jammed and multiple pollworkers were needed to remove and keep track of ballots until the machine was fixed, taking them away from other duties. There were also many calls to the Clerk's Office requesting that someone come fix a ballot machine, such as at Milwaukee Wards 159 and 212.

Other documented instances include:

Milwaukee
Ward 29, 30, 33 (spitting out)
Ward 34 (jamming; ballots removed and sealed)
Ward 45, 46 (jammed)
Ward 49, 50 (major malfunction—replaced)
Ward 57, 14 (jammed)
Ward 67 (electrical problem resolved)
Ward 78 (jammed)
Ward 81, 84, 89 (jammed, depleted printer tape)
Ward 85, 86 (jammed repeatedly)
Ward 97, 98 (exhausted print paper)
Ward 99 (not registering votes, time stamp wrong)
Ward 107 (jammed)
Ward 110 (jammed repeatedly)
Ward 116 (jammed, repairmen arrived and fixed)
Ward 120, 124 (breakdowns)
Ward 122, 123 (Jammed x 3)
Wards 126, 127 (broken and repaired)
Ward 139, 212 (replaced)
Ward 151 (double printing tape)
Ward 168, 169 (jammed, not counting)
Ward 174, 175, 180 (jammed)
Ward 177, 178 (jammed)
Ward 188, 189 (break down, jammed)
Ward 197 (malfunction)
Wards 205, 207, 208 (jam)
Ward 220, 246 (spitting out ballots)
Ward 222 (jam)
Ward 236 (jam)
Wards 245, 247 (jam x3)
Wards 255, 256, 257 (spitting out ballots—lines too dark)
Ward 275, 276 (not counting)
Ward 281, 282 (jammed)
Ward 286, 287 (unspecified)
Ward 304, 305 (unspecified)

Beloit
Ward 12-14 (jammed)

Madison
Ward 5, 6 (breakdown—repaired)
Ward 15, 21 (jammed)
Ward 33 (jammed; failed to scan)
Ward 34 (breakdown)
Ward 35 (broken—repaired)
Ward 37 (incorrect time stamp)
Ward 40 (jammed/broken—replaced)
Ward 49 (broken, replaced)
Ward 52 (broken, repaired)
Ward 66 (jammed)
Ward 68 (jammed)
Ward 78 (machine blackout, repaired)
Ward 97, 98 (broken—replaced)
Ward 99 (broken—repaired)

Racine
Ward 4 (jammed, repaired)
Ward 18 (jammed)
Ward 21, 30 (breakdown—repaired)

Various
Ward (Cedarburg) (broken)
Ward (City of Bloomer) (jammed—repaired)
Ward (City of Holcombe (jammed—repaired)
Ward (Oshkosh 21, 22) (jammed repeatedly—repaired)
Ward (Town of Delmar) (jammed—repaired)

2) Poll Staffing Shortages

A problem that contributed to long lines and other logistical problems. At Milwaukee Wards 275 and 276, voters at times waited 2 ½ hours to vote. Similar lines were found across the State:

Milwaukee
Ward 40 (early shortage)
Ward 45, 46 (3-hour wait, Chief Inspector refused to deputize workers and open new lines)
Ward 48, 102 (early)
Ward 53
Ward 134, 135 (Chief Inspector deputizes Election Protection workers)
Ward 151 (early)
Ward 168, 169 (needed 2 more, received 1)
Wards 238, 239 (initial shortage—more arrived—but needed even more)
Wards 255, 256, 257 (during lunch)

Beloit
Ward 12-14 (need one more poll worker)

Madison
Ward 26—29 (complaints of hearing-impaired poll workers)
Ward 99 (long lines; overwhelmed poll workers)

Various
Ward (Cedarburg 1) (insufficient staff—long lines)
Ward (Kenosha 10) (ten registration stations, but only 3 workers—long lines)
Ward (Oshkosh 15, 16) (insufficient registration # of workers cause long delays)
Ward (UW-Whitewater) 6-hour wait
Ward (Village of Pewaukee) (insufficient staff—long lines)
Ward (Waukesha 5)

3) Poll Worker Errors

Common examples included opening the polls late, failure to post sample ballots and/or ward maps. It is also clear that some poll workers were not trained with respect to registration requirements. There were reports that some poll workers were requiring photo identification in order to vote or register. For future elections, Chief Inspectors and poll workers should receive more training and guidance from municipalities.

Recorded incidents include:

Milwaukee
Ward 29, 30, 33 (poor organization, attendance; failure to use yellow Reg. cards)
Ward 29, 30, 33 (no ward maps posted; no booth instructions; no notices; 3-ward polling place creates admin. nightmare)
Ward 32 (unfamiliar w/qualifying ID)
Ward 57, 14 (no sample ballots posted)
Ward 65, 66 (CI unfamiliar with w/process of ballot reconstruction)
Ward 68, 69 (opened late)
Ward 81, 84, 89 (distributing ballots from another Ward; distributing unsigned ballots)
Ward 85, 86 (unjust demand for proof of old residence)
Ward 122, 123 (requiring 2 forms of ID)
Ward 136 (CI unfamiliar w/corroborator procedure)
Ward 152, 159 (Absentee ballots left out on table)
Ward 170, 171 (misinformed on corroboration process)
Ward 176 (failure to initial ballots)
Ward 181 (SSAN decision on benefits, to include name and address, found invalid ID)
Ward 185, 186, 187 (no maps at polls, nor sample instructions in booths)
Ward 198 (Chief Inspector hands out 'born again-Christian' pamphlet)
Ward 199 (booths lack voting instructions)
Ward 213, 214 (ballot number/voter number discrepancy)
Ward 220, 246 (poll worker requiring 2 forms of ID)
Ward 222 (successfully advised set up of separate table for Registration)
Ward 222 (Insp. Requesting 2 forms of ID; unfamiliar w/'yellow card' regist.)
Ward 232 (modified procedure on numbering ballots-more efficient)
Ward 237 (booths lack voting instructions)
Wards 243, 244, 142 (poll workers directing voters to wrong polling places)

Wards 255, 256, 257 (misdirecting voters to wrong polling places; signing ballots)
Ward 278, 279 (late, slow, inefficient)
Ward 281, 282 (ballots not initialed)

Janesville
Ward 14 (req. 2 forms of ID; attempted early closing of close polls)
Ward (Town of Geneva) (req. photo ID)
Ward (Harmony Township) (req. 2 forms of ID)

Madison
Ward 1 (req. driver's licenses)
Ward 8, 9 (uninformed as to corroborator process)
Ward 16 (requesting photo ID from homeless man, only)
Ward 26—29 (failure to read, repaired)
Ward 26—29 (no ward map; congestion; I booth w/o instructions)
Ward 35 (requesting specific ID)
Ward 37 (CI req. driver's licenses)
Ward 38 (ignorance of ID proof requirements)
Ward 43 (CI error in numbering ballots)
Ward 46 (req. photo ID)
Ward 47 (late opening; extensive media attention enables GOP grandstanding)
Ward 48 (req. photo ID; distributing ballots w/o initials)
Ward 49 (failures to sign ballots)
Ward 50 (req. photo ID)
Ward 52 (general lack of training)
Ward 62 (req. driver's licenses of SSAN card)
Ward 70, 71 (req. photo ID)
Ward 72 (no ward map posted)
Ward 74 (no pens in booths)
Ward 74 (CI req. photo ID)
Ward 81, 83, 100, 104, 105, 110 (inconsistent corroboration process; ignorant of proper ID)
Ward 97, 98 (unfamiliar w/registration procedure; failing to mention corroborator; requiring 2 forms of ID)
Ward (Fitchburg) (ignorant of correct ballot completion)

Racine
Ward 15 – 34 (GOP alerted RPD to poll worker's outstanding warrants—arrested)
Ward 20 (individual sent to three different polling places)
Ward 21, 30 (failing to sign ballots)
Ward 17 (voters sent to wrong polling place)
Ward 31 (general incompetence)

Various
Ward (City of Monona) (req. 2 forms of ID)
Ward (Cudahy, Parkside Elementary) (denying same day registration)
Ward (Lake Geneva) (GOP partisan poll workers directing voters to GOP "table" for ID)
Ward (Manitowoc) (no sample ballots posted)
Ward (Oshkosh 9, 10) (refusing to accept utility bill; soliciting last 4 of SSAN; CI identifying poll workers by party affiliation)
Ward (Oshkosh 11, 12) (req. photo ID)

Ward (Oshkosh 13, 14) (req. photo ID/last 4 of SSAN; registration # duplication causes delay; initially refused to use student dorm list)
Ward (Oshkosh 15, 16) (CI requiring 2 IDs—photo ID and 2nd; unfamiliar w/corroborator process; unfamiliar w/student dorm list)
Ward (Salem Township) (workers stating incorrect time for poll closing)
Ward (UW-River Falls) (poll workers reluctant to use student directory
Ward (Waukesha 5) (some general unfamiliarity w/process)

4) Registration Issues

A very common problem was that people that had previously registered (or at least claimed to have) were not showing up on the poll lists. This was a big problem at Milwaukee Wards 155, 185, 186 and 187. While normally they would just re-register without incident, some had to go home and come back or had to go into a different registration line, thus compounding an already long voting experience. Redistricting also caused problems at some polls, such as Milwaukee Wards 137 and 151. This also provided fodder for Republican challenges.

Milwaukee
Ward 51 (voter list loses on-street registration)
Ward 53 (voter list loses on-line registrants)
Ward 57, 14 (12 spoiled and destroyed)
Ward 65, 66 (faulty ballots)
Ward 81, 84, 89 (voter list loses on-line registrants)
Ward 99 (many spoiled by "straight ticket and candidate" votes)
Ward 122, 123 (incorrect Ward designation sent to voters)
Ward 125, 121 (insufficient "blue" cards)
Ward 137 (SNAFU: re-districting havoc on poll lists)
Ward 151 (SNAFU: re-districting havoc on poll lists)
Ward 152, 159 (no "yellow" cards for first 2.5 hours of day)
Ward 155 (tremendous number of registered voters missing; longtime voters not on rolls)
Ward 185, 186, 187 (tremendous number of registered voters missing; longtime voters not on rolls)
Ward 217 (missing 'prom pack'; ballots transported to different location)
Wards 238, 239 (coloring too dark on ballots)
Wards 261, 262 (misplaced yellow registration cards)
Ward 268 (many second ballots issued after incorrect voting)
Ward 281, 282 (ballots not initialed)

Beloit
Ward 1, 2 (voters mis-directed to wrong polling places—a redistricting problem; req. photo ID)
Ward 5, 6, 7 (voters sent to wrong polling places)
Ward 12-14 (registration drives not reflected on poll lists)

Janesville
Ward 19 – 22 (registration drives not reflected on poll lists)

Madison
Ward 5, 6 (exhausted ballots—more arrive in 5 minutes; many longtime voters not on lists)
Ward 15 (6 voters at wrong polling place)
Ward 35 (ballots list wrong Assembly candidates)
Ward 44 (mailed/street sign-up registrations not on rolls)
Ward 47 (incomplete pre-registration lists)
Ward 50 (student pre-registrations failed to appear on lists)
Ward 66 (voter list not current)
Ward 70, 71 (only ¼ stock of ballots)
Ward 81, 83, 100, 104, 105, 110 (registration lists fail to reflect voters who cast ballots in primary; ballots exhausted (83)
Ward 97, 98 (names duplicated on registration books; ran short of registration forms; ran short of ballot seal bags)
Ward 99 (ran out of ballots)

Racine
Ward 16, 22 (poll lists do not reflect summer voter registration drives)
Ward 31 (voters directed to wrong polling places)
Ward 34 (many voters redirected to other polls as a result of re-districting)

Various
Ward (Fitchburg) (early registrants/on-line registrants not on poll list)
Ward (Oshkosh 13, 14) (ran short of registration forms; poll lists do not reflect student registration drive)

5) Polling Place Facilities Issues

Some facilities were cramped and not conducive to a large turnout. Other issues included lack of curbside voting availability and handicapped accessibility. Documented instances include the following:

Milwaukee
Ward 138 (polling place not handicapped accessible)
Ward 142, 243, 244 (no curbside voting)
Ward 151 (parking too far from polls)
Ward 236 (poorly lighted)
Ward 25, 272 (Bryant School) (Polling Locations Guide misprinted!—sending voters to wrong locations)
Wards 261, 262 (notices directing voters to wrong polling places)

Janesville
Ward 19 – 22 (Ward map fails to correspond with address book)

Madison
Ward 15, 21 (very poor parking)
Ward 50 (congestion, long lines)
Ward 97, 98 (lacked signs indicating voting lines)

Racine
Ward 4 (failure to post sufficient signs)

Various
Ward (Oshkosh 13, 14) (Ward map relocation required)

6) Absentee Ballot Issues

There is always a lot of action with respect to absentee ballots. Some ballots are rejected due to voter error, and there is not much that can be done about that on Election Day. The HAVA registration requirements also caused confusion. Further, absentee ballots were delivered to the wrong polling place or after 8 p.m., and Chief Inspectors' responses to these issues varied. For example, Milwaukee Ward 107 experienced the dual problem of absentee ballots arriving at 8:20p.m. that actually belonged at another ward, causing unnecessary inefficiency and confusion.

Municipalities should increase efforts to ensure that registered voters are on the poll lists. There also needs to be improved delivery of absentee ballots, and a uniform rule that Chief Inspectors are to follow when ballots arrive after 8 p.m.

Other documented instances include:

Milwaukee
Ward 40 (wrong addresses on outside)
Ward 48, 102 (23 variously rejected)
Ward 51 (15 variously rejected, some rendered provisional)
Ward 53 (12 variously rejected)
Ward 87, 88 (6 variously rejected)
Ward 93, 94 (4 variously rejected)
Ward 103 (4 variously rejected)
Ward 104 (8 mis-delivered, 5 of these rejected)
Ward 107 (envelope filled ATBs mis-delivered—rejected)
Ward 120, 124 (3 mis-mailed, 8 variously rejected, 1 provisional)
Wards 128 (11 variously rejected, 4 reconstructed)
Ward 141 (2 rejected w/o registration)
Ward 143 (4 variously rejected)
Ward 145, 146 (12 variously rejected, 2 reconstructed)
Ward 148 (1 rejected for wrong address)
Ward 151 (several rejected w/o proper ID)
Ward 158 (3 variously rejected)
Ward 174, 175, 180 (6 variously rejected; 1 never received)
Ward 177, 178 (ballots erroneously sent to ward)
Ward 196 (10 variously rejected; 3 approved; 2 reconstructed)
Ward 210, 211 (8 absentee ballots rejected: failures to sign, list addresses and witnesses)
Ward 213, 214 (2 unsigned-rejected; 1 re-constructed)

Ward 220, 246 (2 unsigned-rejected; 1 re-constructed)
Ward 221 (12 unsigned-rejected)
Wards 227, 228, 230 (11 unsigned/no address-rejected)
Ward 229 (1 double vote-rejected)
Ward 231 (7 unsigned/no ID-rejected)
Ward 232 (1 delivered to wrong polling place)
Wards 238, 239 (several reconstructed; 1 overvote-rejected)
Wards 245, 247 (9—signatures, addresses, overvotes)
Wards 261, 262 (8 variously rejected; 7 reconstructed)
Ward 269 (11 variously rejected)
Ward 275, 276 (several reconstructed)
Ward 277 (names not on rolls; processed w/Election Board "green" notes)
Ward 278, 279 (3 variously rejected)
Ward 280 (1 rejected under duplicate signature)
Ward 303 (1 reconstructed)

Beloit
Ward 1, 2 (2 provisionalized)
Ward 5, 6, 7 (2 variously rejected)
Ward 12-14 (3 provisionalized)

Janesville
Ward 14 (5 variously rejected; 1 mis-delivered)

Madison
Ward 1 (2 rejected, lacked witnesses; 8 rendered provisional)
Ward 8, 9 (3 variously rejected)
Ward 7 (1 rejected as unreadable)
Ward 11 (4 variously rejected)
Ward 15 (1 rejected for as voter cast regular ballot)
Ward 33 (4 variously rejected)
Ward 38 (1 Provisional counted as ATB)
Ward 43 (wrong ballot mailed, 1 Provisional counted as ATB)
Ward 44 (11 variously rejected; 2 reconstructed)
Ward 49 (1 restructured, 1 rejected)
Ward 53 (not delivered)
Ward 55, 56 (5 variously rejected; 1 reconstructed)
Ward 62 (2 variously rejected)
Ward 64 (1 rejected as duplicate)
Ward 66 (several rejecting due to poorly updated voter list)
Ward 70, 71 (8 reconstructed, 2 rejected)
Ward 72 (2 variously rejected)
Ward 78 (5 variously rejected)
Ward 81, 83, 100, 104, 105, 110 (several rejected—incorrect certification; subject to too much partisan discretion from GOP poll workers)
Ward 97, 98 (1 reconstructed)

Racine
Ward 17 (4 variously rejected)
Ward 18 (2 variously rejected)
Ward 21, 30 (4 variously rejected)
Ward 34 (6 rejected for various name and address problems)

Various
Ward (Oshkosh 9, 10) (4 reconstructed; 2 rendered provisional)

IV. Suggested Improvements

The Incident Reports provided by Voter Protection attorneys affirm many of the findings and suggestions contained in the January 6, 2005 Election Protection report. Many of the larger cities simply were not prepared for such a high voter turnout. Poor facilities and equipment, staffing shortages, and Republican attempts at interference each contributed to long lines and frustration.

Cities should update their equipment, and strive to have more poll workers. All poll workers and Chief Inspectors should receive training so that they are aware of current registration and identification requirements in the law. A strong, well-informed Chief Inspector is generally able to handle challenges and ensure a smooth operation, and trained poll workers would ensure even greater efficiency.

Substantive reforms to various aspects of the election laws would also help to solve the administrative and procedural issues at high turnout elections. The following areas are ripe for meaningful and comprehensive reform:

- Staffing of polling places
- Training of poll workers
- New and better voting machines
- Expanded early voting opportunities
- Restrictions on intimidation and suppression
- Proof of residency requirements consistent with HAVA
- Training and accountability for deputy registrars
- Uniform registration forms
- Streamline and clarify absentee voting process

V. Contact Information:

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Mr. O'NEILL. After looking at all the incident reports reflecting back with our experience with the election, there were four major problems with the election process in 2004 in Milwaukee. The first and major problem was simply the large turnout of 76 percent statewide, and Milwaukee was right in that ballpark, and frankly, that turnout simply overwhelmed the election volunteers that take care of our elections. Understand, every four years we have this massive turnout and in between there are elections that are nowhere near this size, and we do not increase with any amount that we need to the number of people working at those high turnout elections and they were overwhelmed with the tasks at hand.

Second, we had problems in the City of Milwaukee specifically with the preelection registration process and that ended up with the City of Milwaukee having, I think, about eight boxes of unprocessed registration cards that were properly filled out, people believed that they were registered and yet we found out the day before the election that these eight boxes, that were not going to be at the polls and those individual people were not going to be on the local poll list.

As a resident of Milwaukee, I personally sued the City of Milwaukee Elections Commission and the Commissioner, and I was able to work with a member of Mr. Millis' firm and Kevin Kennedy with the Election Board that night before the election to hammer out a procedure by which those people, if they showed up, we actually were able to facilitate getting the physical registration cards to each of the polling places so they could check, I registered. You are not on the list they could check and find the cards.

Another problem that was prevalent and came up primarily at the end of the day is with the absentee voting process in Wisconsin. There was testimony before about what needs to be changed, and we found at the end of the day there was mass confusion about how the absentee ballots were to be counted, how they were to be processed.

On the envelopes a lot of people would write their address which was not the address at which they were registered, and where they addressed it was a problem finding them on the list.

The fourth problem we found were Republican efforts to monitor the election ended up, in our view to be suppressive of the ability of people to vote for citizens of Milwaukee.

I want to focus on that.

The primary aspects we observed of the Republican efforts that ended up suppressing the vote in our opinion in very targeted wards in the City of Milwaukee and other urban areas and student areas, the Republicans placed at least one person directly behind the election officials and had them standing there with Palm Pilots or other kinds of Blackberrys and what they would do is look at the voters, and after they stated their names, they would punch them in and look them up and down.

And I know that during the middle of election day, my wife called and said she felt intimidated when she faced that particular effort. I would like to submit also for the record one of our incident reports from an attorney Eric Straub who reports about some very, very aggressive observation efforts by an attorney from Michigan by the name of Perry Christy who is then joined by State Senator

Tom Reynolds and I would like to submit that. It shows what was going on on the ground.

Mr. NEY. Without objection.

[The exhibit follows:]

NOVEMBER 2, 2004 ELECTION INCIDENT REPORT

Volunteer Attorney	Polling place/Ward(s)
ERICH STRAUB 7	170 and 171

Incident No.	Description	Persons Involved (Voter, challenger, inspector)	Resolution	Time
1	MICHIGAN ATTORNEY CHRISTI WAS STANDING BEHIND THE REGISTRATION TABLE			10:30 a to 12:30 p
	LEANING OVER THE ELECTIONS OFFICIALS TO INSPECT EVERY DOCUMENT, INCLUDING			
	MOST SITUATIONS WHERE PEOPLE HAD VALID DRIVER'S LICENSE OR ID'S W/			
	PHOTOS. ON NUMEROUS OCCASIONS, HE ACTUALLY			
	ASKED FOR DOCUMENTATION HIMSELF AND HANDLED			
	THE DOCUMENTS. AT			
	ONE POINT, HE EVEN TOLD THE VOTER THAT			
	THE DOCUMENT WAS NOT			
	GOOD ENOUGH. NUMEROUS			
	VOTERS WERE VISIBLY			
	UPSET AND LOOKED			
	INTIMIDATED BY MR. CHRISTI. SEVERAL			
	COMPLAINED TO THE ELECTIONS INSPECTOR,			
	WHO ASKED MR. CHRISTI TO BACK AWAY FROM			
	THE REGISTRATION			
	TABLE. AS SOON AS THE INSPECTOR WOULD			
	LEAVE. MR CHRISTI WOULD RETURN TO			
	THIS BEHAVIOR.			
2	ATTORNEY CHRISTI CHALLENGED THE DOCUMENTATION			10:30 a 11:00 a
	OF A VOTER WHO HAD A BANK STATEMENT AS PROOF OF RESIDENCE			

intimidation

Registration challenges

Submitted 10/24/05 by Matthew O'Neill

NOVEMBER 2, 2004 ELECTION INCIDENT REPORT

Volunteer Attorney	Polling place/Ward(s)
ERICH STRAUD 7	170 + 171

Incident No.	Description	Persons Involved (Voter, challenger, inspector)	Resolution	Time
	HE INSISTED THAT THE DOCUMENT WAS INSUFFICIENT AND			
	HE NEED [redacted] SOMEONE TO VOUCH FOR HIM.			
	ATTY. CHRISTI WAS HAVING THIS CONVERSATION DIRECTLY WITH THE			
	VOTER, ALMOST IGNORING THE ROLE OF THE			
	POLL WORKER. A YOUNG WOMAN WHO WAS WITH			
	THE VOTER AGREED TO VOUCH FOR HIM (VOTER) AND SHE PRESENTED			
	A WI D.L. AND A UTILITY BILL SHOWING HER ADDRESS AS BEING			
	IN MILWAUKEE. BECAUSE THE D.L HAD AN ADDRESS			
	IN RACINE, ATTY CHRISTI SAID IT WAS INSUFFICENT			
	TO PROVE SHE WAS AN ELECTOR IN MILWAUKEE. THE WOMEN THEN SHOWED			
	AN "I VOTED" STICKER FROM TODAY. IT WAS			
	THEN POINTED OUT TO ATTY CHRISTI THAT			
	THE BANK STATEMENT WAS SUFFICIENT THE VOUCHER WAS SUFFICIENT			
	AND HE HAD NO STANDING TO CHALLENGE BECAUSE			

NOVEMBER 2, 2004 ELECTION INCIDENT REPORT

Volunteer Attorney	Polling place/Ward(s)
ERICH STRAUB	7/170 + 171

Incident No.	Description	Persons Involved (Voter, challenger, inspector)	Resolution	Time
	HE WAS NOT A WISCONSIN			
	ELECTOR. HE CLAIMED			
	HE WAS NOT CHALLENGING,			
	HE "JUST KNEW THE			
	ELECTIONS INSPECTOR			
	WANTED TO DO THE RIGHT			
	THING." THE INSPECTOR			
	WAS ON THE VERGE OF			
	SENDING THE VOTER HOME			
	TO FIND HIS MOTHER			
	TO VOUCH FOR HIM.			
	THE INSPECTOR ERRONEOUSLY			
	BELIEVED THAT THE			
	PERSON VOUCHING HAD			
	TO BE FROM THE SAME			
	HOUSEHOLD. WHEN IT			
	WAS POINTED OUT THAT			
	THIS WAS NOT THE LAW			
	AND THAT THE PERSON			
	VOUCHING ONLY HAD			
	TO PROVE SHE WAS [redacted]			
	AN ELECTOR FROM			
	THE MUNICIPALITY, THE			
	INSPECTOR ALLOWED			
	THE VOTER TO REGISTER			
	AND VOTE.			
3	SENATOR TOM REYNOLDS			
	ARRIVED AND ENGAGED			
	IN THE SAME BEHAVIOR			
	AS THE MICHIGAN ATTY:			
	STANDING BEHIND			
	THE TABLE FOR			

NOVEMBER 2, 2004 ELECTION INCIDENT REPORT

Volunteer Attorney	Polling place/Ward(s) 7/170

Incident No.	Description	Persons Involved (Voter, challenger, inspector)	Resolution	Time
	REGISTRATION LEANING OVER THE POLL WORKERS			
	TO INSPECT I.D.'S & DOCUMENTS. AGAIN NUMEROUS REGISTRANTS			
	LOOKED, CONFUSED, ANGRY AND INTIMIDATED			
	BECAUSE A FIGURE OTHER THAN THE POLL WORKER			
	WAS INSPECTING THEIR DOCUMENTS WITH NO EXPLANATION. ~~[illegible]~~ ~~[illegible]~~ AFTER SEVERAL COMPLAINTS,			
	THE ELECTION INSPECTOR HERSELF SAT AT THE			
	TABLE AND TOLD BOTH MR. CHRISTI AND			
	SENATOR REYNOLDS TO STOP AND BACK			
	AWAY FROM THE TABLE. THEY WOULD STOP			
	TEMPORARILY, THEN CONTINUED THE			
	BEHAVIOR. AT ONE POINT, ~~[illegible]~~			
	~~LEGAL BOARDS AND ALL CHALLENGERS~~			
	~~DESCRIBING~~ KERRY EDWARDS ATTORNEY			

NOVEMBER 2, 2004 ELECTION INCIDENT REPORT

Volunteer Attorney	Polling place/Ward(s) 7/170

Incident No.	Description	Persons Involved (Voter, challenger, inspector)	Resolution	Time
	WERE AGAIN COMPLAINING			
	ABOUT INTIMIDATING			
	BEHAVIOR. ATTY CHRISTI			
	CAME OVER AND TOLD			
	THE INSPECTOR, "WE			
	CAN DO THIS THE HARD			
	WAY OR THE EASY WAY"			
	AND THREATED THAT			
	HE [redacted] OR [redacted] SENATOR			
	REYNOLDS WOULD START			
	ISSUING CHALLENGES			
	AND IT WOULD SLOW			
	THE VOTING DOWN,			
	IF THEY WERE NOT			
	ALLOWED TO CONTINUE			
	INSPECTING ALL DOCUMENTS			
	IN THE SAME MANNER.			
	THE INSPECTOR RESPONDED			
	"WHAT CHALLENGES?"			
	"YOU DON'T HAVE ANY."			
	SENATOR SPENSOR COGGS			
	ARRIVED AND WAS			
	INFORMED OF THE			
	PROBLEMS BY THE			
	KERRY EDWARDS ATTORNEYS,			
	HE (COGGS) SUCCESSFULLY			
	CONVINCED REYNOLDS			
	AND CHRISTI TO MOVED			
	AWAY FROM THE TABLE.			

NOVEMBER 2, 2004 ELECTION INCIDENT REPORT

Volunteer Attorney	Polling place/Ward(s)
ISABELL M. MUELLER	7/170/171

Incident No.	Description	Persons Involved (Voter, challenger, inspector)	Resolution	Time
	ATTY. CHRISTIE AND SEN. REYNOLDS WERE STANDING NEXT TO THE VOTER REGIS-	SEN. TOM REYNOLDS AND ATTY. PERRY CHRISTIE		BETWEEN 11AM & NOON
	TRATION TABLE DISCUSSING HOW THE PLANNED PARENTHOOD			
	ORGANIZATION HAD ORIGINALLY BEEN CREATED			
	TO ELIMINATE THE AFRICAN AMERICAN RACE AND			
	IF ALL THE VOTERS THERE ~~REGISTERED~~ WERE AWARE			
	OF THIS, THEY WOULD VOTE DIFFERENTLY.			
	THIS STATEMENT WAS MADE BY SEN. REYNOLDS TO			
	ATTY. CHRISTIE WHO THEN AGREED WITH HIM.			
	I WAS STANDING ABOUT 3 FEET TO THEIR LEFT,			
	I BELIEVE THAT BECAUSE			
	I WAS ABLE TO CLEARLY HEAR THEIR STATEMENTS			
	~~[illegible]~~ THE VOTERS ~~[illegible]~~			
	AND ALSO THE ELECTION OFFICIALS AT THE TABLE			
	WOULD ALSO HAVE BEEN ABLE TO HEAR.			

Mr. O'NEILL. Part of the things that happened at all of these polling places were people walking around in these orange T-shirts that say I am a "HAVA Volunteer."

I know Chairman Ney might want to have a copy of this, but it is actually Mr. Kennedy's particular shirt that he loaned to me.

Mr. NEY. What was this?

Mr. O'NEILL. This was a T-shirt, Individuals at the polling places that were wearing these "HAVA Volunteer" bright orange T-shirts, and we found out from our volunteers that these people were actually being paid to wear the T-shirts, and we found out that many of them knew very little about HAVA. With all due respect, HAVA in the last election had very little impact on Wisconsin. It was only those people who had mailed in their registration and were voting for the first time in a presidential election in Wisconsin that it had any impact on.

Other problems we had were towards—Republican volunteers voting up and down the lines having interaction with voters talking about whether people were on the list or not, challenging the election authorities in the way they manage the business, using the challenge process. In sum I just wanted to bring to the Committee's attention, there was another particular item that was very troublesome in the past election cycle here, and that was the efforts, and I know what I hear from my Republican colleagues that they were there trying to fair it out and prevent fraud, but I think they were very over aggressive and overzealous and I believe it suppressed the right of citizens of the City of Milwaukee to vote.

Mr. NEY. Thank you.

[The statement of Mr. O'Neill follows:]

October 24, 2005

Testimony of Matthew W. O'Neill

I. Experience

I am an attorney with the Milwaukee law firm of Friebert, Finerty & St. John, S.C. I have practiced in the area of election and campaign finance law for the past thirteen years.

In 2004, I served as Deputy State Counsel for Kerry-Edwards Campaign. In that capacity, I helped train over 700 lawyers to observe at the polls and help people exercise the right to vote. Our primary focus was to ensure that every eligible and qualified voter who showed up at the polls on election day was allowed to cast a ballot.

As part of our efforts, we worked closely with the Executive Director of the State Election Board, Kevin Kennedy, and with the Milwaukee County District Attorney's office, to map out state and federal laws regarding necessary identification for registration and voting. The goal was to make sure that all of our observers were fully informed and were on the same page legally as the state and local officials. I attended a training session provided by the Elections Board for Chief Election Inspectors so that I could learn first-hand what the election workers learned from the state officials.

Prior to the election, Milwaukee County Executive Scott Walker publicly stated his intent to limit the number of ballots provided to the City of Milwaukee, because in his opinion the requests were unrealistically high. I participated in a hearing in the County Executive's office, where a groundswell of public objections to the plan caused the County Executive to change his mind and ultimately provide the ballots requested by the City.

I also successfully defended a last-minute attempt to remove 5,600 names from the City of Milwaukee registration list based upon unreliable computer analysis. Less than a week before the election, a Republican-led effort was filed with the City Elections Commission to invalidate 5,600 names on the Milwaukee poll list based upon a computer analysis purporting to show that the addresses did not exist in the City. At the hearing, the Republican witnesses acknowledged that they had not personally verified 99% of the addresses on the list, did not know how many may have been the result of clerical errors, and that the gentleman who signed the verified complaint had learned of the entire matter the day before the hearing. The alleged computer expert acknowledged that he personally checked

EXHIBIT 16
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three of the addresses on the list, and found that one of the three addresses in fact did exist. The City denied the complaint.

I also personally filed a lawsuit, in my capacity as an elector of the City of Milwaukee, against the City of Milwaukee Election Commissioner on eve of election. We learned at noon on the day before the election that the Elections Commission had not processed eight boxes of voter registration cards, meaning that thousands of people who had properly registered would not be included on the poll lists on election day. With the cooperation of attorneys for the Republican Party and Kevin Kennedy, we were able to work out an agreement the night before the election to ensure that those voters were protected

On election day, I worked in the Milwaukee "boiler room" taking phone calls from polling places throughout the city.

After the election, I oversaw an analysis of hundreds of incident reports prepared by our attorney volunteers on election day. Our completed report has been submitted for the Committee's review.

II. Observed Four Major Problems with Election Process in 2004

Our experience in the 2004 election revealed four major problems with respect to the City of Milwaukee:

1. The large turnout (76% statewide) simply overwhelmed the under-trained election volunteers.

2. Republican suppression efforts slowed process and made voting more difficult in targeted areas.

3. The City of Milwaukee election commission offices failed to properly process registrations and failed to timely deliver absentee ballots.

4. The absentee ballot procedures caused confusion at end of the day.

The Incident Reports reflect that Wisconsin's same-day registration process allowed thousands of qualified voters to exercise their constitutional right to vote, and helped prevent the potential widespread disenfranchisement potentially caused by deputy registrars who did not properly complete registration forms and by the City of Milwaukee's failure to complete the processing of thousands of proper registration cards prior to the election. The primary problems encountered with the same-day registration process involved the need for additional poll workers designated to handle same-day registration, and clarification of the acceptable

forms of proof of residency. There were no reports of wide-spread voter fraud, and no identified problems that could be easily solved with a photo ID requirement.

III. GOP Suppression Efforts in 2004 Presidential Election

The Republican Party had hundreds of attorneys deployed to targeted wards whose primary function appeared to be the intimidation and suppression of minority voters under the guise of monitoring for "fraud." In addition, the GOP paid hundreds of non-lawyers to "observe" at targeted polls while wearing orange T-shirts emblazoned with "HAVA Volunteer" on the front. Our volunteers also encountered law enforcement officials visiting various polls and challenging the propriety of efforts by the Voter Protection attorneys and Election Protection coalition volunteers to assist voters at the polls.

The primary aspects of the carefully planned GOP suppression effort included:

- Placing at least one person behind the election inspectors in targeted wards with a handheld electronic device (primarily Palm Pilots or Blackberries) to stare at each voter while entering their name and address in the device as they identified themselves to the pollworkers and received a ballot.

- Paying individuals $160 to wear orange "HAVA Volunteer" T-shirts and patrol polling places. In large part these individuals (who were not volunteers) knew nothing about the Help America Vote Act, and several wrongly suggested that HAVA required an already-registered voter to produce identification in order to vote.

- Impersonating authorities at the polling places. The Reports reflect instances of orange-shirted observers stating that they were authorities, and instances of persons claiming to be "election officials" and giving out incorrect information about the registration process.

- Walking up and down voting lines with printed lists in hand and suggesting that persons "not on the list" were not allowed to vote.

- Using attorneys to lodge challenges to voters pursuant to § 6.925, Wis. Stats. In many cases Republican attorneys would lodge a challenge, disrupt the voting process, and then abandon the challenge, after forcing a voter to answer questions under oath, by refusing to execute sworn statements supporting the claimed challenges.

- Challenging the authority of election inspectors during every step of the election day process, including: (a) challenging the use of special deputy registrars for same day registration (despite an October 27, 2004 City of Milwaukee Elections Commission resolution authorizing the process); (b) challenging inspectors' attempts to continue to process votes during machine breakdowns; (c) asking an inspector to sign a form stating that a machine was not inspected; and (d) challenging the use of volunteers to help process same day registration cards.

- Using law enforcement agents to harass Election Protection volunteers attempting to assist voters standing in line. For example, at about 5:30 p.m. at Holton School, four men, one with visible handcuffs, walked through the polling place and told Election Protection volunteers not to assist voters attempting to locate the correct polling place.

- Threatening to "call the authorities" if election inspectors did not act as instructed by Republican attorneys.

- Challenging any absentee ballot that did not have a Wisconsin return address in the certificate, despite the fact that an out-of-state return address is legal and appropriate for out-of-state absentee voters.

- Challenging valid student registration with photo IDs matched to student directories, and thereafter challenging any student who corroborated another student's residence.

In addition to these generalized efforts, the Republican Party attempted to potentially disenfranchise thousands of City of Milwaukee voters through an eleventh-hour challenge (filed literally minutes before the deadline for filing any such challenge) to a list of 5,619 addresses that the Republican Party contended did not exist. As demonstrated during an October 28, 2004 hearing, the Republican Party did not bother to check the validity of 99% of the names and addresses on the list, many of which were the result of clerical errors that occurred

when City employees entered information on the computer system. After that effort failed, just days before the election the GOP publicly threatened to challenge an additional 30,000 registered voters based upon unverified assertions that "apartment numbers" did not match up.

IV. Administrative Problems

Analysis of the Incident Reports reflects a number of general administrative problems caused or realized by the huge turnout. These problems include the following:

(1) broken or faulty voting machines;

(2) poll staffing shortages;

(3) poll worker errors, such as opening the polls late, failure to post sample ballots or ward maps, and requiring photo ID in order to vote or register;

(4) incomplete or erroneous poll lists;

(5) polling place facility deficiencies, such as cramped registration and voting areas, lack of curbside voting availability and limited handicapped accessibility; and

(6) confusion regarding absentee ballots.

These problems reflect a need for legislative reforms designed to increase the staffing of polling places at high turnout elections, require detailed training of all poll workers, revise the deputy registrar process to ensure such registrations are properly completed and processed, and streamline the absentee voting procedures. As a general matter, any reforms that could help defuse the long lines and congestion on election day, such as expanded early voting and increased staffing, will help to solve many of the identified problems.

V. Voter ID Legislation – The New Poll Tax

In my opinion, requiring voters to show a photo ID before being allowed to vote would not address or fix any of the problems we observed. Rather, it would in all likelihood disenfranchise thousands of poor, elderly and urban voters.

Proponents of a photo ID requirement have tried since the election to paint a picture of rampant fraud to justify a photo ID requirement. Yet neither an exhaustive analysis by the Milwaukee Journal Sentinel nor a joint investigation by U.S. Attorney Steven Biskupic and Milwaukee County District Attorney E. Michael found any evidence of widespread fraud.

Rather, the various analyses of the problems with the 2004 election in Milwaukee all point to a dire need for real administrative reforms designed to make the registration and voting process more efficient and more accountable.

VI. Needed Reforms

The following areas are ripe for meaningful and comprehensive reform:

- Staffing of polling places
- Training of poll workers
- New and better voting machines
- Expanded early voting opportunities
- Restrictions on intimidation and suppression
- Consistent proof of residency requirements, consistent with HAVA
- Training and strict accountability for deputy registrars
- Uniform registration forms
- Streamlined absentee voting process
- Centralized counting of absentee ballots

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STATEMENT OF DON MILLIS, ATTORNEY, MICHAEL, BEST, AND FRIEDRICH, LLP

Mr. MILLIS. Mr. Chairman, members, thank you for this opportunity. I have never had the opportunity to testify before this committee before. However, I have testified before committees on which Representative Moore has sat, and I have enjoyed every experience and this will go just as smoothly.

I am Attorney Don Millis and I am a lawyer in private practice in Madison, Wisconsin. For four years, I served on the State Elections Board. From time to time, I get involved in representing people in election-related disputes; don't try to do it very often as it doesn't pay very well.

Wisconsin has a reputation for clean government. We also have a reputation for encouraging voter participation. We were among the first states to have primary elections and the open primary. We have election-day registration. I think those are all things we can be proud of. Those are the steps we've taken to promote voting in Wisconsin.

Our clean reputation has taken it on the chin of late. There have been scandals involving politicians in Madison and what not and this is not good for anyone. I think as damaging as those have been, have been the accusations or the talk of voter fraud in the last three November elections. I think these are damaging to all of us, and I think there are two ways it hurts our democracy.

The first is the obvious. It may actually have changed the results of some elections. If someone were to ask me do I think the results in any election would have changed, I would say I don't think so.

But the problem—the fact that I can't say for sure—gets us to the second problem, that is the perception problem. There is a wide perception that things have not been on the up and up and may have caused problems.

I think one of the most important things that a democratic government does is to conduct elections, and I think if we are going to, not only one, avoid the actual fraud and avoid change of election results and, two, enhance people's confidence in the electoral result, we are going to have to take many steps.

After the 2000 election, when I was still on the Elections Board, we started the ball rolling in a variety of ways. First, we started by outlawing punch-card ballots. No more hanging chads in Wisconsin. And we also had a series of proposals that some of us presented to the Elections Board that did not go very far.

Statewide voter registration we would not have but for HAVA, but we also talked about photo IDs. It has become of the things we are talking about the most, but I think there are other things that should be considered.

I think one of the things Mr. O'Neill mentioned is we have to have more machines in polling places, we have to accommodate large groups. I think we should strive for a national standard that no one should wait in line for more than 20 minutes to vote. Long lines do as much as anything to depress a voter turnout. But nevertheless we are here and photo IDs seem to be the thing that we are talking about. I guess I would like to make a few observations about this.

I think that there have been discussion about the fact that there were very few convictions, actual cases of proven voter fraud. There is a special prosecutor who is going to file a report in Washington and whether or not certain people are indicted or certain people are convicted, a certain segment of society is going to believe that certain administration officials were guilty.

I don't know whether they are guilty or not, but the fact is in the same way that the proof problems exist in any investigation, there are proof problems in conduct of elections. And the fact that a prosecutor cannot prove or be confident he or she can prove beyond a reasonable doubt that fraud existed, doesn't mean fraud didn't exist.

But more importantly is the perception of fraud. There are some circumstances in which a photo ID would assist. A couple of people talked about the situation where someone shows up at polling place and discovers someone else voted or someone else may have been checked off the list as voting. I had a friend of my wife called a year ago and said, "I went to vote and they said I already voted and I had not voted." She was persistent and she managed to convince the poll worker to let her vote which was the correct way. I did subsequently talk to some election officials and this happens actually more often than you might expect.

Whether it is intentional—it's probably not intentionally very often—but the fact that it occurs is an indication where a photo ID would assist.

I think the greater impact of the photo ID would be the confidence that it would inspire in every person who participates in elections. If I know that I have to have a photo ID and the next person next in line and the next, I think that inspires confidence.

I think it does have widespread support. There used to be a law in Wisconsin—it doesn't exist anymore—but in these communities that were small enough to have polling lists, they didn't have registration lists. You showed up. There was no list, you said, " I am Don Millis. This is my street address."

In those municipalities, the poll worker had the ability to demand any person to present an ID with no objective criteria. You could have a situation where the person just thought you didn't look like you belonged here.

I don't know how often it occurred. If people were discriminated against, it would certainly be inexcusable.

I can tell you one thing, I don't think we had any complaints during my time on the Elections Board about that and I think the reason is that generally poll workers try to do the best job they can and are not interested in depressing the vote. I think the idea of having to present an ID is something that people understand and are willing to do it. And I think the fact we have got wide acceptance of this indicates that I think we are ready to take that step. Thank you for the opportunity to testify.

[The statement of Mr. Millis follows:]

House Administration Committee
October 24, 2005

Testimony of Don M. Millis

Mr. Chairman and members of the Committee, greetings. My name is Don Millis. I am a lawyer in private practice in Madison, Wisconsin. I served four years as a member of the State of Wisconsin Elections Board, including one year as its chair. While election law is not the focus of my practice, I have taken on a few clients over the years that need representation in that area. I thank you for inviting me here today.

Wisconsin has a proud heritage of promoting voter participation. Primary elections, the open primary and election-day registration are all Wisconsin innovations that testify to this heritage of encouraging voter participation.

Wisconsin also has a reputation for clean and open government. Growing up in Wisconsin I recall my social studies teachers extolling the virtues of Wisconsin's clean government. As a political science student at the University of Wisconsin, I recall a professor engaging in good-natured chiding over Wisconsin's clean governmental institutions as he lectured on the reality of machine politics and corrupt political organizations as the rule, not the exception.

Unfortunately, Wisconsin's reputation for clean government has taken it on the chin of late. The accusations of illegal activities by politicians have damaged Wisconsin's reputation for clean government and, to one degree or another, tarnished everyone associated with politics in Wisconsin. However, as damaging as these recent political scandals have been, worse yet are the reports of election irregularities and outright voter fraud that have followed each of the last three partisan general elections.

EXHIBIT 17
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Accusations of electoral fraud strike at the very heart of our democracy and have two very serious implications. The first is obvious. Electoral fraud has the potential to thwart the will of the people. Have the results of recent elections been altered by fraudulent activity? I doubt it. But the questions remain.

The second and perhaps more harmful effect of electoral fraud or its appearance is the taint that adheres to election results. The fact that many hold open the possibility that electoral results may have been altered by fraud casts a pall over our democracy and threatens the legitimacy of our government. The fact that I cannot know for certain that fraud has not changed a recent election result is evidence of the problem.

My friends who advocate reforms such as those found in McCain-Feingold and other more drastic regulations on electoral speech and campaign activities focus on the influence of expensive and frequent broadcast advertising as unduly influencing the outcomes of elections. Even if you agree that big money in campaigns can buy such undue influence, at least people and candidates up against such campaigns have a fighting chance. Big money campaigns are very public. Through the use of free media, such messages can be countered.

There is no counter to election fraud. Election fraud cannot be recognized in advance and its effect cannot be obviated. It can only be prevented.

H.R. 2250, the Valuing Our Trust in Elections (VOTE) Act contains reforms in my opinion that will both reduce the reality and perception of voter fraud. Certainly the most controversial of these proposals will require a photo ID to vote. While I do not want to diminish the concerns of those who fear that such a requirement will depress voter participation and provide opportunities for discrimination, let me offer the following thoughts.

Up until recently, in municipalities in Wisconsin without registration, i.e., typically smaller and more rural communities, an election official could demand that any elector provide proof of identification. There was no requirement that the official have a suspicion about the person's qualifications to vote. There was no objective criteria that had to be satisfied before an official could demand identification. I submit that this requirement had a greater potential for discrimination against people of color than requiring every elector, regardless of race, to provide a photo ID.

Who knows how many voters were asked to produce identification or to have another elector vouch for them, simply because they did not look like they belonged in that community? Certainly one can imagine that persons of color in smaller municipalities might be more likely to be asked for their identification than white people. Of course, this would be inexcusable. Nevertheless, in my time on the State Elections Board I cannot remember a single complaint along these lines. Nor did the people who complain now about photo ID complain about that provision.[1]

As for depressing voter turnout, I submit that long lines at polling places do much more to depress voter turnout than any photo ID requirement. Should there be a greater investment in quality voting machines? Absolutely. I believe that no one should be forced to wait more than 20 minutes to vote. Again, the cry in opposition to requiring photo IDs seems to be much louder than the demand that additional resources be used to reduce lines on election day.

Finally, the Committee should be aware that photo IDs have become an integral part of our national culture. A combination of 9/11 and advances in technology have made photo IDs mandatory for boarding an airplane and for renting a movie. After 25 years in the workplace I

[1] This provision was eliminated because all municipalities will now be part of the statewide voter registration list.

finally was issued a photo ID that I need to enter my work place. Provided that the government makes reasonable accommodations for those who cannot afford the proper ID and who do not have a driver's license, this is a reasonable requirement that will help improve confidence in our electoral system and prevent the reality of fraud.

Again thank you for the opportunity to testify and I welcome any questions the Committee might have.

Mr. NEY. Thank you so much. I will give my slot to Mr. Ehlers since he has to leave.

Mr. EHLERS. Thank you. I have to catch a plane because I have to give a speech back home which was scheduled before this. I appreciate the opportunity for this wrap up comment.

I don't have any specific questions for any of you. As I said before I am surprised to the extent the photo ID has been the center of the discussion, apparently not only here but in Wisconsin. I don't regard that as the most overwhelming problem in elections.

I also want to comment, I have been involved in holding hearings on elections in several places in the country from the West Coast to California to the East Coast of North Carolina and points between.

Wisconsin had never been on my list of any area that had serious voting problems. I think by and large it is a good system and run well. I have been fairly critical in some of my comments here, but don't take that personally. My hobby is to try to make sure all governments operate smoothly, I hate to see things go wrong, and I have a great deal of respect for the government in this country and I want it to work well.

I really appreciate the comments that you have made and the other witnesses have made. It has given us a good handle on it, and I think you are well on the way to solving these problems.

The one thing that really surprises me is the reasons given against the voter ID and I am especially surprised, Ms. Kaminski, that the League of Women Voters has bought into that. Most of those I have not heard before. I have never seen any substantiation of the charge that somehow a voter ID will discourage people from voting. I think it has been on the contrary as Ms. James has mentioned. It has been a positive influence on people and their knowledge that they have a definite ability to vote.

Now, if they show up, they wouldn't have an example such as Mr. Millis mentioned, you have already voted, voter ID would stop that. I think it would certainly be a much better thing over all, and I think people would be proud to have it.

It should not cost anything, I agree with that, and as I said, my system which I proposed just off my head here, we have all of these electronic systems now, it would not be hard to have one person at each polling place doing the voter IDs right there.

And there are machines now that print it right out, hand it to them, they walk out after having voted having their own personal voter ID, and I don't think that in any way is intimidating and it shouldn't be.

Furthermore, if you do it in the voting place, you are likely to have an accurate record of the address as well and that gets away from the postcards, that gets out of being illegible. All done electronically. Good picture. Accurate address. What more can you ask for.

I don't think it will intimidate anyone or prevent them from voting.

In terms of those who don't have ready access to the polling place or vote absentee, that is another issue. I assure you that I could easily think of systems that would solve that as well and not at great cost either.

I think you ought to take voter ID issues off the table and concentrate on the clean up of the administrative problems that occurred here, and also if there are problems of intimidation.

I sympathize with that because I heard reports of that in different cities, both sides of the aisle, intimidation is used, and certainly inappropriate in a polling place and there should be clear rules established as to what behavior is acceptable and what is not.

I want to thank you for your hospitality. Milwaukee is a wonderful place, I enjoyed it very much. Wisconsin is a great place. After all they host the Oshkosh Air Venture every summer, and since I used to be a pilot and aspire to getting back into it if I ever retire, that's another asset here.

I can't say much for the beer because I don't drink beer, but it is a wonderful state and I have many fond memories of being here a number of ways.

Keep it the way it is, keep it clean, correct the problems you had last time, and maybe you will go off everyone's radar immediately in terms of any discussions of voter fraud.

Thank you very much for your hospitality and what you are doing.

Mr. NEY. Thank you. Ms. Moore.

Ms. MOORE. Well, thank you so much Mr. Chairman, and again, this has been another distinguished panel, and I really appreciated the time that you have all taken to come here today.

I am going to just make a statement and perhaps someone will want to respond. One of the—the real confusions I think that comes up with this whole voter ID thing is that people continue to say I don't understand why people are not middle class.

Why don't they have—they need a photo ID to drive, they need a photo ID to ride an airplane, they need a photo ID to open a bank account, they need it to enroll in school to take a SAT, they need a photo ID to get cough syrup, and what the difference is in the ability to vote and the ability to take the SAT is that unfortunately education is not a constitutional right. It ought to be. Getting cough syrup ought to be a constitutional right, and it is not.

We have a right to vote, so that means if you are too poor to have a car, guess what, you can still vote.

If you don't have two hours to sit up in the DMV to get a voter ID, you have a right to vote. Even if you can't fly on an airplane to Naples, Florida, you have a right to vote.

And even though you don't have a right to food stamps where you might need a photograph ID, you have a right to vote.

You don't have a right to go to Blockbusters to get a video, but you have a right to vote. And the normative assumption that you ought to be middle class, why aren't people just middle class.

My granddaughter has a birthday tomorrow, and I gave my daughter some money to open up a bank account and they wouldn't do it. She had a photo ID, but she didn't have a credit card. She just wasn't middle class enough to be able to do that.

So poor people move often, poor people don't, and I am telling you that we have data that part of the record I want everyone to really look at it, there is a very clear correlation between having a photo ID and being middle class, and that requirement would really, really, really, put a damp on people's rights to vote.

I do appreciate Mr. Erlanger to come all the way from Madison, Wisconsin to give testimony and being an ally. He said why would you exempt disabled people who have tremendous challenges to be able to get the right to vote and those are just one source of challenges because you got the same challenge if you are elderly and you have not driven, you have the same challenge if you in fact are poor and you don't have a car or if you have some other disability that is not necessarily a physical disability, but you are on great numbers of medication or whatever where you don't drive.

Clearly in the United States we have at least 50 million people who don't vote, and I am really proud to be from Wisconsin, Congressman Ney, a state that values voter participation. We have the second highest turnout in the nation, and we ought to be looking to be examples of and models of how to increase the enfranchisement of people; not only in this country but as we export democracy to other countries as well instead of focussing on ways to frustrate the vote.

The questions I guess I have of this panel again relate to what—what you regard as the greatest impediment to voting.

We have heard today about the numbers of errors, we have heard about fraudulent behavior, and I guess—I guess I want to refer to what just happened in Georgia where there is an injunction against enforcing the voter ID requirement because they have said that this violates the 24th amendment to the constitution.

I want each one of you all to just quickly respond to those findings.

Ms. COLES JAMES. First of all, I could not agree with you more, there should not be a disparity between poor people and middle class people where middle class people can move about the society because they do have ID, and I think ID ought to be provided to poor people as well and that is why they ought to remove all barriers to their ability to have that kind of identification, and that's why this commission said it ought to be free.

And as a matter of fact, we charged the states to go out and identify the people who do not have ID and see to it that they get it, so that no person in America needs to feel like a second class citizen because they don't have access to ID. That's one thing.

And I—I really believe that having come at this from a various—the Commission having come at it from various different positions and aisles, we all agreed on one thing and that is we wanted to protect the integrity of the process and to build confidence in the system.

And I believe that voter ID has such strong widespread support it passes the straight face test because quite frankly it is not unreasonable of people to say if you present yourself at the polling place, it is reasonable to assume that the person standing there is in fact the person that is—that is on the list.

And so requiring a voter ID seems to make sense to most Americans, and I believe it is—it is wrong, it is patently wrong that poor people, minorities, and other individuals who might not have access to ID feel like they are second class citizens, so we should do everything in our power to provide that to them and accommodate them in that process.

Ms. MOORE. I really actually thank you for raising the other point that I had forgotten to raise in your last statement, and that is not only should poor people not be disenfranchised in that way, you say that the—it will be free, that the card should be free, but we—we really don't know how we would get these—get these cards to everyone.

Ms. COLES JAMES. Well, there are ways to do that.

Quite frankly, one of the reasons some of us support it the recommendation by the Commission is because we had serious problems with how it was being applied in an un-uniform way across America and had some concerns about how some states were implementing this.

If in fact, as you said earlier, someone was going to be charged for a birth certificate and so it was sort of a hidden poll tax, there are ways that you can as a state make the determination that if someone is in fact trying to get a—a voter ID that they should not have to pay for that.

Ms. MOORE. Would you do that at the expense of our state, same day registration. We had 77,000 people register on election day. We are really proud of that, and it seems to me a requirement for a photo ID just deliberately or inadvertently ends same day registration, and it does frustrate the ability of people to participate when you have an advance requirement because you want the photo ID to mean something so—do you not agree with same day registration.

Ms. COLES JAMES. I think you are proud as well you should be and with technology as it exists today, that need not be a barrier.

Ms. MOORE. I have got a son, for example, whose birthday is November 6th, he did not run into the problem November 6th is real close and sometimes falls on the first Tuesday.

What would happen if my son had turned 18 on a presidential election day and didn't have a voter ID card.

Right now our law allows me as his parent to vouch for him and say he is in fact 18 years old even though he doesn't have a driver's license, and so I guess my concerns around voter ID is all of the preparation and middle classness that it really takes to have any kind of voter ID.

You can't have done what poor people do and that's move four times a year. If this were a different hearing, would Milwaukee Public Schools here, they would tell you that the biggest problem that they have is the mobility of the students because they move four times during that year.

So I—I really do want Chairman Ney to understand when we talk about imposing a photo ID requirement, we really are talking about a class issue, and I do thank you for that testimony.

And I don't know what the indulgence of the chair is going to be because I did invite other people to respond to Georgia's——

Mr. MILLIS. With the indulgence——

Ms. MOORE. Yes.

Mr. NEY. I have to add a caveat. If your son turned 18 and wasn't able to register that day, and the democratic candidate lost by one vote for the presidency, it would be tough.

Ms. MOORE. I will tell you, my son hounded me the day he turned 18 to go register to vote so we did not have that problem.

Mr. MILLIS. My first driver's license photo was taken in a classroom in my high school. Back then in those days, this is decades before sad to say before digital photography, but that's how they did it back then: The driver ed class came in. There is no reason today, as Congressman mentioned, why in the underserved areas, where we have lots of folks who don't have photo IDs, that the Department of Transportation in Wisconsin which is under the legislation that has been pending here, they should go into communities, set it up, bring the camera, very portable, print them out right there.

Ms. MOORE. That's what they did in Georgia and there is an injunction against them, the guy in the mobile home, what if he doesn't get to my rural setting? What if I am not at home when the mobile van comes through? You know——

Ms. COLES JAMES. Georgia had a lot of other issues.

Ms. MOORE. Yes, including trying to suppress the vote of people of color and there is no question of the requirement of a state issue ID will have an impact on minorities. Whether that is the intent or not, that would be the effect. It disenfranchises the people of color.

And if you are not home when that motor voter truck comes to your home, you won't get your ID, and it will eliminate same day registration.

Mr. O'NEILL. Very quickly with the Chair's indulgence, you asked the question what the greatest barrier to voting is. Currently in the City of Milwaukee it is the amount of time it takes to vote in a presidential election because of the overwhelming turnout and understaffed polling places.

The greatest asset conversely I believe is same day registration. I think that is the principle of Wisconsin's steadfast right to protect as broadly as it can the right to exercise the constitutional right to vote. You asked also about the Georgia decision. I read that decision. It is very long and exhaustive and goes over a bunch of evidence.

I think it is correctly reasoned and it comes down with two particular conclusions. The first is that it violates the right to vote because it places a barrier to voting that is not justified by what the state put forth as the need for voter ID. And I think one of the things everyone has to step back because everybody likes to yell fraud, really we have not gotten to a point, certainly not in Wisconsin, where there is a kind of overwhelming amount of evidence of a need for this kind of what anybody even in the report of the Commission, the Carter-Baker Commission acknowledges will place a barrier to some people exercising the right to vote.

So I don't think there is evidence to support voter ID.

The second thing that that judge found that it is the equivalent of a poll tax. Regardless whether you say it is free, Georgia had a very strange affidavit requirement of indigency where they invited people to lie, but there is a constitution—24th amendment of the constitution says there shall not be a poll tax directly or indirectly and what the judge found was in order for someone to take the steps to get a license or a state ID who didn't have one, it would cost them money, and that was equivalent of a poll tax, and I think that is a correctly decided decision.

Mr. ERLANGER. I would like to make a comment. Back to the question what is the biggest barrier being that I ran in a student district, I would say the biggest barrier is the lines. There is no reason it should need to take forever.

I know in 1992 where I voted, it—the lines were two hours long. I got to cut halfway through because of the elevator I needed to take, took me halfway through the line, I was able to go by half as quickly as everyone else, but I think the lines are the biggest barrier.

I think that it would be really horrible if we had to get rid of the same day recommendation. Out of the people who voted in the city council election I ran in, I would say probably a large majority maybe 90 percent of them were same day registrants.

It was a student district, and they didn't know. They thought they lived—since they were from Illinois that they were not allowed to vote in Wisconsin, and it took all through the election to convince—to get people to understand they were allowed to vote in Madison.

The other barrier I would say is not everyone's voting place is right near them. Mine is across the street. Some people's are farther away. While Madison has a great pair of transit system and one of the only demand response taxi cabs in the country, most people—most cities don't have that kind of situation, and for someone with—a person with disability to get to the voting place is very difficult.

If you are going to have voter IDs, the only way to do it would be to take the picture in my view take the picture at the polling place and a computer that could check your address, and that would be a problem for poor people so I don't think it is possible to do it.

Ms. KAMINSKI. With the Chair's indulgence, I would like to respond to something Congressman Ehlers said earlier.

Mr. NEY. Yes.

Ms. KAMINSKI. I want to say actually the Georgia League of Women Voters was very active in opposing the voter ID law and was one of the organizations that sued.

If voter ID is to be a proof of address, then it is a problem for people who move often. My daughter is white, she is middle class, but she is 21 and she moves often, and that's a problem for many of us.

I agree that voter ID is really not the biggest problem here. It has been an emotional issue, but frankly we at the League wish it had died a couple of years ago the first time the governor vetoed it.

The real problem is election management and the League of Women Voters believe we need to professionalize management with uniform standards, training to those standards, and accountability. We believe that there should be a service focus and that will deal with some of the other problems on election day. Voting should be convenient, efficient, and accessible.

Mr. NEY. We are getting into statements. If you want to answer the question, we can still go over your statements, there are answers to her——

Ms. MOORE. Yes, as it relates to the Georgia law and particularly given the Georgia injunction, how do you see problems surfacing were we to implement photo ID.

Ms. KAMINSKI. How do I see problems with regard to implementing.

Ms. MOORE. Continue saying—I am asking you what you are talking about.

Mr. NEY. Otherwise people would ask for statements not discussed.

Ms. KAMINSKI. We believe that voter ID is not proof of address and it is a problem for those who move often and it is a problem for many people. The real problem with elections is with management. We believe we need to have more professional uniform standards and then funding to support their implementation. Thank you.

Mr. NEY. Let me just ask a couple of questions and then wrap it up unless she has other questions.

I want to ask a question of Ms. Coles James. I was a bit surprised when I saw the recommendation out of Carter-Baker on some areas and not on others.

With the Ford-Carter Commission, I think one of the thrills of my lifetime, I had back to back phone calls with President Carter and President Ford after we passed HAVA and the Ford-Carter Commission was huge, monumental in helping with HAVA to create that piece of legislation, and some things they recommended we took and some we didn't.

It was a little easier with some of the recommendations, as we were embarking on a brand new area, the first federal involvement in elections without federalizing.

And of course I served with Lee Hamilton—I don't think you could find a fairer person—and Andrew Young. Looking at the controversy about the photo ID coming out of Carter-Baker, was there concern or were there discussions during the whole deliberations to create the final report about the disenfranchisement of individuals and particular minorities.

Ms. COLES JAMES. Yes, there was a great deal of discussion about that both in formal discussions during the Commission as well as informal discussions outside of the actual formal deliberations.

And I think one thing needs to be said for clarification. We tend to talk about photo ID as though there is one way to do it, and I think we need to clarify that.

There are many who supported the recommendation of the Carter-Baker Commission because they didn't like the way it was being done in Georgia, so you can't—you can't line up the Carter-Baker recommendation with Georgia and say they are the same, therefore, all recommendations for photo ID are bad. It requires a little bit more thought than that.

And so I think that point needs to be made. The discussions about disenfranchisement were very thoughtful and very deliberative, and the individuals who ended up voting in favor of this particular recommendation did so because they were convinced that with proper safeguards and those that you will see discussed in the full commission report in place that it would not—it would result in minorities or poor people being disenfranchised, but you have

to—you have to take the full piece which says that they—we should make every effort to make sure that states do not have any kind of overt or covert poll tax, to make sure that it is accessible, to make sure that states actually go out and in an aggressive way try to identify individuals who don't have ID and see to it that it does get into their hands.

We are not talking about a van that you may miss because it doesn't come to your neighborhood. We are talking about opening up lots of places around a state where someone would have access to get this done. Quite frankly the way they are doing in it in Georgia where they have multiple counties and very few opportunities to have a picture taken is in my opinion not the way to get it done.

So we had those discussions, we talked about it, and at the end of the day, the overwhelming majority of the commissioners felt that to build confidence in U.S. Election, to have American people feel good at the end of the day about the process, that it is not unreasonable to say that the person presenting themselves at the polling place in fact is the person whose name is on that registration list.

Mr. NEY. Thank you. I just have one comment, Mr. Erlanger. One—one of the problems you have got and I am not saying same day registration is bad or good or wrong or right.

I'm not stating a position on this, but if you have same day registration you come up with the surprise factor. Same day registration last election yielded 70,000 or 76,000 new people. Maybe next election 20,000, who knows? I think some of the reasons you would have long lines is because you don't have the ability to anticipate how many people are registered prior to election.

I think the long lines are going to have to be addressed whether you have the same data or not. It was an issue in Ohio; we had an unusual type of election. I think inherently you are going to have a lot of local pressure. If you have long lines, they are going to call their Mayor, Congressman, and a lot of people and start to yell about those long lines.

I know it happened in Columbus, Ohio—we had longer lines than where I live in the eastern part of the state.

Mr. ERLANGER. I think it is a barrier. I don't think there is necessarily something that can be done. It is a barrier.

Mr. NEY. Yes.

Mr. ERLANGER. You have to admit it is a barrier and there might be things that can be done creative things, but I think that is up to—that may be something the federal government can do. I don't know. It is a barrier.

Mr. NEY. I think the locals probably will after one of the highest voter turnouts in the history of the country. Interesting, on another note I wanted to ask Mr. O'Neill—on the intimidation factor—you said people were standing behind the pollworkers during the vote.

Mr. O'NEILL. Correct. The way voting happens if you are registered——

Mr. NEY. In the state of Ohio, you can't stand behind.

Mr. O'NEILL. We have open observation rules that don't specify—they allow observers to stand close enough that they can see and hear what happens at the table, both the registration table and the table where the poll lists are. That is what the law is.

Mr. NEY. Observers.

Mr. O'NEILL. Stationed directly behind. Sometimes the election officials told them to move it over to the side. Sometimes they didn't.

But we got a lot of reports that's exactly where they were stationing themselves earlier in the day.

Mr. NEY. We have observers too; maybe you do it differently here.

In our state I have my original congressional district that I served before we recarved four years ago. It has an 11 percent Republican index. More Republicans, 11 percent had a very, very historically Democratic district.

When I first ran in 1994, I had a primary on the Republican side. I am a Republican, and I had a primary and a lot of people became alarmed because we were taking 69 percent of union households. I had been a state senator, but some people within the democratic party became so alarmed because I got into a primary that democrats would switch in mass my home county. I took it from 11 percent to 13 percent. I'm bragging about one election where it went up—but there were things going on where people walk up to the poll and say, "I would like a Republican ballot," and someone would immediately want to challenge that. You can challenge in Ohio.

I don't think those things should be done. I don't know if we can correct that federally which comes to your point.

We are trying to look at how HAVA is being implemented and whether we can correct it. I complained in my own state. I don't think you should say you want a Democratic or Republican ballot. Maybe you should say who you voted for in the last election.

Those are factors that are here and there. Why Ohio does that, I don't know. If you want a democrat or republican ballot, it should be given to you without having to say whether or not you voted for that party in the last election? It makes people nervous, I have seen it in a different way in my elections.

Mr. O'NEILL. We are an open primary state. You can pick whichever party you want to vote for. It is a single ballot vote, you can't only vote for one party so we do have open challenge procedures.

Mr. NEY. We are open. You can walk in and you can be a democrat in one election, and you can change in the primary, but you are allowed to be questioned. Your switch is allowed to be questioned at the local level, and I don't know if we should cure that, and some of the things you address, at the federal level, I don't know if we should cure it federally or if people should have to move out behind a point of flags.

I think it is something to look at.

Mr. O'NEILL. I don't know that there is a federal solution. I wanted to bring it to the attention——

Mr. NEY. We appreciate that and down the road we will look at doing some things at the federal level.

I am going to close with a couple of questions. I wanted to ask Ms. Kaminski—when you question why we came here—we came here because we have been to Ohio and we will go to other states. Mr. Green wanted us to come here.

He has a bill pending in the Committee I chair, which we have not made a decision on as a committee. But it is worth its ID and

now it has been discussed by Baker-Carter, so we came here to listen, and, as you know, we have come here as an investigatory body, but we did come here to listen. I think the more flavor we get from Members and states that experienced controversy benefits us.

A reporter said we just created a great bill on persons that have disability issues and asked why it wasn't reported. He said we don't report when the plane lands, we report when it crashes. So in states that have had controversy, that's why we went to Ohio and talk about going to Florida. That's why we have come here.

I do have a question to ask you. The League has expressed its concern about the voting practices in Ohio and our League of Women's Voters filed a lawsuit after the election due to the controversy of the election.

Did the League of Women's Voters ever consider filing a lawsuit here in Wisconsin? Your counterparts did in Ohio.

Ms. KAMINSKI. No. Our legislative committee and our board have not discussed that. That has not been a question for us.

Mr. NEY. Why do you think they filed in Ohio? Did you ever hear.

Ms. KAMINSKI. I honestly can't answer the question. I would have to find out from the Ohio League and then I could send that to your office.

Mr. NEY. I was curious. I don't know if it mattered who won or lost the election or whether the lawsuit——

Ms. KAMINSKI. No.

Mr. NEY. I should not ask the trick question, have you ever disagreed with the Democratic party on election reform.

Ms. KAMINSKI. Yes we have.

Mr. NEY. That was a trick question. I told you in advance it was a trick question. In Ohio we had a lot of controversy and there was a lawsuit that was filed due to the nature of the election which was not as close as Wisconsin.

I appreciate all of your comments and your thoughts today.

I want to thank my colleague, general lady, down there working with issues, the other members, and Mr. Green for inviting us.

This is something that is worth it and very healthy for the process and something we can take back to Washington.

And on behalf of our Ranking Member, the great gentle lady from California, I want to thank all of you for being here today with us.

I ask unanimous consent that members and witnesses have seven legislative days to submit materials for the record and for the statements and materials to be entered in the appropriate place in the record. Without objection, the material will be entered.

I ask unanimous consent that staff be authorized to make technical and conforming changes on all matters considered by the Committee at today's hearing.

Without objection, so ordered. That will complete our business for today. The hearing committee is hereby adjourned. We appreciate the hospitality and friendliness of Milwaukee. Thank you.

[Whereupon, the committee was adjourned.]

Preliminary Findings of Joint Task Force Investigating Possible Election Fraud

May 10, 2005

A. Background

On January 26, 2005, the Milwaukee Police Department, Milwaukee County District Attorney's Office, Federal Bureau of Investigation, and the United States Attorney's Office formed a task force to investigate alleged voting irregularities during the November 2004 elections. The purpose of the task force was to determine whether evidence of criminal fraud existed in the irregularities and, if evidence of fraud was found, to pursue criminal prosecutions. A memorandum signed by the head of each of the agencies stated, "This task force is committed to conducting its work in a thorough, non-partisan manner." The memorandum also indicated that federal authorities would not be involved in any evaluations of election procedures outside of potential criminal violations.

Since the task force began its work, it has received further investigative assistance from the United States Postal Inspection Service and the Social Security Administration - Office of Inspector General. The task force has also received assistance from Milwaukee City Attorney Grant Langley and his staff.

As explained below, the task force work to date has focused on an examination of original records, primarily because data base information has proven unreliable and may not otherwise be admissible in court. This has involved the review of thousands of

registration cards and the information contained on such cards. As a result, the task force, particularly members of the Milwaukee Police Department, has expended well over 1,000 work hours. The work has been slow, painstaking and is far from complete. Still, the task force commends the Milwaukee Police Department for committing these resources and particularly notes the investigative work conducted by Detective Michael Sandvick and Officers Neil Saxton and Michael Perez. We also specifically note the work of Investigator Aaron Weiss of the Milwaukee County District Attorney's Office.

B. Summary of Findings

Based on the investigation to date, the task force has found widespread record keeping failures and separate areas of voter fraud. These findings impact each other. Simply put: it is hard to prove a bank embezzlement if the bank cannot tell how much money was there in the first place. Without accurate records, the task force will have difficulty proving criminal conduct beyond a reasonable doubt in a court of law.

With that caveat, the task force has made the following specific determinations based on evidence examined to date:

The task force has developed evidence of more than 100 individual instances of suspected double-voting, voting in names of persons who likely did not vote, and/or voting in names believed to be fake. Those investigations continue.

2. In addition, the task force has determined that more than 200 felons voted when they were not eligible to do so. In order to establish criminal cases, the government must establish willful violations in individual instances.

3. Also, the task force has found that persons who had been paid to register voters as "deputy registrars" falsely listed approximately 65 names in order to receive compensation for the registrations. The evidence does not indicate that these particular false registrations were later used to cast votes.

4. The number of votes counted from the City of Milwaukee exceeds the number of persons recorded as voting by more than 4,500.

C. Findings Related to Fraud

Phantom voter identities/addresses/votes. The task force has individually reviewed hundreds of names and addresses associated with the various data bases suggesting that thousands of people registered *and* voted using suspect names and/or addresses. To date, the investigation has concentrated on the 70,000+ same-day registrations. To date, we have found that a large majority of the reported errors were the result of data entry errors, such as street address numbers being transposed. However, the investigation has found more than 100 instances where votes were cast in a manner suggesting fraud. These include:

1. Persons with the same name and date of birth recorded as voting more than once.
2. Persons who live outside Milwaukee, but who used non-existent City addresses to register and vote in the City.
3. Persons who registered and voted with identities and addresses that cannot in any way be linked to a real person.

4. Persons listed as voting under a name and identity of a person known to be deceased.

5. Persons whose identities were used to vote, but who in subsequent interviews told task force investigators that they did not, in fact, vote in the City of Milwaukee.

Voter-drive fraud. In separate instances, persons who were paid money to obtain registrations allegedly falsified approximately 65 names on registration forms, allegedly to obtain more money for each name submitted. There is no evidence gathered to date that votes were cast under these specific false names.

Felons. The investigation has found more than 200 felons who were not eligible to vote in the 2004 election, but who are recorded as having done so. Not all felons are ineligible to vote. In order for such action to constitute a criminal offense, the prosecution must establish, beyond a reasonable doubt, that the felon was ineligible to vote under state law and that the felon knew that he or she was ineligible to vote. As a result of this standard, the task force is proceeding cautiously in its charging decisions and is evaluating each case on the individual facts. We note, however, that we have expanded our investigation to include felons who may have voted in suburban areas as well.

In each of the alleged cases of potential fraud, the task force will not be releasing any further details in order to protect the integrity of the continuing investigation.

D. Vote Total Discrepancy

An additional finding of the task force to date is that the number of votes cast far exceeds the total number of recorded voters. The day after the November 2, 2004 election, the City of Milwaukee reported the total number of votes as 277,344. In late November an additional 191 previously uncounted absentee ballots were added, for a total of 277,535 votes cast. Still later, an additional 30 ballots were added, bringing the total number of counted votes to 277,565. City records, however, have been unable to match this total to a similar number of names of voters who cast ballots – either at the polls (under a prior registration or same day registration) or cast absentee ballots. At present, the records show a total of 272,956 voter names – for a discrepancy of 4,609.

The task force will continue to investigate this discrepancy. There remains an open question of how certain absentee ballots were handled or recorded. We further note that no geographic pattern exists for these over-votes, and multiple wards had discrepancies in excess of 100 votes. In addition, some wards had the opposite: more voters than votes. We believe that one explanation for this latter circumstance is that individuals were allowed to register and vote from a specific ward even though they were supposed to register and vote in a different ward. When a data base was later compiled, the voter name was moved to the correct ward, but the vote number remained in the incorrect ward.

A further analysis of this situation continues, but the investigation is hampered by widespread record keeping errors with respect to recording the number of voters. At each polling place, the name and number of voters was supposed to be checked by two

identical poll books, as well as by the voter number (the pink slip). In a preliminary analysis of individual wards, the task force has found: poll books that do not match voter numbers; voter numbers that were skipped; and voter numbers that were used more than once.

E. Additional Record Keeping Problems

As indicated, the task force has been hampered by numerous instances of inadequate record keeping. Any criminal prosecution will depend on access to and the available use of original records accurately recording the names of voters and the corresponding vote numbers. As indicated above, records regarding vote numbers have been inconsistent and conflicting. In addition, for criminal purposes, proof of the identity of the person voting often is best established by the original (green) voter registration card. Yet in the November 2004 election, same-day registrations were accepted in which the card had incomplete information that would help establish identity. For example: 48 original cards for persons listed as voting had no name; 548 had no address; 28 did not have signatures; and another 23 cards had illegible information. These were part of approximately 1,300 same-day registrations for which votes were cast, but which election officials could not authenticate as proper voters within the City.

Included in this 1,300 were 141 same-day registrants from addresses outside the City of Milwaukee, but who voted within the City of Milwaukee. In several instances, the voter explicitly listed municipality names other than Milwaukee on the registration cards.

These included cards that listed "West Allis," "Oak Creek," "Ashland," "Reedsburg," and "Hayward."

Another record keeping procedure hampering the investigation appears to be the post-election misfiling or loss of original green registration cards that were considered duplicates, but that in fact corresponded to additional votes. These cards were used to record votes, but approximately 100 cards of interest to investigators can no longer be located. In addition, other original green registration cards continue to be found. As late as April of this year, an additional box of green registration cards was located by election officials.

F. Future Investigations

Although many hours already have been undertaken, we realize that much more investigation is still to be done. There are many leads and interviews that still must be pursued. If individual members of the public believe that they have information on specific instances of election fraud, they are asked to call the Milwaukee Police Department, Election Task Force at 414-935-7802.

James Finch
Special Agent in Charge
Federal Bureau of Investigation

Nannette Hegerty
Chief, Milwaukee Police Department

E. Michael McCann
Milwaukee County District Attorney

Steven M. Biskupic
United States Attorney

City of Milwaukee Election Task Force

Official Report

June 27, 2005

City of Milwaukee
Election Task Force

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- Election Task Force Notices/Agendas (Attachment 4)
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Executive Summary

In November 2004, the City of Milwaukee's election process was tested by the sheer size of the election and challenges resulting from the political dynamics surrounding the presidential race. Like many other cities located in key battleground states, Milwaukee experienced an unusually high voter turnout, a record number of absentee voters, and questions surrounding how the election was conducted.

Mayor Tom Barrett formed an Election Task Force to study the City's election system and make recommendations for improvements. The Mayor charged the task force with proposing specific, practical changes to improve the City's election process in ways that would guarantee efficient, well-run elections and restore pride and confidence in the system.

After several months of study, discussions, and deliberations, the task force has formulated numerous recommendations that provide a strong foundation for updating and strengthening the City of Milwaukee's election system. The recommendations in this report embody the spirit of the Mayor's charge and reflect broad public input.

The task force convened four publicly noticed meetings on critical aspects of the election system including processes and procedures related to: 1) voter registration, 2) absentee ballots, 3) polling locations, and 4) poll workers. The standard format for each meeting included an overview of current Election Commission processes and procedures, relevant governing laws and testimony from individuals with knowledge on the topics examined. An extensive question and answer period followed.

The task force divided into four subcommittees on each of these respective focus areas to formulate preliminary recommendations and seek input from local and state election officials, community leaders, attorneys, poll workers and other interested citizens.

The task force convened a fifth publicly noticed meeting with an Election Management Team appointed by the Mayor to manage the spring 2005 election. Just days after the April 5, 2005 election, this management team, comprised of five experienced City Managers, de-briefed the task force on the strengths of the Election Commission and areas of concern.

The task force applauds the permanent and temporary staff of the Election Commission for their cooperation and help in assessing the operational aspects of the Election Commission and identifying areas in need of improvement. The task force also commends the staff for their professionalism throughout this undeniably difficult time.

As a result of its comprehensive review, the task force has found some imperfections in the City's election system and mistakes that must be addressed. Many problems can be attributed to staffing levels and training issues that can be resolved by enhancing training, strengthening quality control measures and through better pre-planning and advance

preparation. However, some problems require legislative fixes. Key recommendations follow.

The task force encourages an objective evaluation as to whether permanent staffing levels are adequate to effectively manage and administer elections in the City of Milwaukee, but believes it would be premature to recommend funding new positions until after the new Statewide Voter Registration System is implemented. The task force, however, recommends that the 2006 and future departmental budgets include much higher amounts for part-time, temporary workers in peak election years. Additional funding for computer hardware and software also needs to be analyzed, both in terms of newer as well as more capable equipment.

In an effort to enhance and strengthen the performance of an already highly capable permanent and temporary staff, it is important for the Executive Director to adopt and implement new administrative measures to support the needs and success of staff. The task force recommends:

- Restructuring Staff Priorities And Expanding Skills Through Cross Training. The permanent, full-time staff of the Election Commission consists of an Executive Director, Election Services Manager, Poll Worker Coordinator, Absentee Ballot Coordinator, Election Supplies/Equipment Coordinator, Customer Service Representative and Administrative Assistant. A reorganization of the staff to provide for an enhanced team with a combination of strong leadership, management, community outreach, media and election coordination skills is critical to improve operations as well as the public's perception of the Election Commission Office. The reorganization should focus on cross-training staff members to minimize disruptions of work and backlogs in all areas during peak times and/or if one staff member is out of the office for an extended period of time. Cross-training should also heighten morale and increase the team spirit among staff members rather than isolating duties strictly according to functional expertise.

- Developing Standard Operating Procedures. The Election Commission staff relies on separate election manuals issued by the State Elections Board, but there is no customized procedural manual available to staff. Development of a departmental manual of procedures should encompass pre-election, Election Day and post election issues – including but not limited to staffing, targeted due dates, software, election preparation, Election Day field operations, voter registration and absentee ballot processing and distribution. This manual should be reviewed by the State Elections Board and the City Attorney's Office.

- Prioritizing Urgent Tasks/Mobilizing City Resources. With tight budgets and the overwhelming demand of recent elections, it is difficult for the Election Commission to carry out all the core functions related to its mission, especially during peak election years. A solution is to better utilize City departments and divisions that support the whole of City government. City managers should be asked to loan exempt employees as needed before an election, on Election Day, and afterwards.

Prioritizing tasks according to their urgency and mobilizing City resources will help prevent problems like the one that occurred on the eve of the November 2, 2004 election involving thousands of new voter-registration cards that were not processed prior to the election. When conducting a post-election review, the Election Commission also found absentee ballots that were rejected at the polls because they lacked proper signatures. However, several were date stamped around mid-October, which should have been returned to the electors for signature so their vote could have been counted on Election Day.

- Create partnerships with private sector businesses. To augment the additional City resources dedicated to election activities, it is vital to embrace the business community of Milwaukee to attempt to promote their participation in Election Day activities as a civic duty. By doing so, the potential for expanding the City's base of qualified poll workers dedicated to conducting elections in a smooth and unbiased manner could be greatly increased.

- Establish Formal Staff Training. A formal training and orientation process should also be available to both permanent and part-time, temporary staff. The State Elections Board and City Attorney's Office should be involved in developing training content.

While most poll workers do their jobs admirably, often under difficult circumstances, the task force finds tremendous potential for improvement in the recruitment, training and development of poll workers. When conducting a post election review of materials related to the November 2004 election, the Election Commission Office found rejected absentee ballots that could have been re-constructed and counted on Election Day. For example, ballots that are torn and that cannot be fed into the voting machine can be reconstructed if voter intent is clear.

The staff also found Inspectors' Statements (EB 104 forms) that were not filled in accurately and completely. Omissions included, but were not limited to:

- No signature of the inspector.
- No tally of total absentee ballots.
- No tally of total number of voters.

In addition, many election poll list voter totals were not reconciled to the machine recorded vote totals at the end of Election Day, November 2004. As a result of inconsistencies, inaccuracies and incomplete poll books and EB-104 statements, there were discrepancies between the total number of voters and total number of ballots. Earlier this year, the United States Attorney for the Eastern District of Wisconsin, the Milwaukee County District Attorney, the Milwaukee Police Department, and the Federal Bureau of Investigation began a joint investigation of activities relating to the November 2004 election.

Almost all of the election materials associated with the November 2004 election are now in the custody of the U. S. Attorney, District Attorney and Police Department. The task

force has not, however, found any evidence to conclude that mistakes made on Election Day November 2, 2004 were based on the willful neglect or intent of any poll worker. However, it is imperative that the Election Commission take immediate action to attract and comprehensively train new poll workers.

The task force recommends that increased levels of performance be achieved in the following areas:

- Standards and Expectations: Elections have become more complex and expectations are rapidly rising, but standards for poll workers remain largely unchanged. Over the years, there has been little change in efforts to better train and recruit new poll workers despite the increasing demands of elections. Compensation is low, training is insufficient and recruitment efforts are lacking. Standards and expectations must be established on how our poll workers perform, how they are recruited and selected, and how they are trained and compensated. There is a need for post-election poll worker performance assessments to identify areas where training is most needed.

- Recruitment: The task force recognizes and commends our many outstanding long-serving poll workers for their loyalty and service. In addition to retaining current poll workers, the Election Commission must implement a plan to attract a new, diverse pool of poll workers, including young people. The average age of poll workers is between 65 and 75 and many have a great deal of difficulty working the extremely long hours demanded on Election Day. Splitting shifts should be considered to alleviate the burden on the elderly and attract students.

- Training: Existing training programs are insufficient for current needs. Class sizes are too large, there is minimal interaction between poll workers and trainers and one-hour classes appear to be insufficient. Training must be rigorous to ensure that poll workers meet minimum standards for knowledge of election procedures. Testing should be considered (perhaps an open book approach) and continuing education should be required during off-seasons. The State Board of Elections has already offered to help develop training content and even provide instruction.

- Compensation: To attract and retain the highest level of poll workers needed, increases in compensation should be offered. Compensation should reflect the increasing demands of elections.

- Volunteer Poll Workers: To attract volunteer poll workers, the task force recommends that the Election Commission aggressively launch a public relations and recruitment plan to engage businesses, community groups, universities and others in generating new poll workers. Establishing City/community partnerships will not only elevate Election Day as the City's highest priority each Election Day, but will also further the ultimate goal of increasing voter participation.

- City Managers: City managers should be reassigned from their respective departments to work the polls on Election Day and should be extensively trained to

help enforce quality control measures. It is mandatory that the City work closely with poll workers to ensure timely, efficient, complete record keeping and that numbers are reconciled at the end of election day.

The task force recognizes the need to adopt policies and procedures that will ensure the accuracy of the City's poll lists and that thwart the potential of election fraud. The implementation of the new Statewide Voter Registration System will enhance the City's ability to process voter registration, verify registration, generate ward lists, perform list maintenance and improve the accuracy of voter lists. Nonetheless, the task force anticipates ongoing challenges associated with same day registration and massive voter registration drives. The task force recommends:

- Establishing Procedures to Reduce Stress on the System and the Potential of Fraud. Current Election Day registration procedures make it difficult to detect fraud. For example, current voter registration cards do not contain a clear statement explaining that felons on probation or parole are prohibited from voting. In addition, crowded and stressful conditions at the polls can result in improperly filled out cards. The representative of the City Attorney's Office has expressed support for a requirement that people who wish to register at the polls show current photo ID, but there was no consensus reached by the task force. This requirement would not be applied to registered voters who arrive at the polls to vote, only to those individuals who did not pre-register.

  In addition, address-verification postcards should be sent as a tool to update polling lists and tracked as they are returned to reduce fraud. Registration cards should contain a specific, clear statement that the individual is not a felon, on probation or parole.

- Establishing Tighter Controls for Deputy Registrars. Voter registration groups, in many cases, compensate their employees based on the number of new registrants an individual is able to engage. This incentive invites error and fraud. In 2004, the City registered more than 2,000 Deputy Registrars and many did not always follow registration guidelines as set forth in State statutes. This led to an increase in the number of questionable registration forms. Deputy Registrars should be clearly identified on registration cards, so that it is easier to track their activity. Current law should be amended to prohibit payment to deputy registrars based on the number of registrants. Training should also be enhanced for Deputy Registrars.

The task force finds the absentee balloting process to be particularly onerous and another area where there is great need for improvement. However, procedures and measures regarding absentee balloting are almost entirely the province of state law, and the ability to make changes at the local level is limited. The task force recommends:

- Moving in-person absentee voting from the current Election Commission Office location. The absentee ballot process in Wisconsin evolved into two somewhat unrelated situations in earnest in the November 2004 election – the typical absentee

voter who is out-of-town or cannot get to the polls, and the voter who wanted to avoid the normal Election Day rush. Unfortunately, many of the latter voters waited as long or longer than the wait time on Election Day in November 2004. "Off loading" in-person absentee voting to other locations makes sense in terms of both voter convenience and orderly election processing.

- Changing statutes to allow the processing of absentee ballots centrally, rather than at the polls. This change would greatly simplify absentee ballot processing and at the same time lower the costs and confusion associated with absentee balloting. In November 2004, runner confusion caused 238 ballots to be counted after the election. Between wages, vehicle rentals and cellular phones this costs the City approximately $6,728 per election, money that could be better spent in other areas of the process.

- Advancing statutory deadlines to allow more efficient processing of absentee ballots. Clearly, the current deadlines – particularly the Friday before election deadline for submitting a ballot request – are unrealistic and compound the problems related to accurate polling place voter counts and thorough, accurate absentee ballot processing. With more time to resolve problems with the requests, rejection rates for these ballots should decline dramatically.

The City faces immediate challenges in addressing State and Federal requirements mandating that all polling locations must be accessible to individuals with disabilities. The state will provide Help America Vote Act (HAVA) funds for accessible voting machines (one per polling site), but we must find new locations to replace current sites that are not accessible. The task force recommends:

- Taking Immediate Action to Comply with HAVA polling place accessibility requirements. Milwaukee currently has 202 polling sites. The Election Commission must act immediately to identify sites that do not meet existing State and Federal requirements for physical accessibility standards and find new sites that are accessible, and should coordinate with MPS to identify other, more accessible locations.

- Establishing Voting Centers. The City should consider having fewer voting sites. This would mean fewer locations and larger spaces better laid out and organized. The voting center model (used in Colorado) enables election officials to reduce the number of polling places to a small, more reasonable number of centers.

These are among the many proposed election reforms outlined in this official report of the City of Milwaukee Election Task Force. Although a high level of energy and enthusiasm is needed to reshape the operations of the Election Commission Office, it is not an insurmountable task.

These findings and recommendations also clearly demonstrate the need for current and future managers of the Election Commission to build and maintain solid relationships in Madison and Washington to ensure that Milwaukee has a strong voice in policy

discussions and decision-making involving elections. Likewise, they reinforce the crucial need for local, state, and federal officials to infuse more resources into elections. Without adequate funding, it will be impossible for the City of Milwaukee to implement election reforms and maintain a strong election system.

Improvement of the election process is needed in Milwaukee, across Wisconsin and America, but it will not result in a quick fix to any given problem. Elections are complex, dynamic and evolving events that require advance planning and careful thought. Likewise, changing the process will take planning, careful thought, and most importantly, time.

The Mayor, the Election Task Force and City workers are committed to conducting open, fair and efficient elections and implementing the recommendations in this report.

Voter Registration

Background

The task force identified the purposes of the voter registration system as: obtaining a complete, accurate list of eligible voters before and after election day; ensuring against fraud; and facilitating the voting of those who are eligible. The task force attempted to gain a working understanding of the voter-registration laws, how the City's Election Commission handles its voter-registration functions, and the way the new Statewide Voter Registration System will operate. With this information, the task force's objectives were to identify weaknesses, and then to make recommendations to address those weaknesses.

The task force limited its work to issues involving voter registration, both before Election Day and at the polls. It did not address issues relating to the actual mechanics of voting.

State laws governing registration are outlined in Chapter 6 of the Wisconsin Statutes. Throughout the year, and before the close of registration, voter registrations may be processed at the Election Commission Office.

State law requires that upon receipt of a registration form that has been submitted by mail, the Election Commission must examine the form for sufficiency. If the voter registration form is insufficient or if the Election Commission has reliable information that the individual is not qualified, state law requires the office to notify the proposed elector within five days, if possible. The Election Commission is required to request that the elector appear at the Election Commission to complete a proper registration or substantiate the information presented. If the registration form is submitted later than the close of registration (13 days before the election), the Election Commission must make a good faith effort to notify the elector that he or she may register at the Election Commission or at the polls on election day. If, on the other hand, the registration is sufficient, the Election Commission is required to enter the elector's name on the registration list and send a first class letter or postcard to the registrant, specifying the elector's ward or aldermanic district and polling place.

The Election Commission is also required to follow procedures for appointment of special registration deputies prescribed by the State Elections Board. Registration deputies can be appointed by the Election Commission to take registrations at locations other than the Election Commission office.

Beginning in 2006, the Help America Vote Act (HAVA) requires states to have a single, uniform, centralized, interactive, computerized, statewide voter registration list. Wisconsin must implement its list by January 2006. The Election Commission is not responsible for implementation, but will be responsible for duties associated with entering new voter registrations and updating lists whenever the office receives information showing a change in elector data, such as a new address or a change in the eligibility status of the elector.

Issues and Concerns

The task force found many problems with respect to the November 2004 election associated with voter registration processes and procedures. These problems can be summarized in two basic areas – operations and current laws.

Operations:

1. Lack of sufficient staffing and equipment.

2. Limited purging and updating of lists.

3. Input errors.

4. Illegible and incomplete registration cards received in the mail and on Election Day. Problems with election-day registration cards made it difficult to get an accurate list of people who voted.

5. Surges in registrations for major elections can overwhelm the system, both before the election and at the polls.

6. Lack of written procedures.

7. Poll-worker errors.

8. Duplicate registrations. This can be a particular problem with election-day registrations, because people forget they already registered, are worried that their registrations were not processed, or intentionally violate election laws.

9. Failure to send verification postcards for early registrations.

10. Difficulty identifying felons. Obviously, felons cannot be identified when registering on Election Day. Felon matches for pre-registrants will be easier to identify with the statewide system.

11. Insufficiently trained deputy registrars.

Current Law

Deputy registrars can legally be paid based on the number of people they register. This may be an incentive for fraud. They are unregulated and difficult to track.

Election-day registration procedures make it difficult to verify eligible voters because poll workers do not have access to computer databases. The volume puts stress on the system.

Findings and Recommendations

1. In major elections, registration and, in particular, election-day registration is a major cause of problems in administering an election. Current Election Day registration procedures make it difficult to detect fraud. In addition, crowded and stressful conditions at the polls can result in improperly completed registration cards. Significantly, the investigation conducted by the U.S. Attorney and the District Attorney focused primarily on election-day registrations. Because election-day registration is currently permitted, procedures and improved staffing must be put in place to reduce stress on the system and to reduce the potential for voting twice or improperly. The representative of City Attorney's Office has expressed support for a requirement that people who wish to register at the polls, must show current photo I.D, but there was no consensus about this on the subcommittee.

2. There were very few written procedures regarding registration in existence at the Election Commission. There was no step-by-step written procedure for utilizing the software system. These must be created. The state will be writing some standardized procedures for the use of its system, but the City should have its own detailed procedural manuals.

3. There is insufficient staffing and equipment to handle registrations before and in the aftermath of major elections. Input errors and delays could be reduced by increasing staff levels and purchasing new and better software and hardware, and by keeping trained technicians available or on staff. City workers from other departments could be used more effectively. While the statewide system may be easier to use, inputting data will still be the City's responsibility.

4. The software currently used at the Election Commission only verifies that an address is "plausible"; that is, the address "could" exist within the City of Milwaukee. The statewide system's address-verification software is the same. There are other City databases that could be made available to verify whether the address is an "actual" address and these tools should be used when new registrations are entered.

5. Opportunity for fraud will be reduced before an election if address-verification postcards are sent to advance registrants, and if voter lists are then appropriately updated and purged. Some of this may be more easily accomplished with the new statewide registration system. In fact, with the new system it will be simple to print out and label postcards. The state, with appropriate legislation, could send out the postcards and do the updating instead of the City. It is important to remember that the statutory tool to achieve accurate voter registration lists and to catch fraud before the election is the verification postcard. These postcards are also used after the election, because there is currently very

little else that can be done when people can register at the polls, to detect fraud before someone votes.

6. Deputy registrars should be clearly identified on registration cards, so that it is easier to track their activity. There were approximately 2,000 deputy registrars in the November 2004 election. Perhaps there should be a limit to the number of deputy registrars. Each deputy registrar should be given an ID number, which must be inserted on each card and included in the database. The law should prohibit payment to deputy registrars based on the number of registrants.

7. The delays and errors in processing registration cards were in large part caused by the surge of new registrations before the presidential election. Temporary workers were hired. Hands-on supervision of non-regular election staff is necessary. Another reason that entry of new registration cards was delayed was the fact that the poll list has to be run by a certain date in advance of the election; therefore, entry of new registrations had to be suspended to run the complete poll list for use at the polls. An earlier cut-off date for pre-registration, two weeks earlier than the current day, might have helped the situation. This would also facilitate better follow-up with verification cards and corrections.

8. The subcommittee did not ascertain the number of pre-registration cards that were not entered into the system before the November 2004 election. As discussed above, the delay in entering these names resulted from late cut-off dates, the need to stop entering data to work on absentee ballots, the need to run the poll list in advance of the election, insufficient staff and equipment, an antiquated software system, and difficulty reading handwritten cards. Supplemental lists and registration cards were provided to poll workers; anecdotal evidence suggests that they were not uniformly used, and there were numerous duplicate registrations as a result.

9. Poll-worker errors, perhaps understandable because of the volume, were responsible for much of the difficulty in processing election-day registrations after the election. There were duplicate registrations, incomplete cards, and illegible cards. The task force was told that more than 1400 cards had to be "followed up" with requests for more information. There should be better training for those poll workers who are responsible for registration.

10. The task force was told that there were 850 election-day registrations cards that could not be inputted, and over 1400 cards that needed follow-up for more information.

11. Verification cards were sent out to people registering at the polls, if the addresses were legible. The returned cards were given to the District Attorney.

12. It appears that there were no formal objections to registrations at the polls. There is a statutory mechanism to challenge registrations at the polls, as well as before the election (which was, in fact, utilized in October 2004).

13. Registration cards should be two-sided, with confidential information on one side only, to better accommodate public-records requests. Registration cards should specifically set forth all voting eligibility requirements, and should include a statement that the individual is not a felon, on probation or parole. It is the subcommittee's understanding that the state may be redesigning the cards and will require the voter's previous address.

14. Cities across the country experienced similar conditions when registering new voters. While the task force heard testimony regarding other cities' registration procedures, staff time did not permit an in-depth survey and analysis. The City should examine other jurisdictions' registration systems to identify "best practices" that can be applied to Milwaukee.

Additional Thoughts

The initial implementation of a Statewide Voter Registration System will produce some immediate benefits in terms of standard registration procedures and internal controls over the voter database updates. Moreover, applied to its full potential, an automated Statewide Voter Registration System would make possible fundamental improvements to Milwaukee's current election system. A uniform statewide voter database that can be accessed "real time" would provide the potential for a virtual elimination of duplicate voting. Immediate, automated access to voter registration information would also speed up the voting process for both poll workers and voters. Ultimately, a fully automated system could reduce the number of people and voting location places needed while at the same time increasing convenience and reducing wait times for voters. It will require an extensive effort to achieve this level of automation of the election process. Elected officials and the general public will need to fully understand and reach agreement on the necessary changes. Legislative change will be required. Additional funding and a period of extensive effort to design and implement the desired automation will also be required. However, in spite of these obstacles, the opportunity to achieve major improvements in the cost-effectiveness of the current outdated election processing system cannot be ignored.

Absentee Ballots

Background

The task force considered several aspects associated with absentee ballots including the qualifications to vote absentee, the application process and the absentee voting process. The task force sought to identify processes and procedures that are overly restrictive and that can be simplified to make absentee voting more accessible and efficient.

Wisconsin state laws governing absentee ballots are outlined in Chapter 6 of the Wisconsin Statutes. The law provides that a qualified elector who is unable or unwilling to appear at a polling place, **for any reason**, may vote absentee. Electors may make written application by one of the following means:

- A written request by mail.
- In person at the Election Commission Office.
- By signing a statement that the elector is indefinitely confined due to age, physical illness or disability (they are then put on permanent list and sent ballots every election).
- By agent if elector is hospitalized.
- By delivering an application to a special voting deputy if the elector is a resident of nursing home, retirement home or community-based residential facility.

Preparing and Sending Absentee Ballots

State law requires that the Election Commission mail (return postage prepaid), an absentee ballot to an applicant, or deliver it personally to applicant at the Commission office. It must be mailed to the applicant's residence, unless otherwise directed.

The Election Commission is required to prepare write-in absentee ballots for delivery to military electors at each election. The Election Commission is required to prepare write-in ballots for overseas electors at each election for national office, no later than the 90th day before the election or as soon as possible after the offices to be contested in the election are known, whichever is later. The Election Commission must turnaround the request within one day after request is made. However, on the day official absentee ballots become available, write-ins are not to be mailed and instead, the official absentee ballots are to be sent.

Voting and Handling of Absentee Ballots

Identification is required for first-time absentee voters who have not voted in a national election. Acceptable ID includes a current and valid photo ID, a copy of a utility bill,

bank statement, pay check or check or other document issued by a unit of government that shows a current name and address of the elector. Processes and procedures related to voting and handling of absentee ballots include:

- The Election Commission is required to keep track of applications – when ballots are sent and returned – to compile the list of absentee voters.
- Absentee ballots must be marked in the presence of a witness who must sign a statement on back of the ballot envelope.
- When each ballot arrives at the Election Commission it must first be time stamped, then must be placed, unopened in a carrier envelope that is securely sealed and endorsed by Executive Director. On Election Day all ballots are delivered to respective polling places before polls close.
- Election Inspectors can process ballots through out Election Day, but they must be entered into election machines to be counted before the polls close at 8 p.m.
- Upon opening each carrier envelope, inspectors announce the name of electors voting absentee to provide opportunities for challenges.
- If the certification process is properly completed, ballots are deposited in ballot box and Inspectors enter elector's name or voting number (followed by an "A") in the poll list just as if the elector had been present.
- If rejected, inspectors cannot count ballot and must mark "rejected" and reason for rejection.
- Should an absentee ballot be reconstructed and accepted, then a number will be assigned and a reason stated for the reconstruction followed.

Staffing Issues

The Election Commission has a permanent staff of approximately seven authorized full-time positions, including an Absentee Ballot Coordinator. The Absentee Ballot Coordinator works with temporary employees and volunteers to review initial requests for applications and input data of the required information. Staff also tracks applications, when ballots are sent and returned.

Stuffing, labeling, mailing and data input following the return is handled by the Absentee Ballot Coordinator and temporary staff and volunteers. Sorting, packaging, packing in machines and delivery to each of the wards on Election Day are handled by the Absentee Ballot Coordinator, Elections Equipment and Supplies Coordinator and Absentee Ballot runners.

When the Election Commission receives ballots they are again, first time and date stamped, separated by aldermanic district and ward, and then placed in envelopes to be delivered to the correct polling location.

When the ballots are separated, absentee ballot runners deliver the ballots to their proper polling location on Election Day. Thirty-four runners are hired for each election to complete this task. Between wages, vehicle rentals and cell phones, this cost the City

about **$6,728.00** per election - money that may be better spent in other areas of the process.

Moreover, the confusion, extra workload and exception processing imposed on poll workers attempting to record absentee ballots in high turnout elections make polling place errors more likely to occur.

Facilities/Equipment

Absentee Ballots are currently processed in the Election Commission Office main conference room.

Preparing, Sorting and Packaging Absentee Ballots and Dispatching to the Polls on Election Day is all handled in the "confines" of the Election Commission Office and main conference room.

Issues and Concerns

The heavy demand for absentee ballots for the November 2004 election created tremendous challenges for the Election Commission. Approximately **24,400** individuals requested absentee ballots for the November 2004 election. Of that total **18,651** requests were returned. This marks a substantial increase compared to past elections. **6,173** absentee ballots were processed for the September 2004 primary. In the fall 2000 primary, **4,492** were processed and **10,017** in November 2000 general election. A total of **7,939** electors voted in person before the November 2004 election and **10,712** voted by absentee/mail for November 2004 election.

Processing of this extraordinary number of requests was accomplished despite the fact that the Absentee Ballot Coordinator joined the Election Commission staff approximately one month prior to the fall 2004 primary, filling a position that had been vacant for some time.

Additional Staffing Issues

In the fall of 2004, the absentee ballot process was hindered due to the sheer enormity of requests and inadequate staffing levels. Following are problems encountered:

- Requests honored too late in some instances.
- Voters who tried to vote by absentee ballot in person waited in long lines for many hours (City Hall was the only location to cast such a vote).
- The Election Commission's intent was to utilize Absentee Ballot Runners as the first tier of distribution, with the Field Supervisors and Technicians to be used as the second and third tiers.
- On Election Day, ballots were not assigned for distribution consistent with the intent of the Election Commission, resulting in unsorted, unpackaged ballots being taken into the field for distribution.
- No time for proper processing (ballots received at 5 p.m.) and distribution to the polls caused 238 ballots to be counted after the election due, in part, to absentee runner assignment confusion.
- The total 18,651 absentee voters ballots would then have been delivered to the polls by runners, rather than having been preloaded into the voting machines prior to the election.

Facilities/Equipment

The main conference room where absentee ballots are processed at the Election Commission **is inadequate** during peak elections. There is a **STRONG** need for a much bigger space, **three times the current size.**

There is no separate count or bin for absentee ballots when they are placed in the voting machine. (A red **"A"** is placed next to the voter number in the polling book to identify persons as an absentee voter. This leads to confusion. Many poll workers did not accurately record the **"A" after the voter number** in the poll books for absentee votes **attributing to discrepancies reported in the newspapers.**)

Current Statutes

Although current law may be reasonable for smaller municipalities, the deadlines and timelines for processing absentee ballots are unreasonable for sizeable cities like Milwaukee, especially during peak election years.

State law does not provide sufficient time processing absentee ballots after they are delivered by the United States Postal Service. The City of Milwaukee has a cut off for absentee ballots of 5pm on Election Day. This is not sufficient time to process and deliver them to all 202 polling sites by 8pm to be counted.

Current law allows absentee ballots to be processed anytime between opening and closing of the polls, and absentee ballots must be counted after they arrive at the polls to be sure they are counted before business is wrapped up at the polls. This leads to many disruptions on Election Day. For Presidential Elections this task becomes insurmountable even for our best, most experienced poll workers.

Recommendations

1. **Advance the statutory due dates for -**
   - **County submittal of ballot forms to City (or make City of Milwaukee as the State's only first class municipality responsible for printing its own ballot forms).**
   - **Voter submittal of absentee ballot request applications.**
   - **City mailing of ballot forms packet to absentee voter.**
   - **Voter submittal of completed absentee ballots.**

Clearly, the current deadlines - particularly the Friday before election deadline for submitting a ballot request - are unrealistic and compound the problems related to accurate polling place voter counts and thorough, accurate absentee ballot processing. With more time to resolve problems with the requests, rejection rates for these ballots should decline dramatically.

2. Change statutes to allow the processing of Absentee Ballots centrally rather than at the polls.

Along with 1) above, this is by far the most significant recommendation. This change would greatly simplify absentee ballot processing, at the same time lowering the costs and confusion associated with absentee balloting. The main benefit would be in improved controls. A central election staff would examine AND COUNT all ballots in a consistent manner, properly recording each absentee ballot with the voter. Because ballots can be recorded as to voter (but not opened) before election day, this would enable the recording of the existence of an absentee vote associated with a given voter on the polling list **before** the lists are sent to the polling place. This also means no absentee ballot "runner" deliveries, no repeated trips as late absentee ballots are received, and most importantly, early recording of all absentee voters on the polling list. Thus, an excellent control discouraging double voting would be in place. Special processing would no longer be required at the polls to record these votes. This would lighten the workload and lower the level of "exception processing" at the polling locations.

There would need to be an opportunity to allow potential challenges to absentee ballots at the central location, but hopefully that could be arranged in an acceptable manner. This is another area requiring statutory change. However, given the substantial additional investments in personnel, training, equipment etc. which will be needed to improve election processing overall, the cost savings and effectiveness benefits produced through this recommendation together with the advancing of deadlines (see #1 above) should be pursued vigorously.

3. Change in-person absentee voting from current location to avoid congestion at the Election Commission Office. Establish other convenient early voting location(s) for high turnout elections.

The absentee ballot process in Wisconsin has evolved into two somewhat unrelated situations beginning in earnest in the November, 2004 presidential election – the typical absentee voter and the voter who wanted to avoid the rush of the normal election by voting early. Unfortunately, many of the latter voters waited as long or longer than the wait time on Election Day in November 2004.

"Off loading" some of the voting process to days prior to the election makes sense in terms of both voter convenience and orderly election processing. As voters are encouraged to come early, not only is Election Day made easier, but also many of the communication problems and paper flow between the City and the otherwise "mail in" absentee voter are eliminated.

One obvious response to the long lines encountered last November is to provide more appropriate central location(s) for in-person absentee voters in high turnout elections. Although there is obviously a cost associated with this provision, the benefits associated with convenient voter access to the polls prior to Election Day and the workload leveling benefits on Election Day strongly support this recommendation.

4. Evaluate workflow and space needs for absentee ballot preparation, mail out and receipt. Establish a suitable work site for absentee ballot processing (in a secure environment).

Efficient and controlled receipt of absentee ballot requests, preparation and mail out of absentee ballot packets, and the receipt and recording of absentee ballots is a time consuming, labor-intensive process. It has also accurately been described as a "very physical job" by election staff.

Descriptions of the process indicate well-controlled procedures in terms of central elections staff processing. However, a careful examination of the workflow, in process paper flow and storage is needed to make the process move as smoothly as possible. A key element of this analysis is the availability of a properly configured, adequate floor and records storage space to facilitate this processing. There may be a need to separate this processing from the Elections Commission office to provide adequate space and workflow.

5. Other thoughts for consideration

While the above recommendations are the primary recommendations of the task force, other ideas that merit consideration include:

- Use of the City's cable channel and its web site to provide a live step-by-step "walk-through" to guide proper completion of the Application for Absentee ballot and completion of an actual ballot.

- Include a sample completed Application form in the packet keyed with numbers, with each number tied to a specific instruction to accompany the form.

General Comments

Much has been said throughout the course of task force discussions about the additional investment in people needed – both in terms of number of staff and staff preparation – for the job at hand. The need for added staff investment should indeed be investigated for absentee ballot processing. However, major permanent staff additions should not be made until AFTER the Statewide Voter Registration System is in place and the reforms recommended above have been pursued.

A recommendation dealing with the documentation of procedures certainly should apply to ballot processing. As people, technology and process change, procedure documentation provides the continuity or "glue" that allows positive change to proceed smoothly. Also, recommendations regarding training also apply to absentee ballot processing. Citizen and group comments regarding delayed, confusing and in many cases non-response to phone queries and phone messages are symptoms of a staff needing proper training.

Polling Locations

Background

This subcommittee explored deficiencies associated with polling locations and placed special emphasis on State and Federal requirements related to polling place accessibility. The state will provide funds for accessible voting machines (one per polling site), but in order to obtain the funding the City is responsible for identifying sites that do not meet accessibility requirements and replacing those sites by 2006.

State requirements for selecting polling places and site setup, in general, are outlined in Chapter 5 of the Wisconsin Statutes. These include the following elements:

- Polling locations must be public buildings unless impractical, in which case other private locations can be used.
- The Board of Election Commissioners establishes sites.
- Sites need to be established 60 days before September primary and general elections, and 30 days before others.
- The American flag must be displayed during open voting hours.
- There must be one voting booth for each 200 electors who voted in last general election.
- There must be a separate ballot box for each form of ballot.
- There must be separation of voting booths and machines from other activities occurring in the location.
- No distractions to electors are allowed.
- There are the following posting requirements:
    - Relevant voting instructions
    - Election fraud laws
    - Two sample ballots
    - Consolidated ballot instructions, if necessary

Staffing/Facilities

Currently, there are 202 polling sites for 314 wards in the City of Milwaukee. Some of the locations have multiple wards (two or three) voting in that location – there are 94 multiple ward locations. The locations consist of the following types:

- 103 public schools
- 31 private sites
- 17 City/County parks
- 14 public housing developments
- 9 fire stations
- 12 school/county recreation buildings

- 9 libraries
- 7 other public buildings

Public locations are chosen as much as possible. Where public sites are not available in an area, private sites are negotiated (most are at non-profit agency locations). A tremendous amount of work with multiple organizations, both public and private, is required to get the total number of sites.

For all locations, the Wisconsin State Elections Board "Polling Place Accessibility Survey Form" is self-administered by election officials. In Milwaukee, this shows many accessibility deficiencies, although some locations have only partial information. The Wisconsin Coalition for Advocacy (WCA) surveyed 9 locations in Milwaukee and looked at detailed accessibility issues. (Their findings are discussed later in this document.)

There are standards for setting up polling locations. These include such things as layout, signage and supplies, and locations of furniture and voting booths. Due to the need to fit into whatever location is supplied, these standards have to be applied very loosely to fit the space, which often results in less-than-ideal layouts. The layout is ultimately the responsibility of the chief inspector at each location.

It is important to note that that State and Federal law requires that the City submit an accessibility report to the State this year, and that all polling locations be accessible by January 1, 2006.

A number of groups monitor elections on site at polling locations. These include:

- Election Protection
- Wisconsin Coalition for Advocacy
- HAVA volunteers
- State observers
- Partisan observers

These extra people can cause confusion and may place an extra burden on election staff.

Issues and Concerns

The issues and problems regarding polling locations can be summarized in five different areas. These include the sites, accessibility, layout and space, equipment and materials, and flow and circulation.

Sites

Many of the polling sites are deficient in one or more aspects and there is no clear method to ensure that the acquired sites are adequate. Since there are so many sites needed, less than optimal space is often all that is available.

There is a process used with MPS to determine the school locations that will be used, and much coordination is required since we use so many schools. MPS generally controls what sites are used and took some sites off the table in the last November election. There is often poor coordination with other school activities that are occurring at the same time, and this can disrupt and confuse the voting process.

The Milwaukee Fire Department no longer wants to allow the use of fire stations, since they are unattended if staff needs to leave for a fire. This is an issue, since nine other sites would have to be found to make up for these.

Finally, we use a number of private non-profit sites. We pay for use of non-profit sites, even though they do not pay taxes and benefit from City service including Police and Fire protection. This is an extra, and perhaps unnecessary, expense for the City.

Accessibility

There are problems with accessibility at many of the sites. This is largely due to the large number of sites needed, and the fact that many schools are not handicapped accessible. Of the MPS schools used as polling locations, 25 are non-accessible to the handicapped.

Of nine City site surveys conducted by WCA, one site had one accessibility problem, seven sites had numerous issues (ranging from two to nine), and the site with the most problems had twelve. Disabled voters had many challenges, including the following:

- Waiting for a ballot at the curbside – there was usually not enough staffing or staff were busy doing other things. Election Protection pointed out that there was a shortage of staff to assist, making the wait unacceptable.
- The frail and elderly have trouble standing in line for long periods.
- Stairs were a barrier in many locations.
- Accessible doors were sometimes locked.
- Pathways to the building and entrances often had access problems.
- There were often problems moving around once inside the building.
- Various access problems existed in the voting areas.
- Markings for parking– both the polling locations and the parking were not always well marked.
- The parking location was not always convenient for access.
- The amount of accessible parking was often lacking or non-existent.

Layout and Space

In terms of layout and space, poor organization of the room and space often made for inefficiencies. This may be largely due to the variations in space at different locations, resulting in the inability to apply the same standards to each space. Essentially, each space is unique. This sometimes leads to the inability to properly separate different functions and people during the voting process. A lack of sufficient voting booths was cited as an issue at some locations, especially in a large election.

Equipment and materials

Materials are numerous and easy to misplace. Materials may not always be easy to use; adequate training is needed. There also seems to be different equipment provided at different locations. The Election Commission should provide all the materials and equipment that are required at a site.

Flow and circulation

There would seem to be a lack of current operating procedures relating to proper methods to ensure adequate flow and circulation. This is obviously worse during a large election. Lines and crowding seem to occur, perhaps due to inadequate signage, staff to direct people, and general layout issues. Finally, improper mingling of voters and observers occur due to space constraints, lack of clear area delineation, and inability of staff to spend time controlling observers.

Recommendations

Recommendations follow the same five areas used to identify issues and problems above.

Sites

The City, together with appropriate groups, needs to finish surveying all sites in order to determine adequacy and issues that occur with various spaces and surrounding areas. This includes the size, layout and the accessibility of the space. (Wisconsin State Elections Board Polling Place Accessibility Survey Form). All 202 current sites are scheduled to be surveyed by the Election Commission this year. The survey report must be timely filed with the State.

The City should look very seriously at having fewer sites that are better equipped, better planned, better staffed and better laid out and organized (voting centers). The voting center model (used in Colorado) enables election officials to reduce the number of polling places to a smaller, more manageable number of centers. It significantly reduces the number of election workers needed and enables better selection of personnel who demonstrate needed skills.

The City should also consider working much more closely with MPS to recognize importance of election days. School sites are numerous and generally accessible and well known. The City has a good working relationship with MPS. The City should try to get better, larger, more accessible space in the schools. We should also examine the possibility of scheduling teacher in-services around election days, in order to improve the environment and access.

The City should negotiate with private sites to get them at no charge if they are owned by tax-exempt organizations.

The Election Commission should try to keep current fire station locations, as it would be very difficult to find facilities to replace all nine of these, and in addition they are all accessible. State and Federal law require that all facilities must be accessible. This argues in favor of several recommendations above, including fewer locations better staffed and equipped, schools closed during large elections, and retention of fire stations.

The City needs to anticipate and plan for the large elections, perhaps differently than for the smaller elections. Especially for large elections, we need to plan for more observers with regard to space and organization.

A final site issue that should be examined is to enable the addition of other locations for absentee voting before an election, not just at City Hall. This would relieve pressure on a single site, and provide for more efficient processing, especially if computers were available at all the sites.

Accessibility

Wisconsin Advocacy Coalition identified 15 "easily correctible" types of problems in its analysis, ranging from clearly designated accessible parking spaces to clearing pathways to the buildings. These should be analyzed and corrected to the greatest extent possible.

Generally, the needs of the disability community fall into the following categories:

- Availability and clear signage for accessible parking and entrance routes and pathways.
- Availability and clear signage for curbside voting.
- Staff availability for assistance.
- Need better outreach to handicapped before elections, so they know what is available and where – work with the advocacy groups to accomplish this.
- Need funding (federal, state) to accomplish some of these objectives.

A lesser number of large voting centers could provide easier and less costly compliance with HAVA accessibility requirements.

Layout and space

It would help to better organize and mark the available space to keep people moving and in the right place. Poll watchers need to be contained in designated spaces so they do not interfere with the voting process or the election workers.

There should be a review of standards and templates for layout and space. Training should be provided in setup. Oversight of the process could be done by City or other volunteers.

Equipment and furniture

There should be standard setup and layout templates. It may help to have more tables and a resulting better separation of functions, especially for large elections. Finally, a designated separate area for workers to break and eat would be helpful.

Flow and circulation

Improved signage would help to alleviate lines. Bulletin boards and posted information should be posted up front and be large and clear. Where there are multiple wards, persons often wait in a single line rather than splitting into the two ward signs. This would be facilitated by large maps at the entrance, where a voter could determine their ward, and therefore the correct line to stand in to vote.

Having staff available to greet and provide directions up front when people enter and join the line would also be of great benefit to help keep things moving along.

Finally, the City should examine the feasibility of completing the registration process all in the same line, rather than having to walk over to another table to get a ballot.

Overall Recommendation

1. Establish "voting centers" – this would mean fewer locations, with larger spaces available which are better laid out and organized. Overall, this would require less but much better trained, computer proficient staff. This approach is largely dependent on use of the SVRS computerized state list on site in each location for efficient processing of voters. We would need to ensure these sites are easily accessible by bus, and have plenty of parking.

2. Work more closely with MPS to establish a better set of locations to handle large elections. Examine the feasibility of scheduling teacher in-service days during large elections. This recommendation is in concert with the voting center concept.

3. Accessibility issues should be analyzed, solutions should be standardized and universal at all locations (required by State and Federal law). Survey all locations and create specific strategies for solving these issues over the course of the next year.

4. Create standardized and documented procedures for setting up and running polling locations. While procedures exist now, they need to be adjusted to the space provided in each location, which results in much inefficiency. Space should be standardized. Provide better signage and space layout (standard procedures).

5. Additional staff is needed to improve overall functioning of the locations and their flow and circulation. There should be trained staff to oversee each facility and flow. We

need to examine the possibility for more permanent staff, especially needed before and during large elections.

6. Communications must be improved so that election workers have a direct line to elections staff so that questions and concerns can be addressed immediately.

7. Make a case for more funding from federal and state levels to accomplish mandated objectives of HAVA and ADA.

Poll Workers

Background

The task force focused its review on the recruitment, training and retention of qualified poll workers.

Wisconsin state laws governing poll workers are included in Chapter 7 of the Wisconsin Statutes. The law requires that seven election inspectors (also known as poll workers) must be appointed to staff each polling place at each election, except where voting machines are used. Election inspectors must meet the following qualifications:

- Must be qualified electors of the municipality and the ward served by the polling place they are assigned to staff, unless the Election Commission chooses to reassign them to work at another ward or polling place where they need to fill a vacancy.
- Must be affiliated with one of the two recognized political parties that receive the largest number of votes in the previous presidential election, or governor's race in non-presidential general election years unless the political parties do not make nominations).
- Must be able to read and write the English language, be capable and have a general knowledge of election laws.
- Inspectors are precluded from being a candidate for any office on the ballot. In first class cities, like Milwaukee, state law precludes an election inspector from holding public office (other than a notary public).
- Students 16 or 17 years of age, enrolled in grades 9 to 12, who have at least a 3.0 grade point average, may serve as election inspectors at the polling place serving the student's residence, or reassigned based on need like any other poll worker. However, the student's parent, guardian or school principal has to approve their participation.
- Chief Inspectors may not serve unless certified by the State Elections Board.

Poll workers are the field operations team members for a successful Election Day. They are responsible for:

- Election Day registration and poll lists.
- Handling and endorsing ballots.
- Preserving order at the polling place.
- Adjourning to another polling place if it is impossible or inconvenient to hold an election at the designated locations.
- Resolving challenges to voters.
- The Chief Inspector is responsible for directing the conduct of duties assigned to the inspectors at the polling place (including opening and closing the polls).

Staffing

The City of Milwaukee typically hires approximately 1,700 persons broken down into the following categories: 235 Chief Inspectors, 1,000 Poll Workers, and 204 Registrars (for major elections).

In November 2004, extra temporary workers were hired to meet the expected high turnout. Those numbers and ward totals were:

219	**Chief Inspectors**	**1,480**	**Inspectors/poll workers**	**218**	**Registrars**
110	**Single Ward**	**78**	**Double Wards**	**16**	**Triple Wards**

The Election Commission maintains a database containing the names of 1996 active poll workers. This database is not purged and updated prior to each election cycle, although there is a process for placing persons on an "inactive" list based on performance history. Approximately 80% to 85% of poll workers return from one year to the next, and many have been serving for 15-20 years. The average age of poll workers is between 65 and 75 years old.

Recruitment

Current recruitment strategies are limited to word-of-mouth, aldermanic and MPS newsletters, and visitations to university registration drives. This is not adequate to meet the needs of high turnout elections.

On Election Day poll workers are typically assigned according to location convenience for the individuals, anticipated turnout needs, and work history. In November of 2004, cellular phones were distributed to Chief Inspectors to enhance their accessibility and the ability of the Election Commission Office to respond to problems quickly.

Compensation

State law provides for "reasonable" compensation for poll workers. Rates of pay are also set by City Ordinance at a per day rate: Chief Inspectors: $109.00 and Poll-workers/registrars: $84.

Training

Poll workers are required by the Election Commission to attend one hour of training prior to an election. These are conducted through a combination of presentation materials and include a hands-on review of the voting machines. For the November 2004 election, 1,012 poll workers attended one of 17 classes offered.

Issues and Concerns

Recruitment

Current Election Commission processes and procedures are inadequate to ensure a large workforce to meet the needs of polling locations. For instance:

- For the 2004 primary and general election, internal processes were not in place to provide the appropriate level of poll staffing for the record high turnout election.
- For the 2004 primary and general election, the Election Commission was inadequately prepared to deal with the unprecedented number of voter volunteer and registration drives, and for the poll-watching performed by various external groups.
- Not broad enough outreach to businesses and community groups.
- No documented processes handling "problem" poll workers.
- No proactive approach for engaging the political parties to meet their commitment to put forward qualified candidates.
- Not enough poll workers for "high turnout" elections, too many for "low turnout" elections.
- Cellular phones were distributed to Chief Inspectors to enhance their accessibility to the Election Commission Office, but tremendous backlogs occurred due to the high demand for help.

Compensation

Compensation is not sufficient to attract poll workers. The average workday for a poll worker is 14 hours during slow elections and about 20 during peak elections.

Training

Post Election Day reviews of the Fall 2004 and Spring 2004 elections conducted by the Executive Director and Election Commission staff demonstrated the need to enhance poll worker training to ensure the consistent and efficient administration of elections. For instance, the Election Commission Office found Inspectors' Statements (EB-104 forms) that were not filled in accurately and completely. In addition, the Commission found inaccurate and incomplete poll books.

The task force identified many circumstances that attributed to poll worker errors and problems. For instance:

- Training classes are typically too large; there is little interaction between poll workers and trainers.
- For the November 2004 election, staff was stretched too thin to perform all the trainings tasks required.
- Not all "trained" poll workers are qualified to perform required duties (i.e. understanding of election rules, literacy concerns, interpersonal skills).

- For the 2004 primary and general election, information conveyed during training was inconsistent and training materials contained inaccurate or outdated information.
- Classes are too short to provide time for questions and answers.

Recommendations

1. Formulate the staffing plan and expense budget based upon the expected turnout of a given election: higher for even (Presidential, Gubernatorial, Mayoral, Aldermanic) years, lower for odd years.

2. Work with State Elections Board and external groups to coordinate (and separate) volunteer efforts with Election Commission official tasks on registration and poll worker needs.

3. Proactively prepare public relations and recruitment plan to engage businesses, community groups, festivals, universities and others in generating new poll workers. This will serve multiple purposes in educating and connecting the public to the importance of participating in the electoral process.

4. Internally document all work procedures relating to the recruitment, hiring, data collection, job requirements, and post-election review of poll employees and Election Day operations.

5. Work with the Democratic and Republican Party chairpersons to fulfill their "obligation" to help supply potential workers.

6. Establish City policy requiring City managers to assist with Election Day activities and train an on-call "City managers" pool to fill needs in high turnout or problem wards.

7. Review the current compensation structure. Develop system of tracking unpaid volunteers (both City and external).

8. Consider splitting shifts to get more young professionals interested. The full-day, more than 10 hours for Inspectors may seriously be impacting ability to find and retain new poll-workers.

9. Train poll workers in smaller groups and possibly use experienced Chief Inspectors to train (if we raise compensation).

10. Management staff in the Election Commission Office should be responsible for training.

11. Use a rotation of Election Commissioners to supplement training.

12. Evaluate poll worker testing and survey other cities on the testing issue. An open-book style with multiple opportunities may be a balanced approach.

13. Research other training styles, such as mock-elections.

14. Ask City Attorney and the State Elections Board to review training materials and internal poll worker procedures several months prior to elections.

15. Account for longer or more frequent training in compensation package.

16. Formally evaluate each poll worker following each election to provide feedback to both election management and poll workers.

Other Recommendations

Retention

Over the years not enough attention has been devoted to retention of the best of the City's qualified and committed poll workers. Following are ideas to retain poll workers.

1. Implement formal post-election survey of Chief Inspectors with a report to Mayor & Common Council Judiciary and Legislative Committee.

2. Schedule election wrap-up meetings to cover common errors or problems identified from surveys.

3. Schedule forum or learning seminars with return Chief Inspectors and regular poll workers during "off" years.

4. Host a recognition picnic or event in off-years that may also be a supplemental training event to cover issues from previous high-turnout year.

Election Day Process Improvement Recommendations

1. Use floaters and provide authority/flexibility to move or shift workers to busier (high turnout) wards.

2. Formally work with external groups on needs the Election Commission Office is more comfortable with – external greeters.

3. Develop an early poll worker "check in" system so the Commission knows early who's showing.

4. Have reserves at City Hall on Election Day.

5. Work with DPW Call Center/311 on tighter communication system to identify and address problems.

6. Pursue state legislation to equate Election Day comparable to Jury Duty.

Election Management Team Recommendations

The Election Management Team (see Attachment 5), appointed by Mayor Barrett to facilitate the Spring 2005 Election in the City of Milwaukee, literally worked side by side with the Election Commission Staff during several weeks leading up to the Election and for a short time afterward during some of the post Election activities performed by staff. While many of the issues, concerns and recommendations outlined in other areas of this report mirror the Team's recommendations and thus, will not be duplicated in this section, their experiences resulted in the following additional recommendations that address some areas not already articulated by the sub-committees of the Election Task Force.

1. Pre-planning and advance preparation. As identified in Section V. (page 33, 6.) the use of City Managers to supplement Election staff is a vital component which will ensure orderly voting and processing at the polls on Election Day. Since elections are cyclical in nature, there appears to be "down-time" between elections when Election staff could focus on the recruitment and training of City Managers for several key areas such as:

a. Registrars at the polls
b. Election Inspectors
c. Quality Control Assurance Inspectors
d. SPR Site Assistants

If these different duties were offered to City managers and pre-assigned teams were trained in advance, City managers would be aware of processes, procedures and expectations well before Election day. This advance preparation would minimize disruption to other City departments, provide welcome relief and assistance to regular Election staff and poll workers while allowing City managers to chose an area of functional expertise to specialize in, thereby encouraging their participation and feeling of "usefulness". This would replace the more chaotic atmosphere experienced by most City managers in the past wherein they were recruited and sent out on Election day (or shortly prior to) with little or no preparation.

2. Election Materials. Inconsistencies appear to exist in how Election materials distributed to polling sites are handled at the various sites. Updated materials, better training and enforcement of requirements of Chief Inspectors when closing the polls is needed to ensure the integrity of Elections and to facilitate post election activities and accuracy of reporting.

3. Post Election Activities. Five drop off points for election materials are utilized by the 202 polling sites at the close of Election day. Materials from one drop point are sent to the Election Commission office in City Hall, and the materials from the other four sites are gathered at the City's Warehouse on Hawley Road. The day following an Election, staff sorts and checks the returned materials at these two different staging areas and prepares the appropriate materials for distribution to the County. Working from two separate sites is confusing and adds valuable time to the process which is under a tight

turnaround time due to existing legislation. One centralized location should be established for all materials to be gathered at after they have been received at the various drop sites to facilitate a speedy and orderly organizing of materials for verification of Election results.

4. Record Keeping Tasks Between Elections. Establishment of and adherence to appropriate record retention schedules for various types of election materials is necessary to provide a more organized and orderly atmosphere in the Election Commission Office. For example, antiquated voter registration cards should be culled, miscellaneous stacks, and in some cases boxes, of various materials need to be sorted, filed and distributed to ensure that limited space in the office is used wisely and needed documents are easily accessible when needed and/or requested.

In summary, though a huge amount of energy and enthusiasm is needed to reshape the Election operations, it is not an insurmountable task. As recommendations in the Task Force Report are implemented, not only will the public trust and pride in the City's election process be restored, but the morale of Election staff will rise to once again motivate a hard working and productive team that plays a critical role in the citizens right to vote.

Key Legislative Recommendations

Most of the recommendations in this official report of the City of Milwaukee Election Task Force can be implemented by making management and operational changes. However, some of the recommendations would require legislative action. Key legislative proposals follow:

- **Prohibit payment to deputy registrars based on the number of registrants**. Many voter registration groups compensate deputy registrars they engage based on the number of people they register. Prohibiting this quota system will eliminate the financial incentive to cheat by forging signatures or registering the same voter multiple times.

- **Establish earlier cut off date for pre-registration.** (13 days earlier than the current deadline). Massive voter registration drives make it extremely difficult for the Election Commission to manage enormous surges in voter registration cards associated with peak elections. The current cut off for pre-registration is 13 days before an election. Changing the deadline would greatly reduce delays and errors in processing voter registration cards and ensure more accurate poll lists. Citizens who fail to meet the cut off would not be disenfranchised because they would still be allowed to register at the polls and vote on Election Day.

- **Advance the statutory due dates for** –
  - **County submittal of ballot forms to City** (or make City of Milwaukee as the State's only first class municipality responsible for printing its own ballot forms).
  - **Voter submittal of absentee ballot request applications.**
  - **City mailing of ballot forms packet to absentee voter.**
  - **Voter submittal of completed absentee ballots.**

  Clearly, the current deadlines – particularly the Friday before election deadline for submitting an absentee ballot request – are unrealistic for large municipalities and compound the problems related to accurate polling place voter counts and thorough, accurate absentee ballot processing. With more time to resolve problems with requests, rejection rates for these ballots should decline dramatically.

- **Change statutes to allow the processing of Absentee Ballots centrally rather than at the polls**. This change would greatly simplify absentee ballot processing, at the same time lowering the costs and confusion associated with absentee voting. A central staff would examine and count all ballots in a consistent manner, properly recording each absentee ballot with the voter (in a secure location). Because ballots can be recorded as to voter (but not opened) before Election Day, this would enable the recording of the existence of an absentee vote associated with a given voter on the polling list before the lists are sent to the polling place. There would need to be an opportunity to allow potential challenges to absentee ballots at the central location, but this could be addressed through statutory changes as well.

- **Providing adequate funding for elections.** Guaranteeing that municipalities receive adequate funding to conduct elections must be a high priority for local, state and federal officials. The 2000 election exposed the many problems in the election system and resulted in passage of the federal Help America Vote Act (HAVA) and subsequently Wisconsin Act 265. To date, Wisconsin has received approximately $43 million under the federal Help America Vote Act (HAVA). The law provides funding in fiscal year 2003, 2004 and 2005. Although funds can be carried over and spent in subsequent years, HAVA funding in not authorized permanently.

Acknowledgements

The task force and the respective subcommittees on voter registration, absentee ballots polling locations, and poll workers met numerous times over the course of the past several months to conduct research, question individuals and compile information necessary to formulate recommendations and complete this official report. The task force acknowledges the following individuals:

- Theresa Thomas Boyd (Wisconsin Citizen Action)
- Pat Ciezki (Election Commission)
- Sheila Cochran (Milwaukee Labor Council)
- Chris Czubakowski (Election Commission)
- Edith Greene (Election Commission)
- Barbara Hansen (State Elections Board)
- Robert Juhay (Department of Administration)
- Kevin Kennedy (State Elections Board)
- Grant Langley (Office of City Attorney)
- Lori Lutzka (Election Management Team)
- Lenore Matthews (Election Commission)
- Michelle Mendosa (Wisconsin Citizen Action)
- Monica Murphy (Wisconsin Coalition for Advocacy)
- Cheryl Oliva (Election Management Team)
- Genevieve O'Sullivan Crowley (Office of City Attorney)
- Ryan Ranker (Election Commission)
- Mary Reavey (Election Management Team)
- Alicia Sidman (Wisconsin Coalition for Advocacy)
- Donna Skenadore (Election Management Team)
- Amy Stenglein (Department of Administration)
- Melanie Swank (Office of City Attorney)
- Kathy Thornton (Election Commission)
- Denise Walton (Election Commission)
- Phyllis Whitley (Election Commission)
- Barbara Zack Quindel (Election Protection)
- Kathryn Zalewski (Office of the City Attorney)

Attachments

ATTACHMENT 1

Election Commission Task Force

Mission, Goals and Objectives

Ensuring fair and unrestricted access to the ballot box for all Milwaukee residents is a top priority for the Mayor and his administration.

Toward this end, a task force has been formed to review the operational aspects of the Election Commission (EC) and strengthen processes and procedures that have proven inadequate or outmoded. The task force will recommend and implement specific, practical changes that will improve the EC and its processes in measurable ways to the electorate. In addition to making recommendations on the operational aspects of elections, the task force will offer suggestions for legislative changes if necessary. The goal is simple – ensuring and encouraging the exercise of voting rights for all eligible voters in the city of Milwaukee.

A formal report will be issued and made public after the task force completes its work.

Task Force Membership

Sharon Robinson (Director, Department of Administration)
Linda Burke (Deputy City Attorney, Office of the City Attorney)
Allen Campos (Chairman, Election Commission)
Frank Cumberbatch (Assistant to the Mayor for Economic Development, Office of Mayor Tom Barrett)
Mike Daun (Director of Financial Services, Office of the Comptroller)
Randy Gschwind (Director, Information Technology and Management Division, Department of Administration)
Jennifer Meyer (Budget Division, Department of Administration)
James Michalski (Auditing Manager, Office of the Comptroller)

Support Staff:

Robert Juhay, Department of Administration
Amy Stenglein, Department of Administration

Scope of Work

The Election Commission Task Force will conduct its review of the operational aspects of the EC and will focus primarily on reviewing and strengthening processes and procedures related to:

- Registering Voters

- Processing New Registrations/Voter Registration Cards
- Determining Voter Eligibility
- Updating Polling Lists/Ensuring Accurate Address Listings
- Organizing Polling Sites
- Providing Poll Workers
- Preparing, Distributing and Counting Ballots (including absentee)

More specifically, the task force will concentrate attention on a number of key issues including, but not limited to:

- Staffing/Facilities
- Data management (improving internal technology and implementation of the state-wide voter registration system)
- Independent voter registration efforts and their impact on the EC's ability to process new voter registration cards
- Purging voter registration lists
- Voter education and outreach
- Assessing polling locations
- Age and training of poll workers and polling location supervisors
- Accessibility (elderly and handicap access, language barrier)
- Poll worker training, orientation and compensation
- Processing absentee ballot requests
- Managing on-site absentee voting and Election Day delivery of absentee ballots

Meetings

The task force will convene a number of meetings. The scope of the work is intended to include public input. The task force will seek input from key groups actively involved in the election process including election officials, poll workers, attorneys and residents.

Anticipated Deliverables

The task force will issue a written report on practical changes suggested for the city's election processes and procedures. The report will first be presented to the Judiciary and Legislation Subcommittee of the Common Council and then made available to the public.

Time Frame

The meetings will be scheduled throughout the winter months. The task force will begin its preparation of the formal written report immediately after the meetings and other information gathering processes conclude (ideally by no later than June 30, 2005).

ATTACHMENT 2

Election Commission Task Force
Subcommittees

Subcommittee on Voter Registration:

Linda Burke, Office of City Attorney (Chair)
Randy Gschwind, ITMD, Department of Administration
Jennifer Meyers, Budget Division, Department of Administration
James Michalski, Office of Comptroller

Subcommittee on Absentee Ballots:

Al Campos, Board of Election Commissioners (Chair)
Linda Burke, Office of City Attorney
Michael Daun, Office of Comptroller
Sharon Robinson, Department of Administration

Subcommittee on Polling Locations:

Randy Gschwind, ITMD, Department of Administration (Chair)
Frank Cumberbatch, Office of the Mayor
Sharon Robinson, Department of Administration

Subcommittee on Poll Workers:

Jennifer Meyers, Budget Division, Department of Administration (Chair)
Frank Cumberbatch, Office of the Mayor
Al Campos, Board of Election Commissioners
Sharon Robinson, Department of Administration

ATTACHMENT 3

Election Commission Task Force
Meeting Schedule

Meeting 1 (City Hall, Room 101)
Date: Friday, January 21, 2005 (9:00 a.m. to Noon)
Topic: Registration
- Implementation of Statewide Voter Registration System
- Processing of Voter Registration Materials
- Maintenance of Voter Registration Lists/Purging
- Clarification of Voter Eligibility
- Voter Registration Groups

Meeting 2 (City Hall- Room 301A)
Date: Friday, February 11, 2005 (9:00 a.m. to Noon)
Topic: Absentee Ballots
- Processing of Requests
- Processing of Completed Ballots
- Absentee Voting in City Hall
- Sorting, Packaging, Distribution of Completed Ballots

Meeting 3 (City Hall – Room 301A)
Date: Friday, February 25, 2005 (9:00 a.m. to Noon)
Topic: Polling Locations
- Assessment of locations including elderly, handicapped, language barriers
- Election Day set up of locations

Meeting 4 (City Hall – Room 301B)
Date: Friday, March 4, 2005 (9:00 a.m. to Noon)
Topic: Poll Workers
- Poll Workers Recruitment
- Orientation and Training
- Compensation

Meeting 5 (Department of Administration – Room 606)
Date: Friday, April 15, 2005 (10:30 a.m. to Noon)
Topic: Election Management Team De-Briefing
- Spring 2005 Election
- Strengths of the Election Commission and areas of concern

***** AGENDAS FOR EACH PUBLIC MEETING FOLLOW *****

ATTACHMENT 4

PUBLIC NOTICE
ELECTION COMMISSION TASK FORCE MEETING

January 21, 2005
9:00 a.m.
City Hall, 200 East Wells Street
Room 101

Ms. Sharon Robinson, Department of Administration (Chair)
Lisa Artison, Elections Commission Director
Linda U. Burke, Deputy City Attorney
Allen Campos, Election Commission
Frank Cumberbatch, Office of Mayor Tom Barrett
Mike Daun, Office of the Comptroller
Randy Gschwind, Information Technology Management Division
Jennifer Meyer, Budget and Management Office
James Michalski, Office of the Comptroller

Meeting Topic: Voter Registration Issues

Key issues to address:
- Implementation of Statewide Voter Registration System
- Processing of Voter Registration Materials
- Maintenance of Voter Registration Lists/Purging Files
- Clarification of Voter Eligibility
- Voter Registration Groups

I. Call meeting to order

II. Presentation by Lisa Artison (Executive Director, Election Commission)

III. Presentation by Genevieve O'Sullivan Crowley (Assistant City Attorney)

IV. Presentation by Kevin Kennedy (Executive Director, State Elections Board) and Barbara Hansen (State Voter Registration Project Director)

V. Presentation by Michelle Mendoza and Ivory Green (Wisconsin Citizen Action, Coordinators for Voter Registration and Get-Out-The-Vote)

VI. Other Business

VII. Adjourn

Upon reasonable notice, efforts will be made to accommodate the needs of persons with disabilities through sign language interpreters or auxiliary aids. For additional information or to request this service, contact Council Services Division ADA Coordinator at Room 205, City Hall, 200 East Wells Street, Milwaukee, WI 53202.

PUBLIC NOTICE
ELECTION COMMISSION TASK FORCE MEETING

February 11, 2005
9:00 a.m.
City Hall, 200 East Wells Street
Room 301-A

Ms. Sharon Robinson, Department of Administration (Chair)
Lisa Artison, Elections Commission Director
Linda U. Burke, Deputy City Attorney
Allen Campos, Election Commission
Frank Cumberbatch, Office of Mayor Tom Barrett
Mike Daun, Office of the Comptroller
Randy Gschwind, Information Technology Management Division
Jennifer Meyer, Budget and Management Office
James Michalski, Office of the Comptroller

Meeting Topic: Absentee Ballots

Key issues to address:

- Processing of Requests
- Processing of Completed Ballots
- Absentee Voting in City Hall
- Sorting, Packaging, Distribution of Completed Ballots

I. Call meeting to order

II. Presentation by Ryan Ranker (Absentee Ballot Coordinator, Election Commission Office)

III. Presentation by Melanie Swank (Office of City Attorney)

IV. Presentation by Kevin Kennedy (State Elections Board)

V. Discussion

VI. Other Business

VII. Adjourn

Upon reasonable notice, efforts will be made to accommodate the needs of persons with disabilities through sign language interpreters or auxiliary aids. For additional information or to request this service, contact Council Services Division ADA Coordinator at Room 205, City Hall, 200 East Wells Street, Milwaukee, WI 53202.

PUBLIC NOTICE
ELECTION COMMISSION TASK FORCE MEETING

February 25, 2005
9:00 a.m.
City Hall, 200 East Wells Street
Room 301-A

Ms. Sharon Robinson, Department of Administration (Chair)
Lisa Artison, Elections Commission Director
Linda U. Burke, Deputy City Attorney
Allen Campos, Election Commission
Frank Cumberbatch, Office of Mayor Tom Barrett
Mike Daun, Office of the Comptroller
Randy Gschwind, Information Technology Management Division
Jennifer Meyer, Budget and Management Office
James Michalski, Office of the Comptroller

Meeting Topic: Polling Locations

Key issues to address:

- Accessibility of Locations (elderly, handicapped, language barriers
- Election Day Set-up of Locations

I. Call meeting to order

II. Presentation by Phyllis Whitley (Election Commission Office)

III. Presentation by Kathryn Zalewski (Office of City Attorney)

IV. Presentation by Barbara Zack Quindel (Election Protection)

V. Presentation by Alicia Sidman (Wisconsin Coalition for Advocacy)

VI. Discussion

VII. Other Business

VIII. Adjourn

Upon reasonable notice, efforts will be made to accommodate the needs of persons with disabilities through sign language interpreters or auxiliary aids. For additional information or to request this service, contact Council Services Division ADA Coordinator at Room 205, City Hall, 200 East Wells Street, Milwaukee, WI 53202.

PUBLIC NOTICE
ELECTION COMMISSION TASK FORCE MEETING

March 4, 2005
9:00 a.m.
City Hall, 200 East Wells Street
Room 301-B

Ms. Sharon Robinson, Department of Administration (Chair)
Linda U. Burke, Deputy City Attorney
Allen Campos, Election Commission
Frank Cumberbatch, Office of Mayor Tom Barrett
Mike Daun, Office of the Comptroller
Randy Gschwind, Information Technology Management Division
Jennifer Meyer, Budget and Management Office
James Michalski, Office of the Comptroller

Meeting Topic: Poll Workers

Key issues to address:

- Recruitment
- Orientation and Training
- Compensation

I. Call meeting to order

II. Presentation by Kathryn Zalewski (Office of City Attorney)

III. Presentation by Edie Greene (Election Commission)

IV. Presentation by Pat Ciezki, Chris Czubakowski and Lenore Matthews (Long-standing Poll Workers and Temporary Clerks – Election Commission)

V. Presentation by Sheila Cochran (Election Protection and Milwaukee County Labor Council)

VI. Discussion

VII. Other Business

VIII. Adjourn

Upon reasonable notice, efforts will be made to accommodate the needs of persons with disabilities through sign language interpreters or auxiliary aids. For additional information or to request this service, contact Council Services Division ADA Coordinator at Room 205, City Hall, 200 East Wells Street, Milwaukee, WI 53202.

PUBLIC NOTICE
ELECTION COMMISSION MEETING

April 15, 2005
10:30 a.m.
City Hall, 200 East Wells Street
Room 606

I. Call to Order

II. Election Management Team Updates - Spring 2005 Election and recommendations for improving election processes and procedures related to:
* Registration - Cheryl Oliva
* Absentee Ballots - Lori Lutzka
* Poll Workers/Polling Locations - Mary Reavey
* Campaign Finance - Donna Skenadore

III. Other Business

IV. Adjourn

Upon reasonable notice, efforts will be made to accommodate the needs of persons with disabilities through sign language interpreters or auxiliary aids. For additional information or to request this service, contact Council Services Division ADA Coordinator at Room 205, City Hall, 200 East Wells Street, Milwaukee, WI 53202.

ATTACHMENT 5

ELECTION MANAGEMENT TEAM

Background Statement:
In November of 2004, the City of Milwaukee experienced an unusually high voter turnout, a record number of absentee voters and many questions surrounding how the election was conducted. The Mayor immediately formed an Election Task Force to study the election process in Milwaukee to address problematic areas. The recent February election in Milwaukee had a low voter turnout and few problems. However, the April election is approaching rapidly and a significantly higher voter turnout is expected.

Objective:
Given the issues that surfaced during the November 2004 election, the Mayor is committed to ensuring that the April election runs as smoothly as possible and provides all citizens of Milwaukee the opportunity to vote and have their vote counted.

Proposed Solution:
While the Election Task Force Committee is continuing to study the various issues surrounding the November election to recommend changes that need to be made to how elections are administered in the City of Milwaukee, an Election Management Team will be formed to be appointed by Mayor Barrett to manage the April Election. This proactive approach will require four City employees who have demonstrated strong management and organization skills to participate on this team to focus on four of the primary areas of concern.

Specific Recommendations:

- Four areas of focus
  - Absentee ballots
  - Voter registration
  - Poll workers/Polling Locations
  - Campaign Finance
- Five team members (One individual will be designated to work on-site at the Election Commission Office through the April 5, 2005 election)
  - Sharon Robinson (Team Leader)
  - Cheryl Oliva (Voter Registration)
  - Mary Reavey (Polling Locations and Poll Workers)
  - Donna Skenadore (Campaign Finance)
  - Lori Lutzka (Absentee Ballots)
- Critical component for expertise of operations

  Permanent Election Commission Staff:
  - Kathy Thornton (Customer Service Representative)
  - Edie Greene (Poll Worker Coordinator)
  - Ryan Ranker (Absentee Ballot Coordinator)
  - Denise Walton (Administrative Assistant)
  - Phyllis Whitley (Election Supplies and Equipment Coordinator)

- Common elements of all areas that need improvement:
  - Organization
  - Quality control issues
  - Timeliness
  - Planning
  - Advance preparation where possible
  - Communication
  - Coordination
  - Documentation of procedures/establishing procedural manuals
- Additional needs for success:
  - Commitment of all available City resources.
  - City department heads may be asked to loan at least one employee to the management team for election purposes effective March 1, 2005.
  - City departments may be asked to loan additional employees on a part-time basis as needed up to and during the election.
  - Citizens will be encouraged to volunteer to serve up to and during the election on one of the four critical areas.
    (Department heads designees' and citizen volunteers should be encouraged to contact the appropriate management team leader directly for assignments.

A comprehensive de-briefing will be held with the management team leaders after the election to advise the Election Task Force on strengths and specific areas of concern.

Tom Barrett
Mayor

Sharon Robinson
Director

Department of Administration

City of Milwaukee
Election Commission Task Force

Mission, Goals and Objectives

Ensuring fair and unrestricted access to the ballot box for all Milwaukee residents is a top priority for the Mayor and his administration.

Toward this end, a task force has been formed to review the operational aspects of the Election Commission (EC) and strengthen processes and procedures that have proven inadequate or outmoded. The task force will recommend and implement specific, practical changes that will improve the EC and its processes in measurable ways to the electorate. In addition to making recommendations on the operational aspects of elections, the task force will offer suggestions for legislative changes if necessary. The goal is simple – ensuring and encouraging the exercise of voting rights for all eligible voters in the city of Milwaukee.

A formal report will be issued and made public after the task force completes its work.

Task Force Membership

Sharon Robinson (Director, Department of Administration)
Linda Burke (Deputy City Attorney, Office of the City Attorney)
Allen Campos (Chairman, Election Commission)
Frank Cumberbatch (Assistant to the Mayor for Economic Development, Office of Mayor Tom Barrett)
Mike Daun (Director of Financial Services, Office of the Comptroller)
Randy Gschwind (Director, Information Technology and Management Division, Department of Administration)
Jennifer Meyer (Budget Division, Department of Administration)
James Michalski (Auditing Manager, Office of the Comptroller)
Lisa Artison (Executive Director, Election Commission)

Scope of Work

The Election Commission Task Force will conduct its review of the operational aspects of the EC and will focus primarily on reviewing and strengthening processes and procedures related to:

Room 606, City Hall, 200 East Wells Street, Milwaukee, WI 53202 - Phone (414) 286-3647 - Fax (414) 286-8547
www.milwaukee.gov

Election Commission Task Force

Members:

Sharon Robinson, Department of Administration (Chair)
Lisa Artison, Election Commission
Linda Burke, Office of the City Attorney
Al Campos, Election Commission
Frank Cumberbatch, Office of Mayor Tom Barrett
Mike Daun, Office of the Comptroller
Randy Gschwind, Information Technology Management Division, Dept. of Administration
Jennifer Meyer, Budget and Management Office
James Michalski, Office of the Comptroller

Support Staff:

Robert Juhay, Department of Administration
Amy Stenglein, Department of Administration

Subcommittees:

I. **Subcommittee on Registration:** Linda Burke (Office of the City Attorney), Randy Gschwind (Information Technology Management Division, Department of Administration), Jennifer Meyers (Budget and Management Division, Department of Administration), James Michalski (Office of the Comptroller)

II. **Subcommittee on Absentee Ballots:** Linda Burke (Office of the City Attorney), Al Campos (Election Commission), Mike Daun (Office of the Comptroller), Sharon Robinson (Department of Administration)

III. **Subcommittee on Polling Locations**: Frank Cumberbatch (Office of Mayor Tom Barrett), Randy Gschwind (Information Technology and Management Division, Department of Administration), Sharon Robinson (Department of Administration)

IV. **Subcommittee on Poll Workers:** Frank Cumberbatch (Office of Mayor Tom Barrett), Al Campos (Election Commission), Jennifer Meyers (Budget and Management Division, Department of Administration), Sharon Robinson (Department of Administration)

Election Commission Task Force
Meeting Schedule

Meeting 1 (City Hall, Room 101)

Date: Friday, January 21, 2005 (9:00 a.m. to Noon)

Topic: Registration
- Implementation of Statewide Voter Registration System
- Processing of Voter Registration Materials
- Maintenance of Voter Registration Lists/Purging
- Clarification of Voter Eligibility
- Voter Registration Groups

Meeting 2 (City Hall- Room 301A)

Date: Friday, February 11, 2005 (9:00 a.m. to Noon)

Topic: Absentee Ballots
- Processing of Requests
- Processing of Completed Ballots
- Absentee Voting in City Hall
- Sorting, Packaging, Distribution of Completed Ballots

Meeting 3 (City Hall – Room 301A)

Date: Friday, February 25, 2005 (9:00 a.m. to Noon)

Topic: Polling Locations
- Assessment of locations including elderly, handicapped, language barriers
- Election Day set up of locations

Meeting 4 (City Hall – Room 301B)

Date: Friday, March 4, 2005 (9:00 a.m. to Noon)

Topic: Poll Workers
- Poll Workers Recruitment
- Orientation and Training
- Compensation