



**UNITED STATES ELECTION  
ASSISTANCE COMMISSION**

**TESTIMONY**

**OF**

**HONORABLE ROSEMARY RODRIGUEZ, CHAIR,  
U.S. ELECTION ASSISTANCE COMMISSION**

**BEFORE THE**

**HOUSE COMMITTEE ON HOUSE ADMINISTRATION  
SUBCOMMITTEE ON ELECTIONS**

**WEDNESDAY, MAY 14, 2008**

*U.S. Election Assistance Commission  
1225 New York Ave., NW – Suite 1100  
Washington, DC 20005*



Good afternoon Chairwoman Lofgren, Ranking Member McCarthy, and Members of the Subcommittee. I am pleased to be here this afternoon representing the U.S. Election Assistance Commission (EAC) to discuss emergency planning in election administration, the contingencies that can impact our election process, and the role that EAC plays in supporting State and local governments in helping them develop contingency plans for our Federal elections.

## INTRODUCTION

EAC is a bipartisan commission consisting of four members: [Rosemary Rodriguez](#), Chair; [Caroline Hunter](#), Vice Chair; [Donetta Davidson](#), and [Gracia Hillman](#). EAC is an independent Federal agency that guides and assists States in the effective administration of Federal elections. In doing so, EAC has focused on fulfilling its obligations under the Help America Vote Act of 2002 (HAVA) and the National Voter Registration Act of 1993 (NVRA). EAC works to identify potential election administration issues and to provide States with tools that they can use to avoid problems and serve their citizens by holding accurate and reliable elections.

Our country is in the midst of choosing our next President. The primary season has been marked by some emergencies that have posed challenges to election administrators including tornadoes, flooding, icing, and record voter turn out. The ability of states to handle these types of situations depends largely upon their prior experience as well as having contingency plans in place.

EAC assists States with the administration of election for Federal office, including providing states with guidance on planning for emergencies that could impact elections and the distribution of HAVA funds that can be used to develop contingency plans. Following hurricanes Katrina and Rita, EAC hosted a meeting for election officials from the impacted states along with Congressional representatives, representatives of other Federal government agencies, as well as election officials that had previously experienced disasters surrounding their election systems. During the meeting, the participants shared information about their experiences and how they rebuilt their election infrastructures after devastating weather events. Based upon the information gathered at this meeting and working group sessions with other election officials, EAC issued an election management quick start guide on contingency and disaster planning.

Planning is essential to conducting elections in times of uncertainty and confusion. It is incumbent upon states and local governments to put in place comprehensive plans that anticipate how elections can and will be run in the event of an emergency that occurs before, during or after an election. Similarly, Congress and the Federal government can contribute to the discussion and consider difficult questions about how to handle an emergency situation during a Presidential election. EAC hopes that this hearing will shed light on the need for planning, the importance of comprehensive plans, and what issues election administrators should consider in developing their contingency plans.



## **DISASTERS AND CONTINGENCIES**

Disasters and contingencies that impact elections come in many different shapes and sizes. Some are caused by natural events, such as hurricanes, tornadoes and flooding. In the current election cycle, Tennessee, Maryland, and Ohio have experienced weather-related events that impacted their primary elections. In Tennessee, tornadoes damaged polling places several days in advance of the primary. However, the state was able to relocate the polling places and conduct the election. In Maryland and Ohio, icing and flooding, respectively, created traveling complications, and courts in those states ordered polling places to remain open beyond their normal hours of operation.

Other emergencies arise because of infrastructure or planning problems, such as power outages, Web site or phone system failures, shortages of poll workers, or insufficient ballots due to high voter turn out. Last, contingencies can arise due to the negligence or intentional actions of persons outside of the election community. For example, traffic accidents or construction can block access to or create a dangerous situation at polling places. Similarly, a national security event could impact the confidence of voters throughout the country. Disasters can occur before, during or after an election and negatively impact the election administrators' work to conduct the election and report certified election results.

Some disasters impact elections even though they do not occur in close proximity to Election Day. For example, when hurricanes Katrina and Rita devastated the gulf coast states, the election systems of those states suffered damage as well. Voting systems were destroyed in both Louisiana and Mississippi. In addition, original voter registration records and other identifying records such as birth and death records were damaged and/or destroyed. Even though Louisiana and Florida both had election emergency procedures in place, those laws alone could not have protected them against the damage to their election equipment and processes.

Contingency plans developed by states must account for or be sufficiently flexible to cover any of these possibilities, protect the lives of people involved in the process (voters and election workers), and ensure that a fair and accurate election result is obtained.

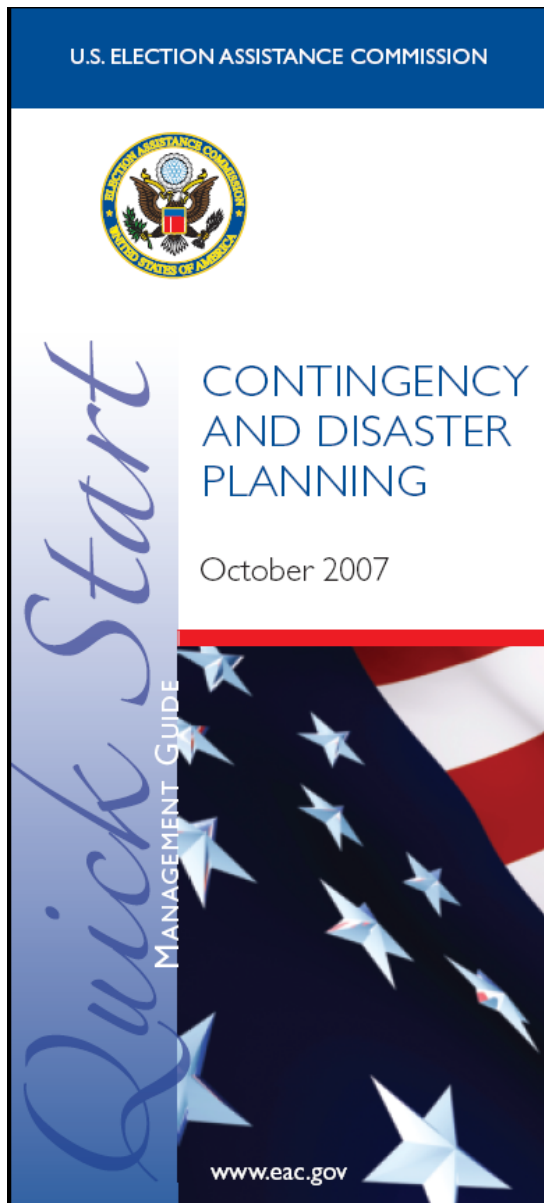
## **STATE AND LOCAL CONTINGENCY PLANS**

Some states have laws, regulations and/or procedures in place to handle emergency situations that impact the administration of their elections. Research conducted in 2004 by AEI/Brookings suggests that less than half of the states had procedures in place to manage an Election Day disaster. Those that did have some procedure in place primarily focused on postponing the election, moving polling places and managing the reporting of results. Some states, like Kentucky, have promulgated regulations governing the conduct of elections during emergency situations.



EAC is not aware of a body of empirical data regarding the existence and quality of emergency plans specifically related to election administration. While HAVA funds can be used by states to develop contingency plans, the reporting data that we have received does not suggest that states are using HAVA funds in this way. Without additional research, it would be impossible to quantify the states' readiness for emergency situations.

In October 2007, EAC issued an election management quick start guide devoted to the topic of contingency and disaster planning. The document serves as a checklist of issues and items to consider when developing a policy or procedure for emergency management of elections.



The guide suggests that election administrators contact the office of emergency preparedness in the state to obtain a copy of the existing emergency operations plan for the state. In addition, election officials should determine if the state law authorizes a particular person (Governor or Chief State Election Official) to act in emergency situations.

The guide recommends having a continuity of operations plan for the elections office as well as a contingency plan for emergency events. The guide recommends the following in developing the contingency plan:

- Conduct a brainstorming session with staff to develop a listing of various “Election Day” worst case scenarios.
- Develop an action plan for each scenario ... [including] who is responsible for each task, what resources are required, what agency(ies) will be called upon to assist, and where the designated area for media will be located. Some examples of worst case scenarios are:
  - Shortage of poll workers
  - Phone system crashes
  - Relocating polling places
  - Inclement weather
  - Shortage of supplies or ballots
  - Bomb threat
  - Power outage



In addition to the suggestions contained in the election management quick start guide, EAC offers the following questions as food for thought in developing emergency management procedures:

- How will we get in touch with our staff and poll workers if phone lines and cell towers are disabled?
- Are emergency evacuations plans and policies available to election staff and poll workers if an emergency occurs on Election Day that would require sheltering or evacuation?
- How do we secure the polling place, voting equipment, and ballots if an emergency requires evacuation?
- Whom do we contact with the state office of emergency preparedness if we need information about the emergency situation?
- Whom do we contact with the local police, sheriff, and fire department?
- How do we contact state officials (Governor and/or Chief Election Official) in the event of a disaster or emergency that may require postponing the election or extending polling hours?
- Do we have extra ballots and supplies on hand? How will we get them to the polling places in the event of a shortage?
- Do we have a list of persons who can serve as poll workers in the event that poll workers do not show up on Election Day?
- Are records backed up regularly and stored in a secure, off-site location?
- How do we protect voting equipment from damage?
- What is the role of the poll worker in assisting persons (with or without special needs) who are in the polling place during an emergency?
- How do we educate poll workers and inform the public about the contingency plan?
- How do displaced voters participate in an election?

## **NATIONAL CONTINGENCY PLANNING**

To date, we have focused our efforts on ensuring that states have plans in place to manage emergency situations. Most disasters, emergencies and contingencies are, in fact, localized and will not affect multiple states. However, we cannot avoid the reality that even a localized disaster could have national implications if the event occurred on a presidential election day. There is currently no national law, regulation or even a procedure to guide the administration of a presidential election in the midst of an emergency.

For example, presume that southern California suffers an earth quake or that the east coast states are hit by a hurricane on November 4. How will the votes of the people of those states be cast and counted? What if they cannot be cast or counted on November 4? Will they be able to vote in the election at a later time? Or, will the election be decided without their votes? How will the results of the election in other states be reported? And, will that prejudice the voters who were not able to get to the polls due to an emergency?



All of these are tough – but valid – questions. EAC does not have the legal authority to address them. However, we do believe that these questions deserve the consideration, thought and debate of election stakeholders, including this legislative body. It is imprudent to hope for the best without planning for the worst. History instructs us that entire cities can be decimated and populations displaced in a matter of hours. While this has not happened on an election day, it could and we should be prepared.

## **CONCLUSION**

Conducting accurate and reliable elections is key to ensuring public confidence in our electoral system. Emergencies, disasters and other contingencies can compromise our election systems if proper plans for such eventualities are not in place. EAC is here to help States by providing research, tools, and solutions that State and local government can use in developing contingency plans.

EAC appreciates the opportunity to provide this testimony regarding emergency planning. If you have any questions, I will be happy to address them.