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Committee on House Administration
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Election Contingency Plans: What have we learned, and is America prepared?

Chairwoman Lofgren and Subcommittee Members:

Thank you for the opportunity to provide information to the Subcommittee on election contingency planning. It is an honor to be here. This is a subject the state and local election officials in Wisconsin take very seriously. Please allow me to provide a brief background on the organizational structure of elections in Wisconsin along with a description of our approach to election contingency planning. I will also provide some general recommendations based on our experience in Wisconsin.

Introduction

I have served as Wisconsin's non-partisan chief election official for almost 25 years. I am currently appointed by and report to a non-partisan, citizen board comprised of six former circuit court and appellate judges. The Government Accountability Board was created in February 2007 by 2007 Wisconsin Act 1. After the appointment and confirmation of the initial members and hiring of its Director and General Counsel, the Board replaced the bipartisan State Elections Board and non-partisan State Ethics Board on January 10, 2008.

The Board has general supervisory authority over the conduct of elections in the State of Wisconsin. I have compliance review authority over Wisconsin's 1,923 local election officials and their staffs. This means any complaint alleging an election official has acted contrary to law or abused the discretion vested in that official must be filed with the

Government Accountability Board before it may proceed in court. I have the authority to order local election officials to conform their conduct to law.

The Board establishes training programs for local election officials. The Board is also required to certify the chief election inspector, the individual in charge of each of the state's 2,822 polling places. Election contingency planning is an integral component in our training for local election officials and poll workers.

Wisconsin's elections are administered at the municipal level in our 1,851 towns, villages and cities. The municipal clerk, an elected or appointed non-partisan public official, is responsible for the recruitment and training of poll workers, selecting and equipping polling places, voter registration, absentee voting, acquisition of voting equipment and the conduct of elections. More than 20,000 poll workers, along with special voter registration deputies for Election Day registration, poll managers, runners and greeters, will staff the polling places this fall.

Wisconsin uses a paper ballot-based voting system. Before the 2000 Presidential election, more than 80% of the votes in Wisconsin were cast using optical scan ballots. Currently the state has a mixture of optical scan voting devices (an estimated 90% of the votes cast), direct record electronic (DRE) touch screen voting devices with a voter verified paper trail (an estimated 5% of votes cast) and hand-counted paper ballots (an estimated 5% of votes cast.) All polling places have a supply of paper ballots.

After the polls close, the results are counted at the polling place. The ballots, voting results and other supplies for state and federal contests are transported to the county clerk the next day. Wisconsin's 72 county clerks conduct a canvass of the votes within two days of the election and certify the results to our office.

In the city of Milwaukee, a bipartisan Board of Election Commissioners oversees the work of Commission staff administering the same duties as the clerk in other municipalities. Similarly, in Milwaukee County, a bipartisan Board of Election

Commissioners oversees the work of Commission staff canvassing and certifying the election results.

In the past two Presidential elections, Wisconsin was the focus of a spirited campaign between the candidates. The margin of victory was extremely narrow. In 2000, less than 6,000 votes separated the two major party candidates out of more than 2.6 million votes cast, a 69% voter turnout. In 2004, less than 12,000 votes separated the two major party candidates out of more than 3 million votes cast, a 73% voter turnout. This year we expect a similar focus and voter turnout.

Election Contingency Planning in Wisconsin

Election contingency planning has been part of the dialogue among national, state and local election officials for a long time. In Wisconsin, two factors have made election preparedness an integral element of our election administration practices. First, exposure to the experiences of our colleagues in other parts of the country has raised our consciousness about the impact of disruptive forces to the electoral process. Second, our own experience with a wide range of weather conditions has placed disaster planning at the forefront of our operations.

Following the attacks of September 11, 2001, key members of our staff had the opportunity to talk with officials in New York City about the impact of the attack on agency operations. We learned from their experience the value of preparing for unknown disruptions to day-to-day operations. The New York City Campaign Finance Board shared a vivid account of the impact of events of September 11th and how its preparations enabled them to continue to function despite being located within blocks of the “Twin Towers.”

As an active member of the National Association of State Election Directors (NASED), I had the opportunity to learn what my fellow directors were developing with respect to election emergency contingency planning. At least one NASED conference had a session

focused on election preparedness planning, and this was one of the many issues we discussed in the past several years.

Our own experience has exposed state and local election officials to the need for election preparedness planning. Our elections are held in the spring (third Tuesday in February and first Tuesday in April) and the fall (second Tuesday in September and the Tuesday following the first Monday in November) when weather is the most unpredictable. Weather is always a factor in our preparations.

Wisconsin is blessed with a dynamic weather pattern. We regularly experience snow storms, flooding and the threat of tornadoes. This not only is a factor in our planning, it often has a direct impact on Election Day preparations and Election Day activities. It is not unusual to schedule back up training events at the state and local level because of postponements.

There has only been one known Wisconsin case of an election postponed because of the weather. This involved a special bonding referendum in a school district, which could be readily rescheduled.

Beginning in 2002 at our regular meetings with county and municipal clerks, our staff discussed the need for a comprehensive emergency preparedness plan that addressed issues like first aid training for poll workers, identification of alternate voting locations, and evacuation procedures that included securing ballots, voting equipment and other election materials. This was reinforced with a series of written communications as we approached the fall elections. We stressed the need to have a written plan and to share it with poll workers, the chief municipal or county executive, the governing body and most importantly, law enforcement.

Wisconsin has a well-developed emergency government operation organized at the state level with regional, county and local counterparts acting together. What is key is to remind local election officials to communicate with law enforcement and emergency

government personnel so they are aware that there is an election. (This should not be taken for granted. Government officials often have tunnel vision with respect to their area of operations.)

Our office regularly consults with the Office of Wisconsin Emergency Management before a large election event. We also provide training to state prosecutors on Election Day issues before each general election. Our office has a list of key contacts in the Governor's office and the office of the state Attorney General to facilitate Election Day communication.

In 2004, the State Elections Board began a comprehensive training program for chief election inspectors. One of the initial points made in our face-to-face training is to study the municipality's election-related emergency contingency plan. We stress if the municipal clerk does not share the plan, ask for it. This reinforces the need for the plan and increases its usefulness. See the *Wisconsin Election Day Manual* at page 2.

<http://elections.state.wi.us/docview.asp?docid=12848&locid=47>

In 2007, we augmented our training of county and municipal clerks and other election officials, including poll workers, by establishing a set of training requirements and instituting an ongoing training program. GAB Chapters 12, 13, Wis. Admin. Code. At the core of our training program is our *Wisconsin Election Administration Manual*, which contains a section on emergency preparedness at pages 87-89. See the section at:

<http://elections.state.wi.us/docview.asp?docid=11821&locid=47>

The Wisconsin Legislative Council established a Special Committee on Election Law Review immediately before the November 2004 election. The Committee, on which I served, also included five legislators, five local election officials and two election attorneys in private practice. The Committee provided an excellent forum for continuing to discuss the importance of emergency planning.

One of the recommendations of the Committee was to direct the State Elections Board to prepare a report and recommendations with regard to state, regional and local election-related contingency planning efforts and preparedness regarding both large-scale and limited-scope natural disasters or technological threats that may occur at or near election time. This recommendation was included in legislation enacted based on the Committee's deliberations. 2005 Wisconsin Act 451, Section 180 (1). The *Report on Election-Related Contingency Planning* can be found at:

<http://elections.state.wi.us/docview.asp?docid=10553&locid=47>

In our report, we provided sample county and municipal emergency contingency plans. We also set out a series of recommendations to further improve election-related emergency preparedness in Wisconsin.

As a result of the leadership of state election officials, which has been embraced by local election officials, we have incorporated emergency preparedness planning into the culture of administering elections in Wisconsin. This is reflected in the other protections and innovations that are at the core of Wisconsin election administration. This includes our paper ballot-based voting system, with a voter-verified paper record, and our ballot and voting equipment security procedures. GAB Chapter 5, Wis. Admin. Code.

Wisconsin also has Election Day voter registration which enables citizens to register at the polling place and vote even if there is a disruption in the preparation of the official voter lists. We have incorporated disaster mitigation practices in the design of our Statewide Voter Registration System (SVRS).

Wisconsin also has a series of statutes to manage Election Day contingencies. Emergency paper ballots may be used when voting equipment malfunctions or there is a shortage of ballots. §7.15 (6), Wis. Stats. A court may order the extension of poll hours. §6.96, Wis. Stats. Wisconsin law also gives broad emergency management powers to the Governor. §166.03(1)(a), (b), Wis. Stats.

Ironically, on the day I was invited to testify before this subcommittee, I was making a presentation at the State Bar of Wisconsin's annual convention entitled *Avoiding Disaster at the Polls: Averting Your Worst Election Day Nightmares*. I did not choose the title, but the talk will be repeated at the Municipal Attorneys Institute next month.

The best example of how election preparedness is an integral element of election planning in Wisconsin was exhibited in the November 2006 general election. The East High School polling place in the City of Madison received a bomb threat which impeded voting for approximately one hour. After consultation with our office and the city attorney, the Madison city clerk petitioned a circuit court for a one-hour extension, which was granted, to extend voting until 9:00 pm. During the evacuation, voting continued under the direction of the poll workers just outside the building. If the City had not been able to resume voting at the high school, it had an alternate location where it could relocate the voting just a short distance away.

Recommendations for Consideration by Other Election Jurisdictions

There are several sources for gathering information on election-related emergency contingency planning. The U.S. Election Assistance Commission has developed a *Quick Start* guide that provides a nice overview on contingency and disaster planning. It can be found on the Commission website at:

http://www.eac.gov/election/quick-start-management-guides/docs/qsmg-contingency-and-disaster-planning.pdf/attachment_download/file

The Election Center, a nonprofit organization that focuses on providing support and training for election officials, has a comprehensive Professional Education Program (PEP) for election officials. It has a post certification renewal class on crisis management. PEP Class #14. Information on the Election Center can be obtained at: <http://www.electioncenter.org>

In our report on election-related contingency planning, we proposed a number of recommendations to improve Wisconsin's election preparedness. A modified version of

those recommendations for consideration by other jurisdictions includes the following elements:

Statewide Election-Related Contingency Communication Plan

A communication chain for election-related emergencies should be developed, published and distributed to local election officials. This plan should include an integration of emergency contacts established by state emergency government officials with chain of command contacts for state and county levels of election administration. This network should be reviewed semi-annually with updates provided by state emergency government officials. Local chain of command and contacts for emergency management on Election Day should be coordinated by the county emergency management and local election officials.

Statewide Intelligence Center Contact

Contact should be established between the chief state election official and the statewide intelligence center that coordinates with the Department of Homeland Security to provide briefings on election or voter-related intelligence issues.

Threat to Voting Equipment Assessment

Assessments specific to voting equipment used in the state should be done under the direction of the chief state election official to assess vulnerabilities including security, software, storage, and human factors such as poll worker training and voter use.

County Election-Related Contingency Plans

Each county should incorporate election-related contingency plans into the framework of the county emergency procedures and pre-election planning. The plans should be reviewed annually or more frequently as needed. The plans should be shared with staff and poll workers. A copy should be sent to the chief state election official. These plans should, at a minimum, provide for the following:

1. *Normal Operating Procedures:* The plan should include a briefing on the normal election-related processes, especially for procedures that are specific to the county.
2. *Communication Network:* A county-wide communication network in the event of an emergency that establishes contact points for Election Day workers and contacts for county clerks. Additionally, county and regional emergency management should provide local emergency contacts with updates as required.

3. *Public Notification Plan:* A system should be in place for notifying voters of a change in the normal election process. This could include contact of major media sources such as print, television, and Internet postings.
4. *Troubleshooting For Common Emergency Scenarios:* The plan should provide appropriate responses to the most common emergency scenarios and emergency contact information. Plans should include evacuation and emergency shelter locations specific to each polling place. Contact numbers for local emergency response such as police and fire, in addition to the polling locations' building maintenance personnel (if applicable) and the local election official, should be provided.
5. *Handling of Election Materials:* Plans should detail the proper handling procedure for securing unmarked ballots, election equipment, ballot boxes, and polling lists in an emergency situation. Responsibility for materials should be assigned before Election Day.
6. *Alternate Polling Locations:* Arrangements for alternate polling locations should be established before Election Day in the event of a permanent evacuation. Reasonable efforts should be made to ensure accessibility and proximity to the original polling location.
7. *Alternate Tabulation Site:* Establishment of an alternative site for the county canvass and an evacuation plan for the primary site that includes appropriate security measures for transporting ballots and equipment.

Alternate Poll Workers

Efforts should be made to have back-up poll workers, who are knowledgeable about Election Day procedures, on call in the event of an illness or other unforeseen incident.

Training

Proper election training for the poll workers is a crucial starting point for ensuring a smooth and competent handling of both normal and extraordinary Election Day events.

Careful documentation of training to ensure compliance with training requirements is very important. Clerks should be documenting the names, dates, and number of hours for each of their poll workers.

Sufficient training should be conducted so poll workers are able to properly operate voting equipment, including accessible voting machines. Poll workers should be able to troubleshoot problems with equipment such as paper jams, calibration problems, etc., as well as have a contact for handling more complex issues that may arise.

Contingency plans should be reviewed with poll workers as part of the clerk's pre-election training for election inspectors. Clerks should ensure that poll workers visit the polling location before Election Day so they are familiar with the building evacuation and shelter procedures.

Conclusion

Elections are the cornerstone of our democracy. A citizen's right to vote is one of our enduring principles. There are many scenarios both natural and man-made that warrant taking precautions and making preparations to prevent, mitigate, and recover from an emergency situation that may disrupt an election.

Election-related emergency contingency planning is something to take seriously and worthy of a significant dedication of governmental resources and effort. If the federal government provides these resources, it is essential that state and local government have the flexibility to use those resources in the manner the state perceives is most effective to ensure the security, continuity and integrity of our elections.

The most effective response to any threat aimed at our electoral process is to honor the democratic principles of freedom on which this country is founded by preparing for the conduct of a transparent and fair election. This preparation begins at the local level with effective training for poll workers and clerks, and pre-election planning to deal with a variety of situations that may arise including voting equipment troubles, personnel emergencies, and polling place disasters such as fire, power outages or a bomb threat.

At the regional level, these local efforts are reinforced with established communication networks incorporating county and state emergency management contacts and contingency plans accounting for notifying the electorate of changes in Election Day procedures.

Finally, at the state level, clear lines of authority and communication between state election officials and county and municipal counterparts serves as the final piece in disaster mitigation.

Ultimately, a wide spectrum of election-related contingency planning will culminate in providing our citizens with the opportunity to fully participate in an open and fair election. This honorable endeavor cannot be accomplished without the dedicated efforts of state, county and municipal election officials and thousands of hardworking poll workers throughout the country.

Thank you for the opportunity to share my thoughts with you. I would be happy to answer any questions Committee members may have.