

SUNSHINE ACT NOTICE

AGENCY: United States Election Assistance Commission

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ACTION: Notice of Public Meeting Agenda

DATE & TIME: Tuesday, April 26, 2005, 10:00 A.M. – 11:30 A.M.

PLACE: Massachusetts Institute of Technology (MIT)

Bartos Theater

20 Ames Street (lower level)

Cambridge, MA 02142-1308

(Massachusetts Bay Transit Station Stop: Kendall Square)

AGENDA The Commission will receive reports on the following: Title II Requirements Payments Update and Other Administrative Matters. The Commission will receive presentations on the following: Technical Guidelines Development Committee (TGDC) Recommendations and Guidelines Adoption Process.

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PERSON TO CONTACT FOR INFORMATION: Bryan Whitener

Telephone: (202) 566-3100

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SUNSHINE ACT NOTICE

AGENCY: United States Election Assistance Commission

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ACTION: Notice of Public Hearing Agenda

DATE & TIME: Tuesday, April 26, 2005, 12:30 P.M. – 4:30 P.M.

PLACE: Massachusetts Institute of Technology (MIT)

Bartos Theater

20 Ames Street (lower level)

Cambridge, MA 02142-1308

(Massachusetts Bay Transit Station Stop: Kendall Square)

AGENDA The Commission will conduct a public hearing to present proposed voluntary guidance to the states on implementing statewide voter registration databases and to solicit comments on that guidance from members of the election community and public.

The Commission will hear presentations by a panel of persons involved with the development of voter registration databases as well as a panel of persons who will use guidance on the databases.

EAC will provide a one-hour public comment period. Members of the public who wish to speak should contact EAC via email at testimony@eac.gov, or via mail addressed to the U.S. Election Assistance Commission 1225 New York Ave, N.W., Suite 1100, Washington, DC 20005, or by fax at 202/566-3127. Comments will be strictly limited to 3 minutes per person or organization to assure that all constituent or stakeholder groups are represented. All speakers will be contacted prior to the hearing.

EAC also encourages members of the public to submit written testimony via email, mail or fax. All public comments will be taken in writing via email at testimony@eac.gov, or via mail addressed to the U.S. Election Assistance Commission 1225 New York Ave, N.W., Suite 1100, Washington, DC 20005, or by fax at 202/566-3127.

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PERSON TO CONTACT FOR INFORMATION: Bryan Whitener

Telephone: (202) 566-3100

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U.S. ELECTION ASSISTANCE COMMISSION
PUBLIC HEARING

Tuesday, April 26, 2005
Commencing at 12:30 p.m.

Commissioners Present:

Chair Gracia Hillman

Vice-Chair Paul DeGregorio

Commissioner Ray Martinez

Commissioner DeForest Soaries

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

2 CHAIR HILLMAN: This hearing will get
3 organized, please, so we can get started.
4 I'm asking that all members of the audience
5 please be certain to turn off your cell
6 phones, pagers, any other electronic device
7 that might distract from the proceedings of
8 this hearing.

9 Thank you. This is a public
10 hearing of the United States Election
11 Assistance Commission. The purpose of the
12 hearing is to receive testimony and
13 comments on proposed voluntary guidance
14 that the Election Assistance Commission has
15 issued on the implementation of Statewide
16 Voter Registration Lists.

17 We have two panels. And at the
18 conclusion of the second panel, we have
19 four members of the public who have
20 requested to testify at the third session.
21 And we will get to that at the conclusion
22 of our second panel.

23 The first panel is assembled. It
24 is a presentation of the Voluntary

3

1 Guidelines. The Commission did assemble a
2 working group to assist us in the
3 preparation of the proposed voluntary
4 guidance. And Commissioner Martinez,
5 before we get to the hearing, do you have
6 any summary or comment about the working
7 group?

8 COMMISSIONER MARTINEZ: Thank you,
9 Madam Chair. And I will -- I know that our
10 first panel, including our general counsel
11 and our two panelists will address in more
12 detail the working group that was
13 assembled.

14 But as a quick start to this
15 particular hearing, we did solicit the
16 comments of and the participation of a 15
17 or so election, state and local election
18 administrators from around the country who
19 will have a direct or who had the direct
20 responsibility of implementing these
21 Statewide Voter Registration Databases.
22 And we did that, as our counsel will
23 explain, I'm sure, by going to the chairs,
24 the respective chairs of our two statutory

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1 advisory boards, the Board of Advisors and
2 the Standards Board, and asking for them to
3 assemble members from their respective
4 statutory boards to contribute folks to
5 comprise this 15 or so member working group
6 that we worked with over a couple of days
7 and have been in communication with in
8 developing the draft guidance.

9 So that sort of sets the stage if
10 you will, Madam Chair, and I'm sure the
11 panelists will expand upon that. Thank
12 you.

13 CHAIR HILLMAN: Thank you very much.

14 I'll introduce the panelists. You will
15 follow, please, according to the schedule
16 and then we will pose questions after the
17 third panel has concluded.

18 Juliet Thompson, who is General
19 Counsel for the Election Assistance
20 Commission. Michael Sciortino, Director of
21 the Mahoning County Board of Elections in
22 Ohio. And John Lindback, Director of
23 Elections for the State of Oregon.

24 Welcome. And thank you for coming

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1 to join us. Miss Thompson.

2 MS. THOMPSON: Thank you, Madam Chair
3 and members of the commission, for this
4 opportunity to give you a little bit of
5 information as to the why and how of this
6 policy guidance that is being issued on
7 Statewide Voter Registration Lists.

8 I will leave to my co-panelists
9 the what of what we have provided and what
10 we will be talking about here today.

11 Let me start with the legal
12 requirements with regard to Statewide Voter
13 Registration Lists and the guidance that is
14 required by the EAC.

15 Section 311 of the Help America
16 Vote Act 2002 requires that the Commission
17 issue guidance on topics that are discussed
18 Title III. As many of you know, that
19 includes Statewide Voter Registration
20 Lists. But also includes things such as
21 Provisional Voting, Voting Equipment, in
22 Section 301, as well as Voter Information
23 and Voter Identification.

24 Today, we're here to focus on

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1 Statewide Voter Registration Lists, a
2 portion of the Help America Vote Act which
3 is covered in Section 303(a). There
4 Congress set forth a mandate that each
5 state should develop and implement a
6 single, uniformed, official centralized,
7 interactive, computerized Statewide Voter
8 registration list that is defined,
9 maintained and administered at the state
10 level. And it is this that we attempted to
11 clarify and explain and assist the states
12 with developing a policy around what that
13 means.

14 Section 312 really tells us the
15 how of this process, how is it that we are
16 supposed to develop this guidance. How is
17 it that we are supposed to pose it to the
18 public and how is that we are to make it
19 final.

20 There is a 4-step process, the
21 first of which is publication, the notice
22 of the proposed recommendations in the
23 Federal Register. That was done on April
24 18th, with a comment period being open

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1 until May 25th.

2 But let's back up for just a
3 moment and talk about how did we actually
4 develop the guidance that was published in
5 the Federal Register on April 18th.

6 EAC started this process by
7 holding a public meeting in which it
8 solicited four members, four states to
9 testify and give us information with regard
10 to how they implemented and developed
11 Statewide Voter Registration Databases in
12 their states, many of which prior to the
13 2004 election. The states that were
14 represented there were Michigan, Kentucky,

15 North Carolina and South Carolina. Each of
16 the representatives discussed their types
17 of voter registration lists; the processes
18 that were undertaken to develop and
19 implement those systems; the problems that
20 they encountered along the way, as well as
21 the maintenance and upgrade issues that
22 they have faced since the implementation of
23 those systems.

24 This meeting was the kick-off of

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1 the guidance develop process, an
2 information gathering, if you will. And
3 the things that came out of that discussion
4 were a few facts that were fairly
5 self-evident. Number 1,
6 states were already well underway in the
7 process of planning for, developing and
8 implementing Statewide Voter Registration
9 Lists.

10 Second, Statewide Voter
11 Registration Lists are complex,
12 computerized systems that require
13 addressing various policy concerns in order
14 to arrive at a plan for meeting the HAVA
15 requirements.

16 Number 3: There are technical
17 considerations that will affect the
18 development continued operation and upgrade
19 of these Statewide Voter Registration
20 Lists.

21 And last and fairly importantly,
22 maybe even mostly importantly, the EAC must
23 act quickly if it was to assist the states
24 with this process.

9

1 In that mindset, EAC contracted
2 with the National Academies of Science to

3 impanel a working group, a group that was
4 comprised of 15 members, state and local
5 election officials who were chosen by the
6 respective board of advisors and Standards
7 Board of the EAC, as well as technical
8 advisors, if you will, that were provided
9 by the National Academies of Science.

10 This group met for two days. And
11 their task was really two-fold. First, to
12 identify the concerns, issues or problems;
13 and secondly, to assist us with identifying
14 solutions to those problems.

15 And they did a yeoman's task.
16 They really worked very hard during those
17 two days. And I will leave to my
18 colleagues at the table a further
19 description of exactly what their
20 activities were.

21 But at the end of that 2-day
22 process, EAC had the questions, and for the
23 most part the answers to those questions
24 that would formulate the guidance that was

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1 proposed.

2 The staff from the EAC took that
3 direction from the working group and
4 crafted it into a document, which was then
5 circulated back to the working group
6 members for their consideration to assure
7 that we had accurately captured their
8 thoughts and the processes of the 2-day
9 meeting.

10 That proposed guidance was, as I
11 said earlier, published in the Federal
12 Register on April 18th, in compliance with
13 Section 312 and the first part of the
14 process of finally adopting guidance on
15 this issue. Comments will be taken
16 until May 25th. And the reason that we are

17 here today is to complete the second part
18 of that statutory requirement in 312, and
19 that is to hold -- I'm sorry -- the third
20 part of that statutory requirement, and
21 that is to hold a public hearing on the
22 record in which members of the public are
23 given the opportunity to comment on the
24 record as to the appropriateness of the

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1 guidance.

2 And then the last and final
3 portion of the statutory requirement is to
4 publish the final recommendations in the
5 Federal Register. After we have had the
6 opportunity to review the comments that are
7 due in by May 25th, the EAC will consider
8 those comments, will address them,
9 incorporate them if appropriate, and
10 publish the final guidance in the Federal
11 Register.

12 Now, I do want to make one note before
13 I conclude my remarks. And that is that I
14 did mention that there were technical
15 issues that needed to be addressed with
16 regard to upgrade and maintenance of these
17 Statewide Voter Registration Lists.

18 EAC has already planned to have a
19 meeting in May; again, we are contracting
20 with the National Academies of Science to
21 impanel a working group to discuss the
22 technical issues that go with the
23 technology, as we have coined it refresh,
24 the upgrade, the maintenance, the

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1 day-to-day operations of these systems.

2 With that, Commissioners, my remarks
3 are concluded.

4 CHAIR HILLMAN: Thank you, very much.
5 Mr. Sciortino.

6 MR. SCIORTINO: Madam Chair Hillman,
7 Commissioners Martinez, deGregorio and
8 Soares, my name is Michael Sciortino. I'm
9 Director of Mahoning County Board of
10 Elections, located in Youngstown, Ohio. I
11 am currently serving as chair of the EAC
12 Standards Board Executive Committee.

13 Let me first say that it is truly
14 an honor to be here before you today,
15 regarding the development of HAVA Statewide
16 Voter Registration Database.

17 The guidance before you is
18 basically broken down into three
19 categories: Introduction, scope and
20 definitions and guidance on Statewide Voter
21 Registration Lists.

22 My testimony will focus on the
23 background and authority of the EAC in
24 developing guidance, a synopsis of the

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1 thought processes that went into the scope
2 and definition section and some comment on
3 Section 3.

4 My colleague, John Lindback,
5 Oregon State Election Director and
6 Co-Executive Board and Working Group member
7 will cover Section 3 in greater detail.

8 To begin with, the Help America
9 Vote Act requires the chief election
10 official in each state to implement a
11 single, uniform, official, centralized,
12 interactive computerized Statewide Voter
13 Registration List. That list is to be
14 defined, maintained and administered at the
15 state level and must contain the name and
16 registration information of every legally
17 registered voter in the state.

18 The details of implementing these
19 Voter Registration Lists were left to the
20 states; however, Congress as you know,
21 empowered the EAC to issue voluntary
22 guidelines on this issue.

23 HAVA makes it very clear for the
24 EAC to develop guidance, so establishing a

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1 starting point and framework for guidance
2 development was paramount.

3 As you know, Commissioner Martinez
4 acted as the EAC's contact on this project.
5 After some preliminary discussions with
6 Commissioner Martinez, it was decided that
7 a working group made of election officials,
8 scientists from the National Academy of
9 Sciences and computer experts would be the
10 best way to assemble and experience the
11 knowledge that would go into our guidance.

12 I would like to read the names
13 into the record so that these individuals
14 and advisors be recognized for their hard
15 work that went into developing the
16 voluntary guidance that are before you
17 today.

18 Sarah Ball Johnson, Executive
19 Director, State Board of Elections in
20 Kentucky. Louie Bernard, Clerk of Court,
21 Natchitoches Parish, Louisiana. David
22 Caldwell, Data Processing Manager for
23 Rebecca Vigil-Giron, Secretary of State of
24 New Mexico.

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1 Bill Campbell, City Clerk, City of
2 Woburn, Massachusetts. Kathleen DeWolfe,
3 Director Elections Campaign and Finance for
4 Deborah Markowitz, Secretary of State of
5 Vermont. John Lindback, Director of

6 Elections in Oregon.
7 Chris Nelson, Secretary of State,
8 South Dakota. Peggy Nighswonger, State
9 Elections Director, Wyoming. Todd Rokita,
10 Secretary of State, Indiana. Sue
11 Sautermeister, Municipal Election
12 Commissioner, City of Ridgeland.
13 Christopher Thomas, Director of
14 Elections, Michigan. Hans von Spakovsky,
15 Counsel to the Assistant Attorney General
16 United States Department of Justice.
17 Dr. Randall Hollinger (phonetic),
18 Director AVN, VA Driver Systems. Pamela
19 Richard Walker (phonetic), Director Federal
20 Government Affairs AA, MBA Driver Systems.
21 Herb Lynn, Senior Scientist, National
22 Academy of Sciences. And Corey Kakusa
23 (phonetic), Senior Associate, Calver
24 Associates, Incorporated.

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1 Upon assembling in Washington to
2 formulate the guidance, it was clear from
3 the initial comments that this guidance
4 should in no way punish the pioneer states
5 that have already moved forward in
6 implementing Title III.

7 The working group wanted to
8 distinguish between mandatory and voluntary
9 issues, help determine what a compliant
10 HAVA Voter Registration System is and aid
11 in interpreting some language in Title III
12 without hindering the process and progress
13 made in states thus far.

14 Most importantly our goal was not
15 to release guidance that required
16 additional sets of guidance to understand,
17 but to help states and local election
18 officials understand what HAVA intended to
19 compromise a single, uniform, official,

20 centralized, interactive, computerized
21 Statewide Voter Registration List. It's a
22 mouthful.

23 Next, the working group wanted to
24 address the voluntary nature of the EAC's

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1 guidance. Although this guidance is
2 voluntary in that states can choose to
3 adopt this guidance as interpretive of
4 HAVA's voter registration requirement, it
5 no doubt provides clarity and insight into
6 the intent of HAVA.

7 For those states beginning its
8 implementation plan, I would strongly
9 advise adopting the guidance into policy or
10 request additional clarification or input
11 if necessary.

12 As a local election official, I
13 took particular interest with number two of
14 the guidance on page two, which asks who
15 would benefit from reading this guidance?
16 I firmly believe this guidance helps local
17 election officials to understand what HAVA
18 intended to comprise a single uniform voter
19 registration list.

20 I caution local election officials
21 taking an adversarial position with their
22 prospective state's plan. The success of
23 HAVA Title II depends upon states and
24 locals working together in a professional

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1 manner to make it easier for folks to vote,
2 yet at the same time eliminating fraud and
3 unneeded duplication of records.

4 There really is no confusion on
5 whether Title III places responsibility on
6 the states for design, implementation and

7 maintenance of an official Statewide Voter
8 Registration List, but we did want to
9 mention in the guidance that HAVA also
10 places responsibility on local election
11 officials to assure that the names and
12 information contained in the statewide
13 lists are accurate.

14 So who is a local election
15 official charged with this responsibility?
16 I can tell you that in Ohio, for example,
17 my part-time election equipment delivery
18 personnel are considered election officials
19 under the Ohio Revised Code.

20 My board hires these workers and I
21 swear them in according to law in Ohio as I
22 do full time employees.

23 Did HAVA intend for these local
24 election officials to have access to the

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1 state's voter registration lists and
2 maintain it? I think we all know the
3 answer to that question. But some states
4 where jurisdictions may need interpretation
5 for those situations that may not appear as
6 obvious. Moreover, access and security
7 must be addressed at the local level.

8 Someone at the local level needs to be
9 in charge and responsible for data entering
10 the system.

11 So the working group established
12 the following definition of a local
13 election official, which I think addresses
14 these concerns. The person or persons who
15 have primary legal responsibility for
16 determining the eligibility of an
17 individual to vote and maintaining and
18 updating the voter registration information
19 of eligible voters in his or her voter
20 registration jurisdiction.

21 In Ohio, for example, the director
22 of the boards of elections would be the
23 local official responsible for the names
24 and information entering the list in his or

20

1 her jurisdiction.

2 Finally, my comment on the
3 guidance on Statewide Voter Registration
4 Lists section centers around the working
5 group's discussion with Congressional
6 staffers who were at ground zero during the
7 HAVA's creation, and more importantly, took
8 part in writing or developing the Statewide
9 Voter Registration List provisions of HAVA.

10 I was pleased to hear the
11 Congressional panel affirm that state and
12 local jurisdictions need to have discretion
13 in their implementation of the Statewide
14 Voter Registration Data List; that HAVA was
15 never intended to be a one size fits all
16 piece of legislation.

17 However, after working with my
18 colleagues on the working group, I have
19 come to understand the phrase "degrees of
20 compliance."

21 You will hear more on this issue
22 from Mr. Lindback. There are two basic
23 approaches to implementing Statewide Voter
24 Registration Lists. In the first system,

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1 sometimes called "top-down system," the
2 state builds one voter registration system
3 for use by all local jurisdictions,
4 eliminating local databases.

5 The second type of system or
6 "bottom's-up approach" allows local
7 jurisdictions to maintain its database,
8 merge with the state's system and complete

9 cross-matching functions for checks on a
10 periodic basis.

11 During our working group
12 discussion with the Congressional panel, we
13 learned that the goal of HAVA is to link
14 state and local jurisdictions, making it
15 easier for people to vote on election day.
16 In this regard, if the list being used on
17 election day by state and local
18 jurisdictions is the official list
19 maintained by the state, then both
20 approaches to the Statewide Voter
21 Registration List implementation would be
22 acceptable.

23 The guidance in front of you today
24 recognizes both plans as meeting the

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1 uniform list of requirement, but that the
2 top-down systems, quote, are the most
3 closely akin, end of quote, to HAVA. Here
4 the emphasis behind this guidance was not
5 to punish those pioneer states that are
6 ahead of curve in implementing their
7 Statewide Voter Registration Lists, but
8 that utilize the "bottom's-up approach."

9 In the final analysis, if both
10 systems accomplish the same goal in the
11 end, then HAVA requirements have been met.

12 In closing, I hope this guidance
13 clarifies the meaning of certain portions
14 of Section 3 of HAVA and also serves to
15 encourage state and local election
16 officials to work together to define and
17 assume their responsibility for meeting
18 this requirement.

19 It is my job to run accountable,
20 reliable and professional elections in
21 Mahoning County, Ohio. I compare
22 implementing and maintaining a Statewide

23 Voter Registration List to running a
24 reliable election.

23

1 A good and strong election system
2 will always be more than what type of voter
3 registration system do you have or what
4 type of new election system do you have.
5 Instead, good election practices are a
6 function of the systems, procedures and
7 people that make elections happen, as well
8 as the voting equipment.

9 I am confident that the Statewide
10 Voter Registration Lists provisions in HAVA
11 will be implemented and in the end voting
12 will be made easier for all voters. But
13 again, the system and people will make this
14 happen and never the system alone.

15 I want to thank you for allowing
16 me the opportunity to present testimony
17 today and stand ready to assist you in any
18 way as the need for additional HAVA
19 guidance and best practices develops. I'd
20 be happy to answer any questions you may
21 have at the end of our presentation.

22 CHAIR HILLMAN: Thank you, Mr.
23 Sciortino. I'm glad to hear you say your
24 name, so I can get it correct. Mr.

24

1 Lindback.

2 MR. LINDBACK: Thank you, Chair Hillman
3 and members of the Commission for inviting
4 me to testify today on the important
5 subject of the EAC's proposed voluntary
6 guidance on implementation of Statewide
7 Voter Registration Databases.

8 I am John Lindback, Director of
9 Elections in Oregon. And I am pleased to

10 report that my state has been hard at work
11 on our new Oregon Centralized Voter
12 Registration System for more than
13 two years. Yes, we expect to comply with
14 HAVA's deadline of January 1, 2006.

15 In the beginning, we debated with
16 one another over our approach to this very
17 large and difficult project. We studied
18 the sentences in HAVA that require each
19 state to define, build and maintain a
20 Statewide Voter Registration List that is
21 single, uniform, official, centralized,
22 interactive and computerized.

23 We talked to the Congressional
24 staff who wrote those words. The intent

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1 seemed so clear. A single statewide list
2 and no more county lists. The state would
3 be responsible for one big list of voters.
4 And we were supposed to eliminate the
5 potential for individuals to register and
6 vote in more than one county.

7 We kept in mind the phrase used by
8 members of Congress when they said HAVA was
9 designed to make it easier to vote and
10 harder to cheat. The Oregon Centralized
11 Voter Registration System will be a single
12 system, complete with elections management
13 functions, delivered in realtime to each of
14 our 36 counties.

15 We designed our system so that
16 someone could update their registration,
17 right up to the 8:00 p.m. deadline on
18 election day and still be issued a ballot;
19 that's the making it easier to vote part.

20 We also designed our system so
21 that the county election worker, through
22 access to instant duplicate checks, will
23 know immediately whether that voter has

1 county; that's the part where we make it
2 harder to cheat.

3 Recently, I was invited along with
4 other members of the EAC Standards Board
5 Executive Committee to act as a focus group
6 for the development of the proposed
7 voluntary guidance you have in front of you
8 today.

9 The heart of our discussions
10 focused on the two approaches states have
11 been making to the development of statewide
12 databases. Some states, such as Oregon,
13 Wyoming, Maryland, Colorado and others, are
14 building one voter registration system for
15 use by all local jurisdictions, dispensing
16 with the old system of separate county
17 databases.

18 These states, citing HAVA, have
19 tackled a difficult job that involved
20 achieving local buy-in and coping with
21 inevitable conflict over turf and
22 responsibility.

23 Some of our counties have resisted
24 this top-down approach, and we've always

1 pointed to the language in HAVA as proof
2 that we have taken the road to full
3 compliance.

4 But other states took a different
5 road. They're allowing counties to keep
6 their own county databases. The state then
7 collects on a periodic basis, usually every
8 24 hours, the voter registration
9 information from each local jurisdiction in
10 order to compile the Statewide Voter List.

11 The state then makes the statewide

12 list available to each county and performs
13 duplicate checks and checks the information
14 against death records and felon databases.

15 The duplicate checking and the check
16 against other databases are not
17 instantaneous features of this so-called
18 bottom-up system. Customarily, it takes 24
19 hours or more to complete the
20 cross-checking functions.

21 Our focus group was most divided
22 on the issues of whether states that took
23 the bottom-up approach, allowing local
24 jurisdictions to continue to maintain and

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1 work off their own databases, while the
2 state maintains a separate official voter
3 registration list, are truly compliant.

4 Some members of our group expressed
5 very strong feelings that the words in HAVA
6 were specifically written to exclude that
7 kind of approach. Other members argued
8 that their bottom-up systems comply with
9 the words and goals of HAVA.

10 The main difference between the
11 two kinds of systems is that there is a
12 24-hour or more lag between data entry of
13 voter registration information and the
14 cross-matching of the records against the
15 rest of the voters in the system and the
16 felon and death record databases.

17 Indeed, I believe these states may
18 have trouble if challenged proving that
19 they have provided a truly interactive list
20 as HAVA requires.

21 Regardless of how individuals come
22 down on that issue, there was general
23 agreement that the timing of the proposed
24 voluntary guidance was affecting what kind

1 of advice to be given. Because it took so
2 long for your Commission to be appointed
3 and to get money to operate, this voluntary
4 guidance is a year behind schedule. Most
5 of the states couldn't wait for this
6 guidance in order to start and finish their
7 projects on time.

8 Thus, they had to interpret HAVA
9 the best they could and get going with
10 their projects. Great concern was
11 addressed in our focus group over the fact
12 that the train has left the station for the
13 states. EAC guidance that would call
14 into question the compliance of the
15 bottom-up system this late in the process
16 would be viewed as unfair and untimely to
17 those states. Such a warning should have
18 been issued by the EAC long ago.

19 Thus, the proposed guidance in
20 front of you provides a mild lessening of
21 these bottom-up systems. The proposed
22 guidance on page 6 states that the top-down
23 approach is most closely akin to the
24 requirements of HAVA, but the bottom-up

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1 systems may also meet the single uniform
2 list requirement.

3 There is no question as to whether this
4 guidance is politically correct. It meets
5 the goals of doing no harm to those states
6 that have chosen this path.

7 The question before you now is
8 whether this advice is legally correct. If
9 the EAC believes that there is a chance
10 that states that took the bottom-up
11 approach could lose a court challenge, it
12 would be beneficial now to those states to

13 explicitly say so as part of your voluntary
14 guidance.

15 If states have chosen a path that
16 skirts the edge of compliance, then the EAC
17 should consider saying so in more explicit
18 language. I believe that Oregon made the
19 correct choice by going with the top-down
20 system. I would have a lot more sleepless
21 nights worrying about the outcome of
22 litigation had we taken the bottom-up road.

23 Frankly, we don't think the EAC should
24 encourage states to take the bottom-up

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1 approach. The 24-hour lag time involved
2 with the bottom-up systems doesn't truly
3 achieve the goals of creating a single
4 system with instant access to information
5 for elections officials. The 24-hour lag
6 time will become more and more important
7 and more and more of a problem as election
8 day draws near.

9 On the very day when this
10 information is most important, election
11 day, the bottom-up system will not serve as
12 the truly realtime system that would be
13 most useful.

14 We understand the difficult
15 situation you're in because the guidance
16 before you is not timely. The timing of
17 this draft guidance in today's hearing has
18 no effect, however, on the intent of the
19 law or the language of the law.

20 Clearly, top-down systems were
21 envisioned and are the best technology
22 available to achieve the goals of HAVA.

23 I'd like to address one more issue
24 today, one that I failed to bring up during

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1 our focus group discussions two weeks ago.
2 The guidance uses the phrase, "voter
3 registration information," quote, unquote,
4 in Sections 5, 6, 8 and 11.

5 The draft guidance has raised some
6 questions in Oregon as to the definition of
7 the term. Is there a minimum amount of
8 information that each state system should
9 provide on each voter for the benefit of
10 all elections officials and the voters
11 themselves.

12 We believe the guidance ought to
13 answer the question that it begs by the
14 repeated use of the phrase. What
15 constitutes election registration
16 information? For example, it would be very
17 useful for election officials to know
18 whether an individual voter has already
19 been issued a ballot under a state's
20 absentee or early voting processes.

21 Should that not be included in the
22 voter registration information? It would
23 be beneficial to meeting the goal of making
24 it harder to cheat as election day draws

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1 closer and closer and opportunities arise
2 for double-voting.

3 We also believe the repeated use
4 of the term "expedited basis" in Section 6
5 and 8 also begs the question of a
6 definition of that term. We don't,
7 however, encourage you to try and define
8 that because it could create serious
9 problems for local jurisdictions.

10 A clearcut requirement that voter
11 registration data entry occur within a
12 tight time frame could cause serious
13 problems for some local jurisdictions who
14 may not have the money or resources to

15 always meet that tight time frame.

16 The experience in the 2004
17 election was an eye opener for many
18 elections officials, massive numbers of
19 voter registration cards flowing into
20 elections officials at the last minute.

21 The pressure on local election
22 officers was enormous. Fortunately, our
23 Oregon counties got the job done, but we
24 were very worried. A deadline set

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1 arbitrarily, however, will doom at least
2 some local jurisdictions to failure,
3 because as we all know, not all
4 jurisdictions are created equal in terms of
5 money and resources.

6 This concludes my comments. And
7 Madam Chairman, I hope you will find them
8 helpful. Our goal is not to create
9 problems, but assist you in helping the
10 states avoid them.

11 We appreciate your openness and
12 the thoughtful manner in which the EAC has
13 been approaching this set of guidelines.
14 We also truly appreciate your inclusion of
15 elections officials in creation of the
16 draft guidance.

17 Thank you once again for the
18 invitation to tell you what we think.

19 CHAIR HILLMAN: You told us what you
20 thought so politely. We appreciate that.
21 Commissioner Martinez, would you like to
22 begin?

23 COMMISSIONER MARTINEZ: Thank you,
24 Madam Chair. I echo that. We're used to

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1 be hitting a lot harder than that, John.

2 So thank you and both of you for your very
3 compelling testimony.

4 I've been involved in the process
5 of developing this product and can only say
6 that we were served very well by both of
7 these gentlemen up here who are testifying
8 in front of us, but also by your colleagues
9 who joined us in what turned out to be
10 two days of, I think just about every
11 5 minutes segment was packed in with
12 discussions about every word in Sections
13 303(a) and even to some extent Section
14 303(b). So we are, I think, very fortunate
15 at the EAC to have worked with
16 professionals in this regard, and again,
17 individuals who are directly impacted by
18 the requirements in this section.

19 I want to talk a little bit if I
20 could, first of all, Mr. Sciortino, in
21 Ohio, I think the state is building an
22 in-house, if you will, system that would
23 comply with 303(a) and (b).

24 Describe that system as whether it

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1 falls into the bottom-up or top-down
2 approach from what your experience has
3 been.

4 MR. SCIORTINO: Well, it's interesting,
5 Commissioner, prior to the working group
6 phase, I had no question as to whether or
7 not our system met the requirements of
8 Title III.

9 I want to say that it's sort of a
10 hybrid between the bottom-up approach and
11 the top-down approach in Ohio. We were --
12 the local jurisdictions maintained their
13 own database and we bridge with the
14 Secretary of State in Columbus.

15 Our checks, when we enter voter

16 registration data is instantaneous. But
17 the lag time in terms of BMV E-checks or
18 felon checks requires additional time.

19 So you know, I don't -- again, the
20 degrees of compliance, I think we have a
21 compliant system. I think there's an
22 amount of flexibility there for the locals,
23 which I think I need in terms of managing
24 my system. But that there's clear

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1 understanding with the state that it's
2 their system and it's their specifications
3 that go into it, that manage it and
4 basically, tell us how to do it.

5 I have really no problem with the
6 state's maintaining this list. In Ohio, we
7 have a 30-day voter registration deadline
8 that ensures, I think, that by election day
9 we will all be working off the same
10 statewide single, uniform, computerized
11 database list.

12 So in that regard, I hope I
13 answered your question. I have doubts
14 about compliance. I think we are
15 compliant. I'm sure my Secretary of State
16 will be happy to tell you that we are
17 compliant. But that's pretty much our
18 system.

19 COMMISSIONER MARTINEZ: Sure. And in
20 terms of, in terms of -- I know that Mr.
21 Lindback, one of the concerns that he had
22 is the duplicate checking and the checks
23 against other databases not being
24 instantaneous.

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1 And what you're saying is that
2 with this hybrid approach in Ohio, in fact,
3 that may be somewhat true, that these

4 checks against, you know, felon status or
5 death records are not instantaneous, and in
6 fact, require a 24-hour period basically at
7 a minimum I would imagine.

8 MR. SCIORTINO: Right. And I think the
9 important thing -- I'm not -- those checks,
10 I'm not denouncing those in any way. But I
11 think the important thing is to get an
12 instantaneous reflection on the system when
13 you enter that data in as to whether or not
14 that person is registered somewhere else in
15 Ohio or something of that regard. And when
16 we get the information back on the other
17 checks, you know, we can use that as well.

18 But it's instantaneous upon
19 entering and then we hear from the
20 secretary with regards to the other
21 information.

22 COMMISSIONER MARTINEZ: Right. And
23 just to take this into a different
24 direction, if you will, Mr. Sciortino, the

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1 matches, obviously 303(a) and (b) of HAVA
2 require that matches -- or will require
3 after 1/1/06, that individuals registered
4 to vote produce the last four digits of
5 their social security or driver's license
6 or be assigned a unique identifier. Or of
7 course, there are some states that are
8 allowed to collect a social security number
9 and then a match happens.

10 Now what -- tell me about how that
11 process is for you at the local level.
12 What if there's just a transposing of a
13 couple of numbers that happen not because
14 of the voter's fault, but because of how
15 the information was entered? What -- is it
16 a perfect match that has to occur for that
17 registration to be entered or what's the

18 criteria that you use, the local official
19 to determine that kind of a match?

20 MR. SCIORTINO: Well, I mean, we try to
21 focus on exact information. A lot of times
22 the voter may make an error entering his or
23 her data. A lot of times, the voter will
24 fail to include that information in the

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1 voter registration.

2 During the registration drive in
3 Ohio, we give the opportunity to correct
4 those types of issues that voter
5 registration or not voter -- last four
6 digits of the social security or driver's
7 license.

8 Those types of information is
9 critical. In other words, if we don't have
10 that type of information, we need to get
11 that before it goes into the system. We
12 don't have a conditional voter registration
13 status for a voter.

14 We'll have the opportunity for the
15 voter to correct that defect, but before we
16 place that into the system, we have to --
17 we need that information.

18 COMMISSIONER MARTINEZ: And I assume,
19 for example, under NVRA, I think there's an
20 obligation upon local jurisdictions to do
21 some due diligence to try to enter in and
22 correct or to try to enter in missing data,
23 for example.

24 MR. SCIORTINO: Sure. We have a sort

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1 of sub-level on our system that we're able
2 to enter the data and send confirmation
3 notices to individuals that fail to respond
4 or give this type of information.

5 But so far, the system requires
6 some identifying or exact matches. I mean,
7 we need to be, I think, pretty specific
8 when we're dealing in voter registration
9 records.

10 COMMISSIONER MARTINEZ: And just to be
11 clear, nothing in this guidance would
12 affect your obligations under, for example,
13 the National Voter Registration Act in
14 terms of the due diligence you're supposed
15 to perform or even, quite frankly, in terms
16 of the elimination of records of voters
17 from the roles based upon a very detailed
18 framework that you have to follow under
19 NVRA.

20 MR. SCIORTINO: No, that's correct. I
21 think the draft guidance before you I think
22 enhances the NVRA provisions, in that it,
23 you know, still allows for checks and
24 confirmation notices and NVRA compliance.

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1 But at the same time, gives some additional
2 criteria for entering the system and
3 maintaining the system in one statewide
4 list.

5 COMMISSIONER MARTINEZ: I'll move for
6 Mr. Lindback very quickly so that I make
7 sure I respect my colleagues' time to ask
8 questions as well.

9 Mr. Lindback, in terms of the
10 system y'all are building it in Ohio -- I'm
11 sorry -- in Oregon, it will have the
12 capacity, I assume, to do instantaneous
13 checks with regard to felony status, death
14 records of a person who registers to vote
15 in Oregon. Is that the statewide system
16 that y'all are implementing there?

17 MR. LINDBACK: It will have the
18 capacity to do those instant checks. But

19 unfortunately, the records on the other end
20 do not have the capacity to meet us. And
21 that was a topic that was widely discussed
22 by the focus group.

23 The situation varies substantially
24 from one state to the next about how

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1 instantaneously death records and felon
2 records are updated. Some states, they're
3 much slower than others because of the
4 problems of the agency that you're dealing
5 with.

6 COMMISSIONER MARTINEZ: So in essence,
7 even states that implement a top-down
8 approach may still run into the same
9 functionality problems because the records
10 that have, their statewide system just
11 can't talk to DMV or to the, you know, the
12 health department for death records
13 purposes because they're not automated on
14 the other end.

15 MR. LINDBACK: I would agree with that
16 with respect to death and felon records. I
17 would not agree with respect to DMV records
18 in each state. The work by the Omner Group
19 (phonetic) has made that possible to give
20 instantaneous checks against your driver's
21 license database in virtually every state.

22 COMMISSIONER MARTINEZ: And Mr.
23 Lindback, do you have anything to offer in
24 terms of the, I think the guidance says

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1 something that there's an obligation upon
2 jurisdictions to coordinate with other
3 agency databases. And this is straight out
4 of -- that term is straight out of Section
5 303(a). And I wonder, you know -- and what
6 it suggests is that, for example, voter

7 registration agency is defined or is
8 designated under NVRA, would fall under the
9 category of other agency databases. Do you
10 agree with that notion or do you not agree?

11 MR. LINDBACK: I guess I would agree
12 with it. It's --

13 COMMISSIONER MARTINEZ: I don't mean to
14 put you on the spot. So we could -- you
15 know, it's something we need to think
16 through.

17 But in other words, there is some
18 language straight out of 303(a) that says
19 that the statewide list ought to coordinate
20 with other agency databases and it doesn't
21 define what other agency databases means.
22 You know, disability office is a voter
23 registration agency as designated by NVRA,
24 a state disability office, for example,

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1 even a military recruitment office is a
2 quote, unquote voter registration office as
3 defined by NVRA.

4 Would there not be an obligation
5 if you will that the statewide list
6 coordinate with these, quote unquote other
7 agency databases; that's what I'm trying to
8 figure out.

9 MR. LINDBACK: Well, we've interpreted
10 it to mean that we will do the best we can.
11 And there is an obligation for us to try to
12 do the best we can.

13 COMMISSIONER MARTINEZ: Gotcha. Well,
14 that's good enough. Thank you, Madam
15 Chair.

16 CHAIR HILLMAN: Okay. Vice-Chairman.

17 VICE-CHAIRMAN DeGREGORIO: Thank you,
18 Madam Chair. This issue, the databases is
19 something certainly that is a significant
20 element of HAVA. And at our meeting this

21 morning, I described the funding that we
22 have distributed to the states. And I
23 certainly recognize that millions upon
24 millions of dollars are going to be spent

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1 and being spent by the state to do this.
2 And so I think it's an important element of
3 the process. And we are certainly doing
4 our due diligence to come forth with
5 guidance.

6 And I want to recognize again the
7 very work of Commissioner Martinez and the
8 working group to come up with this draft
9 because I recognize that it's difficult to
10 do so. I know in my 16 months in this
11 Commission, I've heard from many local
12 election officials and state officials who
13 were mad at each other over this particular
14 issue; they can't agree. And there's been
15 some states where the election officials
16 have sued the state because they didn't
17 agree with the RFP that was issued
18 regarding the statewide voter registration
19 database.

20 So this a very contentious issue
21 and one that we know that can divide the
22 election officials at the state and local
23 level.

24 But I'm pleased that we gotten

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1 folks together to try and come up with
2 something that the state and local
3 officials can agree with and present.

4 And this top-down or bottoms-up
5 approach is significant for discussion,
6 certainly, because I recognize in the
7 bottom-up approach many elected officials

8 have had systems in place for years, if
9 they have propriety software put in that
10 they like to use for their poll worker
11 recruitment or other things that they do.

12 Mr. Sciortino, the State of Ohio in
13 last November's election was focused upon,
14 certainly in the provisional voting and the
15 provisional ballots that were cast.

16 Do you foresee this guidance and
17 the statewide database that's being
18 developed in Ohio as helping to eliminate
19 some of the need for provisional ballot
20 voting and making voting easier in future
21 elections in the state of Ohio?

22 MR. SCIORTINO: I certainly hope so. I
23 look at provisionals in Ohio in two
24 different lights. In one light, we have a

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1 very high acceptance rate and I think
2 that's a good thing.

3 But on the other side, to have
4 such a high number of provisionals concerns
5 me, in that we're not getting the right
6 data. There's a point of failure I think
7 either when the voter fills out the voter
8 information or the clerks turn it in or it
9 never gets turned in, hence the provisional
10 voter.

11 And fortunately in Ohio we've been
12 doing provisional type voting since '95,
13 the voter log, you know, allowing voters to
14 cast a ballot if he or she doesn't appear
15 on that particular precincts' voter list.

16 Of course, you know, the 6th
17 Circuit now in Ohio states that you have to
18 be -- to cast a provisional ballot and for
19 that ballot to be counted, you must cast
20 that ballot from your home precinct.

21 So, okay. We know now where the

22 provisional voter has to be and what needs
23 to be done for that voter's provisional
24 ballot to be cast and counted.

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1 But I think this guidance will at
2 least ensure that the states put a
3 mechanism in place to allow the locals to
4 engage in their system, build the system.

5 And I hope there's a working
6 relationship with the states and locals. I
7 think in Ohio, there has been. To a lot of
8 dismay, you know, with what's been
9 happening. But there is a good
10 relationship on this particular issue.

11 So I think it's -- I think it will
12 definitely enhance and allow for some
13 problems in terms of provisional voting to
14 be solved. And I think with next year's
15 election, in '06, we'll certainly find out.
16 I think it will help. I do.

17 VICE-CHAIRMAN DeGREGORIO: Thank you.
18 Mr. Lindback, Oregon is somewhat unique in
19 the nation, although more states are
20 following your lead and voting by mail.

21 And that's, you know, rather unique,
22 that the ballots are all mailed out against
23 a voter registration list. And you
24 described the Oregon system.

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1 And you talked about what
2 constitutes election registration
3 information. We don't address it in this
4 guidance. You make some suggestions here.
5 But let me say, without this guidance, were
6 you in the state of Oregon, use this
7 statewide voter registration database and
8 enter information on people who apply or
9 who receive a ballot and send it back in to

10 ensure that double voting doesn't occur in
11 the state of Oregon?

12 MR. LINDBACK: Yes. The benefit of it
13 being one system with election management
14 functions is that any local elections
15 official in the state can look at the voter
16 record of someone who has moved in their
17 county and know right away whether they
18 were issued a ballot in that county.

19 And they will also know if it's
20 close to election day, whether that ballot
21 has been returned by that voter. And then
22 they can communicate with the other county
23 about that issue and communicate with us as
24 to whether or not it constitutes a possible

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1 fraud problem.

2 VICE-CHAIRMAN DeGREGORIO: When do you
3 mail your ballots out?

4 MR. LINDBACK: State law requires
5 ballots be mailed out no sooner than
6 18 days before an election day and no later
7 than 14 days before election day.

8 VICE-CHAIRMAN DeGREGORIO: And your
9 voter registration deadline is?

10 MR. LINDBACK: 21 days before election
11 day.

12 VICE-CHAIRMAN DeGREGORIO: So that's a
13 close window.

14 MR. LINDBACK: Correct.

15 VICE-CHAIRMAN DeGREGORIO: And there
16 could be somebody who moves from Salem to
17 Portland who gets a ballot from Salem and
18 but moves to Portland and that's where it
19 would be caught if you have a system that's
20 update and has this information that you
21 just described, correct?

22 MR. LINDBACK: That's correct.

23 VICE-CHAIRMAN DeGREGORIO: Thank you.

1 and local officials, doesn't give any
2 specifics on how the state and local
3 officials should work together on the
4 maintenance of this database after it's
5 created, but certainly I know that once we
6 adopt this, perhaps the EAC can talk about
7 the importance of the state to include the
8 local users in the continued maintenance of
9 such a system because I think it's
10 important to have that communication
11 between the locals and the state to ensure
12 the integrity of the system.

13 MR. LINDBACK: I agree. I think that
14 would be very helpful. We talked with our
15 counties about how much they're paying now
16 to maintain their county voter registration
17 systems and their willingness to contribute
18 what they're paying now on an annual basis
19 into the long term maintenance of the
20 system. And they were very willing to do
21 that. And we've been trying to keep their
22 payments towards maintenance of the new
23 system at about what they're paying now so
24 that the new system doesn't place an extra

1 burden on their budgets.

2 It was a battle. Again, these
3 top-down systems required a lot of local
4 buy-in, a lot of work, a lot of
5 discussions. We have a full time employee
6 whose job, paid for with HAVA funds, whose
7 entire job is to communicate with counties
8 on a daily basis about the centralized
9 voter registration system. And she's kept
10 very, very busy.

11 And when other states have talked
12 to us about what we're doing, we say get
13 yourself one of those, because we don't
14 believe that you can truly achieve local
15 buy-in without constant daily work.

16 VICE-CHAIRMAN DeGREGORIO: Thank you,
17 Madam Chair.

18 CHAIR HILLMAN: Commissioner Soaries.

19 COMMISSIONER SOARIES: I have two
20 questions. I hope they're quick. But how
21 are we doing on time?

22 CHAIR HILLMAN: We're a little tight
23 but we're okay.

24 COMMISSIONER SOARIES: There is a

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1 growing movement in the country to invite
2 states to convert to a same day voter
3 registration process. Have you given any
4 thought as to how this will impact those
5 states that use same day voter
6 registration, either negatively or
7 positively?

8 MR. LINDBACK: I think a top-down
9 system makes it easier for a state to
10 convert to same day registration because
11 you have that information instantly
12 available on whether or not that person has
13 been registered before, whether they've
14 been registered to another county.

15 What make it harder for someone to
16 register on the same day in county X than
17 county Y and in county C, if you have a
18 bottom-up system with a 24-hour lag time,
19 it would not be as helpful.

20 MR. SCIORTINO: Okay. Second question
21 is that HAVA has jurisdiction over
22 elections where persons are being elected
23 for federal office. The Statewide Voter
24 Registration Database would obviously have

1 an impact on races that are not federal
2 races.

3 Is it your sense that this will be
4 a burden or a blessing for election
5 management beyond those elections that are
6 not federal offices, either one?

7 MR. SCIORTINO: To use your term, I
8 think it's a blessing in that the Statewide
9 Voter Registration Database is implemented
10 now and able to be used for any election
11 all the time and I think that's a good
12 thing.

13 Certainly, next week in our
14 election we're going to be working off our
15 statewide list for our local jurisdiction
16 primaries. We don't really do anything
17 different from odd year to even year or
18 whatnot in terms of local office or federal
19 office in Ohio. So I think it's a good
20 thing. I think as much uniformity as
21 possible in terms of the voter registration
22 list, the better.

23 MR. LINDBACK: I, too, Commissioner
24 Soaries, believe it is a blessing. In

1 fact, long before HAVA came along, Oregon
2 wanted a centralized voter registration
3 system and HAVA has allowed us to do it
4 through the use of Federal funds.

5 We have never -- even though it's
6 a big task, it's very difficult, one of the
7 most nerve wracking projects I've ever been
8 involved in, frankly, for a lot of
9 different reasons, it's very important that
10 we do this.

11 And there isn't a single person
12 that we talk to in Oregon that says a

13 centralized voter registration system is a
14 bad idea. That's not the -- never been the
15 issue. The issue has always been one of
16 execution.

17 CHAIR HILLMAN: Okay. I want to loop
18 back to something you said in your
19 testimony, Mike, about degrees of
20 compliance. I'm not so sure I heard that
21 as clearly, you know. I was waiting to
22 hear it again when John testified.

23 So I would just like a little bit
24 of clarity from either or both of you about

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1 the use of that term degrees of compliance.

2 MR. SCIORTINO: Well, it's interesting,
3 I actually stole that term from John
4 Lindback. And again, at the beginning of
5 this process, you know, I thought I knew a
6 lot about this stuff. And I didn't. I
7 learned an extreme amount from our
8 colleagues on the working group and
9 particularly John.

10 And the degrees of compliance just
11 revolves around the bottom-up/top-down
12 approach in terms of what is the most
13 compliant, are they both compliant. Our
14 congressional staffers in Congress thinks
15 they are and it meets the intent of HAVA.

16 And you know, that was the basic --
17 the phrase itself encapsulizes the
18 top-down/bottoms-up approach. And I think
19 John can tell us his elaborate method of
20 developing this term over countless hours
21 of studying and research.

22 CHAIR HILLMAN: Professor Lindback?

23 MR. LINDBACK: Well, as we were
24 discussing this in D.C., when was that,

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1 like three weeks ago, four weeks ago, about
2 a year, we were grappling with this issue
3 about whether the bottom-up systems were
4 truly compliant and met the intent of the
5 law.

6 And you know, it was very clear
7 from the beginning, the train had left the
8 station and it would be very difficult to
9 turn to a bunch of states who have already
10 invested a bunch of money in a certain way
11 of doing things in April or May or June and
12 tell them six months before the deadline,
13 hey, you did this wrong.

14 And so I was trying to come up
15 with a phrase that sort of adequately
16 described the situation, where it's not
17 clear that they're not compliant, but at
18 least to some of us, and you know, one of
19 the things that was discussed was the
20 Kentucky and Michigan were the model.

21 And there are plenty of states who
22 had bottom-up systems; they weren't the
23 model. Kentucky and Michigan, two top-down
24 systems were the models.

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1 And so if you're going to argue
2 that they're -- the bottom-up systems may
3 be compliant, that's where you fall into
4 that phrase degrees of compliance. And I
5 think where the draft guidance was trying
6 to get to by describing the top-down
7 systems as the most closely akin to full
8 compliance. Some systems are more
9 compliant than others; that doesn't mean
10 that the others in a court case would not
11 be compliant.

12 CHAIR HILLMAN: And just to make sure
13 that the record is straight on this I will

14 ask Julie that, and John sort of mentioned
15 it at the end of his remarks, you're either
16 compliant or not compliant. HAVA sets a
17 floor for compliance and then the state can
18 take it to the ceiling if it wishes.

19 MS. THOMPSON: Absolutely. The Federal
20 legislation does set forth minimum
21 requirements for being compliant in having
22 a Statewide Voter Registration List that
23 meets all the elements of HAVA. Certainly
24 a state is able to set more strict

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1 requirements than those established in
2 Federal law.

3 CHAIR HILLMAN: For both Oregon and
4 Ohio, do you know yet what the cost will be
5 to the state to fully implement as of
6 January 1, 2006 the Statewide Voter
7 Registration Lists? And secondly, do you
8 have any estimate what it will cost you to
9 maintain that on an annual basis?

10 MR. LINDBACK: In Oregon, our
11 development and contract costs with our
12 contractor are between 5 and \$6 million.
13 We have an extra million dollars in other
14 kinds of costs where we're helping counties
15 with their networks, helping counties that
16 were not up to speed with just the hardware
17 on the desk tops, those extras sort of came
18 along with it.

19 We're expecting the maintenance of
20 the system to be in excess of a million
21 dollars a year. We were advised by a
22 variety of folks that have been involved in
23 the development of major technology
24 projects that the rule of thumb is that

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1 your annual maintenance costs will be about

2 1/5th of what your development and
3 implementation costs are; so that works out
4 to about 1/5th.

5 Incidentally, we included in our
6 contract with our vendor 5 years of
7 maintenance on a contract with our vendor.
8 So we felt that was a very important thing
9 to do.

10 CHAIR HILLMAN: Thank you.

11 MR. SCIORTINO: Unfortunately, I'm not
12 privy to a lot of the data in our
13 Secretary's office. But I believe our
14 statewide cost is anywhere from 10 to 15
15 million. And it's less only because each
16 county was able to maintain their data
17 systems. And I think one of the benefits
18 that the Secretary has stated in utilizing
19 that approach was to allocate more
20 additional HAVA funds to the purchase of
21 voting equipment. And at the local level,
22 we maintain the maintenance. So, you know,
23 in my county, it's nearly \$8,000 per year.

24 CHAIR HILLMAN: Thank you. Some early

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1 feedback to the guidelines -- the guidance
2 that we have proposed, as well as feedback
3 along the way over the past year and a half
4 regarding voter registration lists, mostly
5 from community and advocacy groups on
6 either side of the issue, whether it's
7 making it easier to register and vote,
8 making it harder to cheat, to use your
9 words, John, the concerns are over
10 excessive purging that could result as a
11 result of the implementation.

12 The second being the coordination
13 with the other agencies that do voter
14 registration, that there have been reports
15 that would suggest states have not really

16 been working with those agencies to utilize
17 them as voter registration sites.

18 So I'm just wondering if you could
19 both comment on that, because I would
20 imagine that the opportunity for other
21 agencies to do voter registration exists at
22 a county level as well as at the state
23 level. But the extent to which the voters
24 of Oregon and Ohio will feel confident that

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1 there won't be excessive purging and that
2 if I register at the department of motor
3 vehicles or at an agency providing public
4 assistance or providing assistance to
5 individuals with disabilities, that my
6 registration will end up in the pool as
7 quickly as efficiently as it would if I
8 went to the election office to register.

9 MR. SCIORTINO: Thanks, John. First of
10 all, with regards to excessive purging, at
11 least in my county, and I know Ohio, we're
12 still bound by the very strict rules of the
13 NVRA, in that, you know, there's specific
14 notice requirements, affirmation notices
15 that we mail out prior to purging. And at
16 least in Mahoning County, we purge at the
17 very end of any option.

18 In other words, we go above and
19 beyond, whether or not that person has
20 moved or we follow the National Change of
21 Address Rules in terms of trying to locate
22 the person and we have an aggressive plan
23 in Ohio that tracks down duplicates and
24 whatnot.

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1 So I don't think, at least from
2 where I'm standing, that the voter should

3 be concerned about purging. I am probably
4 accused of not purging enough in my
5 particular county, and in Ohio, I think for
6 that matter. But I think that to me, I'd
7 rather err on the side of caution.

8 And with regards to the voter
9 registration records getting into the
10 correct pool, you know, any type of better
11 managing mechanism that would assure that
12 or better communications with the agencies
13 is paramount.

14 And we have a pretty good
15 relationship with those, at least the ones
16 in my county, with making sure that they
17 get in the right pool. But again, I think
18 you're -- it's never going to be perfect
19 and I think we need to allow for some types
20 of, you know, walls, but to try and make it
21 better. So I think this does that.

22 MR. LINDBACK: In regards to the
23 excessive purging, I agree with Mike, we
24 still have the same laws with regards to

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1 that as local elections officials and state
2 elections officials, when you can purge a
3 voter and when you can't; that isn't going
4 to change.

5 I think there's a couple of
6 benefits to the public in terms of being
7 able to watch that process, though. One,
8 you've got an extra set of eyes, sort of
9 watching what purging is going on at the
10 state level. Plus, you've got an
11 opportunity to watch what's going on in
12 regards to purging when you've got one
13 system to look at, rather than in Oregon
14 having to go to 36 different places to look
15 at them.

16 And so the public is going to

17 have more instantaneous access to voter
18 registration information in Oregon than it
19 ever has before and more convenient. So
20 there are many reasons if you're concerned
21 about purging why you should like this kind
22 of system, because of that access to that
23 information.

24 In regards to the local health and

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1 social service agencies, for example, and
2 their access to the system, I think one of
3 the -- one of the things that the advocacy
4 groups would like is when you register to
5 vote with a social service agency that that
6 agency would be able to sit down and sort
7 of register you to vote right there and
8 have access to the system.

9 I don't know of a single statewide
10 system yet, and there may be one or two out
11 there, that will do that. I mean, that is
12 massive. There are tons of those agencies
13 in each state and that would mean extending
14 your network out and the access to the
15 network and the security issues surrounding
16 that to more than double what we're doing
17 now with our voter registration system.

18 In fact, it would probably be
19 tripling it or quadrupling it. I'm not
20 saying it's a bad step to take, but we can
21 only build these systems one step at a
22 time. And I think we need to work with
23 those advocacy groups and sort of explain
24 that situation, because I get the

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1 impression that there are misimpressions
2 out there about exactly what we're doing.

3 CHAIR HILLMAN: Thank you very much to
4 all of the panelists. We will take a

5 5-minute break to set up for the next
6 panel. Thank you.

7 (Proceedings interrupted.)

8 CHAIR HILLMAN: Let me just indicate
9 that the second panel will be presentations
10 from users and benefactors of the Voluntary
11 Guidelines on the Statewide Voter
12 Registration Lists.

13 And we will have testifying
14 Secretary Brown, Secretary of State from
15 Rhode Island; Ms. Wendy Weiser, is it
16 Weiser, from the Brennan Center; Mike
17 Gallagher, who is project manager for
18 Statewide Voter Registration System for the
19 State of New Jersey; Doug Sanderson, from
20 the Board of Elections, Oklahoma City; and
21 Michele Tassinari, Legal Counsel Election
22 Division for the Commonwealth of
23 Massachusetts.

24 Okay. Please bear with us. Don't

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1 leave. I will make my standard request
2 that you be certain that your cell phones,
3 pagers and all other electronic devices are
4 turned off so as not to distract from the
5 proceedings.

6 Okay. Secretary Brown, we
7 understand that you are needing to leave as
8 soon as you finish your presentation and we
9 won't even have an opportunity to ask you
10 questions directly. But we understand that
11 you do have the Director of Elections here
12 to answer questions.

13 SECRETARY BROWN: Yes. Jan Ruggiero,
14 right here. Thank you very much. What I
15 want to do is just walk through our
16 experience establishing the CBRS and then
17 Jan can get into details and questions that
18 you have beyond that.

19 First of all, I want to thank all
20 the members of the EAC for this opportunity
21 to talk about Rhode Island's experience
22 successfully installing our Statewide
23 Central Voter Registration System, our
24 CVRS.

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1 And we hope that our experience as
2 one of the first states to successfully
3 launch the CVRS can provide other states
4 around the country with something of a road
5 map to a successful implementation
6 themselves.

7 So now, for the first time Rhode
8 Island has a Central Statewide Voter
9 Registration System that allows cities and
10 towns to maintain accurate voter lists,
11 helping to eliminate fraud and ensure the
12 integrity of our elections.

13 I believe there's nothing more
14 important for the integrity of elections
15 than having accurate voting lists on
16 election day.

17 What I want to do is highlight the
18 steps that my administration took to
19 implement the CVRS in a way that used the
20 latest technology, ensured the accuracy of
21 the list and made best use of taxpayer's
22 dollars.

23 My office had several goals when
24 we began developing the process for

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1 procuring a Statewide Computer Voter
2 Registration List. Recognizing that CVRS
3 would be the cornerstone of the Rhode
4 Island electoral process, our goal was to
5 procure the best possible voter

6 registration system available, above and
7 beyond compliance with HAVA mandates and
8 state law.

9 We recognize that this
10 implementation would be a team effort and
11 from the very start wanted to involve the
12 39 local Boards of Canvassers, the Board of
13 Elections and other representatives of
14 Rhode Island communities in the process.

15 In anticipation of Federal funds
16 appropriated under HAVA, my office
17 submitted legislation to the Rhode Island
18 General Assembly that provided for a
19 statewide database.

20 The law also directed the
21 Secretary of State to provide all necessary
22 hardware and software for the 39 local
23 Boards of Canvassers to maintain their
24 local voter registration records; all

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1 necessary hardware and software for the
2 electronic integration of our registration
3 records with the Division of Motor
4 Vehicles; all necessary hardware and
5 software for the electronic integration of
6 voter registration records from certain
7 agencies processing voter registrations
8 with Secretary of State; funds and the
9 number of registrations processed warrants
10 the electronic integration. And finally,
11 additional terminals for access to the
12 voter files as determined by the Secretary
13 of State.

14 This section of the law also
15 stipulated that local boards would continue
16 to have the responsibility and sole
17 authority for any addition, correction or
18 deletion of information from their local
19 voting records.

20 The Office of the Secretary of
21 State or the designee of the Secretary of
22 State would provide training and technical
23 support for all local Boards of Canvassers
24 in the operation and maintenance of their

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1 local voter registration system.

2 The law did not take any authority
3 or responsibility for maintenance of local
4 records away from the local Boards of
5 Canvassers.

6 Upon taking office, I created the
7 HAVA Rhode Island Advisory Committee to
8 assist in the writing of the HAVA state
9 plan. This committee was comprised of
10 seventy-five individuals and went far
11 beyond the minimum HAVA requirements for
12 membership.

13 The membership included a wide
14 representation of stakeholders selected
15 from all segments of the Rhode Island
16 community. Our hope was to keep the
17 process open and have input from as many
18 groups as possible.

19 Our state plan, filed in
20 August 2003, called for the Secretary of
21 State to begin the procurement process for
22 a Computerized Statewide Central Voter
23 Registration System immediately.

24 Let me talk a little bit about the

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1 procurement process. Again, we understood
2 that the 39 cities and towns in Rhode
3 Island and the State Board of Elections
4 would be critical partners in the
5 implementation of the CVRS. My office
6 invited local Boards of Canvassers and
7 representatives from the state Board of

8 Elections to serve on a review committee
9 and make comments on the request for
10 proposal or RFP as it was being drafted
11 from July to September in 2003.

12 In order to procure the best
13 system for the state, my office organized
14 and conducted a vendor fair in September of
15 2003, prior to issuing the RFP.

16 Representatives from a dozen vendors
17 participated in the 2-day event, attended
18 by over a hundred people, including state
19 and local elected officials, local Boards
20 of Canvassers, interest groups, and the
21 public.

22 Everyone who attended was asked to
23 complete a questionnaire, evaluating the
24 systems demonstrated as an additional way

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1 for us to get input.

2 Legal counsel was engaged to
3 review the RFP in conjunction with state
4 and Federal law and to ensure that the CVRS
5 being purchased would meet all the HAVA
6 requirements.

7 The RFP was issued on October 22,
8 2003, with responses from interested
9 vendors due by November 26, 2003. My
10 office also led a technical review
11 committee, comprised of representatives of
12 local Boards of Canvassers and the State
13 Board of Elections.

14 This committee reviewed and scored
15 the proposals submitted and held a full day
16 of presentations for the top scoring
17 bidders. At this point, the state's
18 Department of Administration worked with
19 the vendor and my office to obtain best and
20 final offers and to negotiate the final
21 language for the contract. The contract

22 was awarded in March of 2004 to Covansys
23 Corporation.

24 Let me say a little bit now about

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1 the installation of the CVRS. The contract
2 awarded to Covansys included development
3 and installation of all hardware and
4 software associated with the Rhode Island
5 CVRS, as well as the training of users and
6 a support agreement.

7 In order to obtain the best prices
8 possible, my office included the option in
9 the RFP to purchase all hardware
10 separately. The state has a Master Price
11 Agreement with Dell Computer Corporation
12 that enabled us to purchase hardware at a
13 cost below that quoted by the vendor.

14 To assure that all 39 cities and
15 towns would be connected to the web-based
16 CVRS in a secure and efficient system, the
17 office of the Secretary of State assisted
18 in development of a private high speed
19 government network called RINET-MUNI and
20 linked all of the CVRS users to this
21 system.

22 Our office could also provide
23 better support and more efficient
24 management of quality control by having one

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1 network instead of multiple Internet
2 connections.

3 Additionally, our office procured
4 the services of a network specialist to
5 install the work stations for each of the
6 users in accordance with security
7 procedures set forth by the Secretary of
8 State's IT department and in consideration

9 of the specific and unique requirements of
10 some of the local Boards of Canvassers.

11 In Rhode Island, all 39 cities and
12 towns have maintained their voter
13 registration data in separate and unique
14 databases. In order to assure the accurate
15 transfer of data, the Office of the
16 Secretary of State contracted with vendors
17 of the legacy systems, whenever possible,
18 to standardize the legacy data for
19 conversion into the new CVRS.

20 We were able to successfully,
21 electronically convert the voter
22 registration files for all 39 cities and
23 towns, as well as any voter history
24 provided by the municipalities in less than

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1 a year.

2 Our vendor then reviewed all the
3 street file information gathered from the
4 39 legacy systems in conjunction with state
5 district lines, the Postal Service, and the
6 Census Bureau, thereby assuring that our
7 new CVRS would have a standardized,
8 complete and accurate street file so that
9 every registered voter would always be
10 assigned to the correct precinct.

11 This process discovered that
12 legacy voter lists scattered across the
13 state had over 14,000 errors, including
14 people registered in the wrong precincts
15 and even in the wrong towns. Some of those
16 errors included city and town precinct
17 lines that were incorrectly drawn and
18 address errors, such as incorrect street
19 numbers and misnamed streets.

20 These corrections eliminated the
21 opportunity for error by designating street
22 names and a range of numbers from which the

23 local board could choose when adding a
24 voter.

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1 Now a little bit about the
2 functionality of the CVRS. The development
3 of the functionality of the CVRS began in
4 March and continued through August of 2004.
5 Our office contracted with retired local
6 election officials to assist in the testing
7 of the CVRS functions. This task force
8 of retired election officials worked in
9 conjunction with the current users and my
10 office to test the functionality of the
11 system as each module was being prepared.

12 Rhode Island CVRS is more than
13 just a database listing registered voters.
14 It is the tool for streamlining voter
15 registration management that exceeded the
16 functions of the legacy systems that were
17 being replaced.

18 Some of the highlights of the
19 system are all official communication with
20 voters are now automatically generated and
21 tracked by the CVRS. Reminder screens that
22 local boards see will advise staff if one
23 of the voter's records has been registered
24 in another town.

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1 Inactive voters are tracked. And
2 after two Federal elections have elapsed
3 with no communication with the voter,
4 reminder notices are generated to remove
5 the voter.

6 Finally, in Rhode Island, the
7 Division of Motor Vehicles electronically
8 submits all voter registration applications
9 taken at DMV offices. The records appear
10 on a CVRS reminder screen for the

11 appropriate local board that, in turn,
12 accepts or rejects the application.

13 The CVRS will continue to
14 streamline voter registration and will
15 ensure our voter roles are accurate. It
16 will allow election officials to update
17 voter registration information immediately
18 as it is received at the municipal level.
19 And the system includes safeguards to
20 ensure that voter registration records are
21 accurate and up-to-date.

22 I hope this testimony and this
23 experience is helpful and will provide some
24 clarification and some solutions to some of

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1 the issues and challenges that CVRS
2 presents. Thank you for your time, thank
3 the panel. And I'll turn it over to Jan
4 for any questions the people have for our
5 experience in Rhode Island.

6 CHAIR HILLMAN: Thank you very much for
7 joining us, Mr. Secretary.

8 SECRETARY BROWN: My pleasure.

9 CHAIR HILLMAN: We will proceed with
10 the panelists, Commissioners, and then we
11 will ask questions after each panelist has
12 made a presentation.

13 Our next presenter is Wendy
14 Weiser, Associate Counsel Brennan Center
15 for Justice at the New York University
16 School of Law.

17 MS. WEISER: Good afternoon, Chair
18 Hillman and Commissioners. And thank you
19 for the opportunity to address you today.

20 The Brennan Center is pleased that
21 the Commission has issued its first
22 guidance on Statewide Voter Databases and
23 is listing input to improve that guidance.

24 Because the guidance is limited

1 in scope and only begins to touch on some
2 of the issues states are facing in
3 implementing HAVA's database requirements,
4 I will address what we believe is missing
5 from and should be added to that guidance.

6 As you know, the main purpose of
7 HAVA's database requirements is to ensure
8 that states maintain a voter list that is
9 as complete and as accurate as possible.
10 While HAVA requires that states try to
11 remove ineligible voters and duplicates
12 from its lists, it also requires that
13 states protect voters' rights by ensuring
14 that the name of each registered voter
15 appears on the list and that only voters
16 who are not registered and who are not
17 eligible are removed.

18 Unfortunately, the current
19 guidance doesn't provide states with
20 sufficient direction as to how they should
21 protect voters rights as they implement the
22 statewide database requirements. We
23 believe it's imperative that the Commission
24 provide guidance on these issues at the

1 outset, because it'll be very difficult and
2 costly to modify a poorly designed database
3 that doesn't have adequate safeguards for
4 voters' rights.

5 Since time is short, I'll focus on
6 the most important protections that we
7 recommend the Commission include in its
8 guidance. There is greater detail in my
9 written testimony. And most of these we
10 believe are compelled by HAVA; some of them
11 are recommended best practices.

12 First, as the guidance states,
13 HAVA requires that states try to match
14 voter registration information with
15 information in other databases. Once a
16 match is found, the voter is exempt from
17 HAVA's ID requirements and the state can
18 better ensure that the records are kept
19 up-to-date and accurate.

20 We believe it's important that the
21 Commission provide guidance on what
22 matching protocol states should use and
23 what they should do if they don't find a
24 match. And specifically, we believe that

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1 states must develop uniform and transparent
2 matching protocols that maximize election
3 officials' ability to find matching
4 records.

5 These protocols must address the
6 inevitable typos and other errors that may
7 exist in either of the databases that are
8 being matched and the fact that different
9 databases record data in different ways.

10 More importantly, because it's
11 extremely difficult to reliably match data
12 in two different databases, each of which
13 does report data in different ways, states
14 must not reject voter registration
15 applications merely because they're unable
16 to match the record.

17 And two anecdotes make clear the
18 need for these guidelines. The most
19 infamous example of bad matching is the
20 list of suspected felons Florida developed
21 in 2004. The state contractor that had
22 compiled that list did so by matching the
23 names on the state's voter list against the
24 records maintained by the Department of

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1 Corrections. For a match to be found the
2 contractor required matching information in
3 a variety of fields, including a field for
4 race.

5 The problem was that one database
6 had a category for Hispanics and the other
7 didn't. So the result was a list that
8 systematically excluded Hispanics. And in
9 a similar vein, a matching protocol that
10 doesn't check for transposed first and last
11 names, that might systematically fail to
12 find matches for Asian Americans.

13 Regardless of how good a state's
14 matching protocols are errors are
15 inevitable. It's therefore essential that
16 the Commission make clear that states may
17 not refuse to register a voter whose
18 information it is unable to match. And as
19 I explained in my written testimony, we
20 believe that this rule is actually
21 compelled by HAVA.

22 Most of the states we've surveyed
23 indicate that they won't reject voter
24 registration applications just because they

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1 can't find a match with driver's license or
2 social security records. But several of
3 the states said that they will reject those
4 applications. Not only would this violate
5 HAVA, but it would also lead to mass
6 disenfranchisement of voters.

7 New York City's recent experience
8 suggests the potential scope of the
9 disaster that would ensue. Last September,
10 the city's Board of Elections sent 15,000
11 registration records with driver's license
12 numbers to the state's Department of Motor
13 Vehicles. The DMV flagged almost 3,000 of

14 those records as not matching any records
15 in its database.

16 Fortunately, the city Board of
17 Elections did an audit of its database by
18 reviewing the scanned original of each of
19 the voter registration records that didn't
20 produce a match. It found that the
21 driver's license numbers on 99.7 percent of
22 those records were incorrectly entered by
23 election officials. Had the city rejected
24 those applications for failure to produce a

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1 match, close to 20 percent of new
2 registrants who had supplied driver's
3 license numbers would have been
4 disenfranchised because of typos. And this
5 is precisely the kind of harm we believe
6 HAVA was intended to prevent.

7 And although list audit procedures
8 should be required, that won't entirely
9 solve the problem. It's impossible for
10 election officials to catch all errors by
11 manually reviewing thousands of
12 registration forms in a really short time
13 period. And what's more, audits of
14 registration records won't catch errors in
15 the matching databases.

16 And the Social Security
17 Administration estimates that at least 10
18 percent of efforts to match information
19 with its database will be inaccurate. And
20 it is unacceptable for a state to make a
21 citizen's access to the franchise turn on
22 these odds.

23 Second, the guidance says almost
24 nothing about how states can comply with

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1 HAVA's requirements that new voter
2 registrations and updates to existing voter
3 records are accurately reflected in the
4 statewide database.

5 We believe it will be a serious
6 failure for states not to use their new
7 voter registration technologies to better
8 ensure that all eligible voters have access
9 to the franchise. To meet these
10 requirements, we believe that the
11 Commission should recommend that states
12 take steps to make sure that all voter
13 registration agencies, including the motor
14 vehicle agencies, social services and
15 disability agencies be electronically
16 integrated with the voter database or at
17 least have the capability of electronically
18 transmitting voter registration records to
19 the database.

20 The Commission should specify that
21 database coordination be used not only for
22 the purpose of verifying voter information,
23 but also for the purpose of correcting,
24 supplementing and updating information and

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1 voter registration forms and records. And
2 it would also be good if the database made
3 it easier for voters to check or correct to
4 their own registration records.

5 Third, the guidance says almost
6 nothing about how states can fulfill their
7 obligation to establish safeguards to
8 ensure that eligible voters are not removed
9 in error from the list.

10 Strong protections against
11 erroneous purges are needed because there's
12 no reliable method of generating accurate
13 lists of ineligible voters or duplicate
14 records. And specifically we recommend

15 that states must develop uniform and
16 nondiscriminatory and transparent standards
17 for determining when a registration record
18 is flagged for removal. And those
19 standards should include multiple layers of
20 checks.

21 Before removing any name from the
22 list, states must notify the voter and
23 provide her an opportunity to correct her
24 record. And this is essential to ensure

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1 due process of law. And states should not
2 engage in purges within 90 days of an
3 election, other than with respect to people
4 who become ineligible during that period.

5 We believe the guidance should
6 also include security measures, including
7 that statewide databases keep detailed
8 electronic records of all database
9 transactions, tracking by whom and when any
10 changes or removals are made; that the
11 database be capable of generating reports
12 of all these transactions; and that there
13 be security protocols and authorization
14 procedures to prevent unauthorized persons
15 from accessing, destroying or tampering
16 with voter records, such as different
17 levels of access and authorization built
18 into the database.

19 And finally, the guidance says
20 nothing about how states can comply with
21 HAVA's privacy requirements. Guidance on
22 this issue is important to ensure that a
23 statewide database that is linked to other
24 databases doesn't leave voters susceptible

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1 to identity theft.

2 And there's more detail in the

3 written testimony. In short, one of the
4 main purposes, impetuses of HAVA was the
5 discovery that up to three million eligible
6 voters were denied the vote in 2000 because
7 administrative errors prevented their names
8 from being found on the state's voter
9 lists.

10 Computerization of those lists
11 will not eliminate registration practice
12 errors. It will, however, make it easier
13 for states to update, verify and correct
14 voter records and to better protect voters
15 from disenfranchisement due to errors.

16 We urge the Commission to provide
17 states with better guidance as to how they
18 should protect voters' rights as they
19 implement HAVA's database requirement and
20 adopting the recommendations I have made
21 today.

22 Thank you very much.

23 CHAIR HILLMAN: Thank you.

24 Our next presenter is Michael

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1 Gallagher, who is the project manager for
2 the State of New Jersey for its statewide
3 voter registration system.

4 MR. GALLAGHER: Thank you. Good
5 afternoon, Chair Hillman, members of the
6 Commission. Thank you for inviting New
7 Jersey to participate in this important
8 endeavor.

9 CHAIR HILLMAN: And if I could just
10 ask, I know she will ask, if you could slow
11 down. Don't try to get 30 minutes of
12 testimony into seven, no matter how fast
13 you speak, it won't happen.

14 MR. GALLAGHER: I actually will
15 truncate it a little bit so we can --

16 CHAIR HILLMAN: Speak slowly so our

17 record will accurately reflect your
18 testimony. Thank you.

19 MR. GALLAGHER: Thank you. It is our
20 sincere pleasure to provide you with
21 information regarding our progress in the
22 implementation of a Statewide Voter
23 Registration System.

24 As Ms. Hillman has indicated, I

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1 represent the State of New Jersey Office of
2 the Attorney General. I am their Statewide
3 Voter Registration Project Manager.

4 New Jersey has traveled a very
5 long and at times somewhat challenging road
6 to unite the 21 counties and to get to the
7 point where we are today, which is truly a
8 collaborative effort between election
9 officials representing the 21 counties and
10 the state.

11 Change, as is made inevitable by
12 virtue of the implementation of the
13 Statewide Voter Registration System, this
14 level of change does not come without
15 resistance, without concern. But through
16 an open and comprehensive communicative
17 process with the election officials of New
18 Jersey, we have overcome many of those
19 challenges. We have eased the members
20 resistances. We have quieted some of those
21 concerns.

22 While it is true that there will
23 always be issues that collectively we do
24 not agree on, we are all working together

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1 toward a common goal at this point of
2 successfully implementing a Statewide Voter
3 Registration System.

4 The State of New Jersey has
5 recently contracted with Covansys, an SVRS
6 solution provider to implement an SVRS for
7 New Jersey. We have chosen ElectioNet for
8 our system and we are currently in the
9 process of completing the joint application
10 and development process so that a final
11 specification document can be drafted and
12 used as the basis for assuring that the
13 application will meet 100 percent of the
14 State of New Jersey's requirements.

15 There are multiple phases in
16 successfully implementing a system of this
17 magnitude, many of which are typically
18 planned out over a 24 or even a 30-month
19 period. But because of our time
20 constraints we have put many of these
21 phases on parallel tracks. With the
22 cooperation of the election officials, we
23 are confident that we can achieve our
24 common goals and have a fully functional

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1 system in place by January 1st, 2006.

2 Now, for those of you who are
3 unfamiliar with New Jersey, I can tell you
4 that election officials in New Jersey are
5 among the most passionate and perhaps the
6 most dedicated group of professionals I've
7 come across in nearly 17 years of
8 government. And it has been the result of
9 this very passion and professionalism that
10 has propelled us beyond our differences and
11 united us in a common goal.

12 The state understood early on that
13 it would not be easy to elicit the support
14 of all 21 counties for Statewide Voter
15 Registration System because for so long
16 this effort has been the sole
17 responsibility of the local offices. And

18 gaining this support has been and continues
19 to prove challenging. But as is true of
20 any relationship, having a basis of trust
21 is the foundation as the key to success.
22 And the state has recognized and embraced
23 this concept by working diligently to
24 establish this trust.

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1 This was accomplished by making
2 the process an open process and sharing all
3 information, no matter how minor, with the
4 county election officials. We embraced
5 them as partners and found compromise on
6 issues that were important to them.
7 Moreover, we listened to them and took
8 their concerns seriously and made it a
9 point to never let any concern go
10 unaddressed.

11 The SVRS and its impending
12 implementation became a discussion point at
13 every election-related function we hosted
14 or attended. We established committees to
15 work on various phases of the project and
16 we ensured that county election officials
17 across the board, superintendents of
18 elections, boards of elections, county
19 clerks and municipal clerks were well
20 represented on those committees.

21 Covansys joined the state with an
22 existing application, known as ElectioNet,
23 which is already implemented in
24 Connecticut, West Virginia and Rhode Island

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1 and which is currently in the process of
2 being implemented in Maine, New Hampshire,
3 Idaho, Nevada and now New Jersey.

4 The existing application came to
5 New Jersey already meeting approximately

6 85 percent of our requirements, one of
7 valuable benefits of selecting an existing
8 product that has go to through the
9 development process in several states.

10 The ElectioNet system provides the
11 ability to process election management,
12 pre-election preparation, petition
13 management, absentee ballots and ongoing
14 administration with minimal custom
15 configuration.

16 ElectioNet also provides a
17 majority of the reporting capabilities
18 through predesigned reports and the ability
19 to generate custom, ad hoc reports as
20 required.

21 This is all very well and good,
22 but unless the people who are going to use
23 the system actually buy into it, we've got
24 absolutely nothing. One of the major

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1 hurdles we've had to overcome has been the
2 election officials confidence in the
3 central server, particularly in the face of
4 any potential malfunction or breakdown.

5 Addressing concerns surrounding
6 their ability to continue to retain the
7 same level of functionality and to provide
8 a level of service they are accustomed to
9 providing was imperative to gaining county
10 support for the SVRS initiative.

11 The state addressed this concern
12 by creating an architecture where each of
13 the 21 counties would have its own server
14 to work from in the event of a catastrophic
15 failure. These servers captured data at
16 the local level and passed it to the state
17 on a conceptually realtime basis. This
18 appears to be in conformity with the
19 information provided in Section 3, Guidance

20 on Statewide Voter Registration Lists in
21 the recently drafted document we're here to
22 discuss today.

23 The State of New Jersey's
24 implementation plan includes the rollout of

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1 the SVRS to pilot counties. These
2 counties, whose collective data represents
3 approximately one-third of the voter
4 registration data in the state play a
5 critical role in helping us in successfully
6 completing this implementation.

7 As to our experience in
8 implementing within these 6 counties, we
9 will improve upon our implementation,
10 execution and ensure a smoother transition
11 to the remaining counties. It is
12 anticipated that these 6 pilot counties
13 will be fully operational in using the
14 statewide system in November of 2005.

15 With regard to the Proposed
16 Voluntary Guidance on Implementation of
17 Statewide Voter Registration Lists as
18 drafted by the EAC, New Jersey applauds
19 this effort and concurs with the content
20 developed thus far, as it directly reflects
21 many of the practices the State of New
22 Jersey already employs in administering the
23 implementation of New Jersey's Statewide
24 Voter Registration System.

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1 It is never too late to come out
2 with these guidelines. Many of these
3 guidelines that we're seeing now are
4 validating some of the work we've already
5 done. I mean, we've had constant
6 communication with your offices to ensure

7 that we were on the right track prior to
8 the release of the guidelines. And we hope
9 to continue providing feedback as they were
10 developed.

11 And I loved your comments. I
12 thought they were wonderful actually. She
13 made some very good points about not
14 disenfranchising some of the voters by
15 virtue of implementation of this system,
16 which is, quite frankly, one of the largest
17 topics that we discussed in New Jersey.
18 So it would be interesting to see
19 guidelines that would help us overcome some
20 of those challenges.

21 So on that note, I'm going to wrap
22 up my remarks for the last statement in my
23 seven minutes. I want to thank you again
24 for allowing New Jersey to participate in

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1 this and to share its successes with you.
2 And I hope our input is helpful.

3 CHAIR HILLMAN: Thank you very much.
4 And you did stay within your 7 minutes.

5 Okay. Our next presentation will
6 be Mr. Doug Sanderson, Secretary of the
7 Oklahoma County Election Board, Oklahoma
8 City, Oklahoma.

9 MR. SANDERSON: Thank you, Madam Chair.
10 I am from Oklahoma and in Oklahoma, we
11 speak slowly.

12 CHAIR HILLMAN: You still only have
13 7 minutes.

14 MR. SANDERSON: I only have one page of
15 double-spaced comments to make and it will
16 take 7 minutes to read that.

17 Madam Chair and members of the
18 Commission, it is an honor to address the
19 Election Assistance Commission regarding
20 the voluntary guidance on implementation of

21 Statewide Voter Registration Lists.
22 Speaking on behalf of my colleagues in the
23 Oklahoma Election Management System, we
24 appreciate the opportunity to participate

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1 in the hearing and to offer our experience
2 and perspective on the subject.

3 We believe that any guidance on
4 the subject of Statewide Voter Registration
5 Database requirements of HAVA should be
6 flexible. It should not create
7 restrictions or limit the range of possible
8 solutions from which individual states may
9 choose to meet the responsibilities.

10 In Oklahoma, our Statewide
11 Voter Registration Database has been in
12 place since 1990. At the time it was
13 implemented, only two or three counties in
14 Oklahoma had computerized voter
15 registration lists and it was not easy for
16 those counties to give up their individual
17 systems in favor of a state system.

18 In many states, individual
19 counties have invested large amounts of
20 money in their own voter registration lists
21 and do not want to abandon them. States
22 should be free to adopt their own
23 guidelines to create, where possible, a
24 state database from existing county

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1 databases.

2 We encourage interaction between
3 states to evaluate and identify other
4 systems and procedures that can be suitable
5 for use in their states.

6 When Oklahoma was developing a
7 Statewide Voter Database, our project team
8 evaluated nine different voter registration

9 systems and benefitted greatly from that
10 interaction. The project team learned what
11 to do, as well as what not to do.

12 We also encourage cooperation
13 between county and state election
14 officials. In Oklahoma's election
15 management system, we have a long history
16 of such cooperation. Local election
17 officials are accustomed to following the
18 lead of the State Election Board Secretary.
19 And one reason our system has been so
20 successful is that the State Election Board
21 Secretary routinely seeks counsel from the
22 77 County Election Board Secretaries in our
23 state. Our unified, uniform election
24 system serves us well. And most

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1 importantly, it serves our voters well.

2 Oklahoma's plans for 2006 seem to
3 be in compliance with the recommendations
4 contained in the Proposed Voluntary
5 Guidance on Implementation of the Statewide
6 Voter Registration Lists document. We're
7 pleased that our efforts do not seem to be
8 in conflict with EAC's Voluntary Guidance
9 on this matter.

10 When our State Voter Registration
11 System was created 15 years ago, the
12 project was led by the State Election Board
13 Staff and the State Election Board
14 Secretary. A consulting firm was employed
15 to do the research to develop the plan and
16 to recommend and acquire hardware and to
17 write or adopt software.

18 County Election Board
19 representatives, the end users of the
20 system, were involved in every stage of the
21 design of the system and it came to be
22 known as the Oklahoma Election Management

23 System.

24 OEMS complies in many ways with

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1 requirements of HAVA, but will require some
2 significant upgrades to comply fully. At
3 present, each County Election Board has
4 access only to its own voter list. And
5 only the State Election Board can access
6 the full statewide list.

7 As I understand our plans for
8 complying with HAVA in 2006, the State
9 Election Board will create a website on
10 which the full statewide database will be
11 available to authorized County Election
12 Board personnel.

13 It will be accessed with a
14 password assigned to each county. The list
15 will be updated daily. We do not envision,
16 however, a situation where a County
17 Election Board officials will be able to
18 enter data directly or obtain directly data
19 from other counties within the system.

20 We do regularly receive
21 electronically State Health Department
22 information on deaths of Oklahoma residents
23 and information from the State Department
24 of Public Safety about the drivers license.

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1 For information on felony convictions, we
2 obtain our information manually from each
3 County Election Board, from each County
4 Clerk. And this procedure is not expected
5 to change.

6 In conclusion, I believe the
7 Commission's voluntary guidance proposal on
8 implementation of Statewide Voter
9 Registration Lists is on the right track.

10 The guidance will be helpful to those
11 charged with the responsibility of
12 implementing the Statewide Registered Voter
13 List provisions of the Help America Vote
14 Act of 2002.

15 CHAIR HILLMAN: Thank you very much.
16 Our final presentation, Ms. Michelle
17 Tassinari, Legal Counsel with the Elections
18 Division of the Secretary of the
19 Commonwealth of Massachusetts. Thank you.

20 MS. TASSINARI: Thank you, Madam Chair
21 and Commissioners. I'd like to thank you
22 for the opportunity to participate on this
23 panel and to provide comments on Proposed
24 Voluntary Guidance on Implementation

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1 Statewide Voter Registration Lists.

2 CHAIR HILLMAN: Excuse me. Everybody
3 north of Maryland speaks pretty quickly.
4 So if I could ask you to just slow your
5 pace down.

6 MS. TASSINARI: First, I will give you
7 some background before I actually provide
8 comments. In Massachusetts, we have had a
9 Statewide Voter Registration List since
10 1995. The Voter Registration Information
11 System, known as VRIS, is a single,
12 uniform, official, centralized,
13 interactive, computerized, statewide voter
14 registration list, that was designed to
15 comply with the NVRA, as well as
16 implementing state legislation and
17 regulations.

18 As a result of such legislation,
19 all cities and towns in Massachusetts are
20 required to maintain voting and election
21 related information using the centralized
22 system.

23 The VRIS is a realtime database

24 that supports over a thousand users in each

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1 of the 351 cities and towns of the
2 Commonwealth. The VRIS is also used for
3 maintenance of local census information.

4 The system was designed and
5 remains a closed network with all users
6 directly connected to the database rather
7 than using a Internet-based system. A dual
8 layer of network password security exists
9 and users must log onto a Windows domain
10 controller for network logon and a separate
11 user ID for database/application log-on.
12 Each user in the Commonwealth has
13 individual user logons and pass codes to
14 access the application and the database.
15 And the database log-on is a unique and
16 traceable database identifier.

17 The equipment used by each
18 municipality was provided by the State,
19 including hardware and software. Each
20 municipality received at least one computer
21 with monitor, mouse, keyboard, scanning
22 device and printer. The number of systems
23 deployed was based upon the number of
24 registered voters in the municipality.

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1 The State also provides technical
2 support through a help desk, a division of
3 the Office of the Secretary of the
4 Commonwealth. Additionally, new users are
5 provided with training in their office upon
6 request.

7 The functionality of our central
8 database greatly exceeds those required by
9 HAVA. Although the system was first
10 implemented in 1995, it has evolved greatly
11 to include additional functionality,

12 including election maintenance, such as
13 absentee ballot tracking, election result
14 tallying and ballot generation software.

15 In my opinion, one of the best
16 features added was an expanded e-mail
17 capability. Each of the users can e-mail
18 each other, as well as using broadcast
19 e-mail function. This is an important tool
20 to quickly communicate with local election
21 officials when a new law is passed or
22 policy implemented.

23 Although the required functions
24 only relate to voter information, the

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1 functionality and the multiple
2 functionality I think is important. Such
3 as for our voter lists, there are multiple
4 ways to print the voter list. The voter
5 lists denotes inactive voters, absentee
6 voters and those required to show
7 identification. The voters lists print
8 with a bar code to allow for scanning to
9 update voter history after the election.
10 The voter history is retained for all
11 voters, including party changes, address
12 changes, name changes, as well as each
13 election in which the voter participates.

14 Duplicate voters. The system
15 identifies users of potential duplicates
16 when registering new voters, based on first
17 name, last name, former name, if
18 applicable, and date of birth. And all
19 potential matches are displayed, and if
20 verified, former registration is cancelled.

21 Notices. The system prints
22 acknowledgment notices with their polling
23 place and party and ID requirement if
24 necessary, for that voter. The system also

1 prints mailing labels for confirmation
2 notices to be sent to inactive voters. And
3 the system also generates removal notices.

4 The system also has nomination of
5 petition process, which allow the local
6 election officials to certify signatures of
7 registered voters on initiative petitions
8 as well as nomination papers, which
9 prevents a voter from signing more than
10 once or being certified more than once and
11 also identifies if the voter is in the
12 wrong district or ineligible to sign for a
13 particular candidate.

14 It also has an absentee ballot
15 maintenance process. It maintains the date
16 that the ballot was requested, the date the
17 ballot was sent, the date the ballot was
18 returned and whether it was accepted or
19 rejected. It also houses a place for a
20 separate mailing address for absentee
21 ballots and prints mailing labels which
22 include on the label itself the ward
23 precinct, party and whether the voter needs
24 to show ID on the label for the mailing

1 purposes.

2 It also has the capability of
3 maintaining specially qualified voter
4 status of those persons who are not
5 registered that fall under the Federal
6 Voting Assistance Program, with the same
7 information as regular voters. It also has
8 the capability of printing different
9 reports.

10 The ballot tallying process also
11 allows local election officials to enter
12 their results. This is required for state

13 elections, but optional for local
14 elections.

15 Once the number of ballots cast is
16 entered into the system, the results must
17 add up before they can certify. It also
18 enables, once the results are in there and
19 certified, the users can sort the results
20 by candidate, precinct, party or question.
21 And the results are saved electronically
22 for historical purposes, which serve as a
23 quick reference guide for many local
24 election officials.

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1 The system also tracks provisional
2 ballots. The municipalities enter all
3 information to allow our office to provide
4 voters with determinations as to whether
5 their ballots was counted and why since we
6 have the free access system with our 1-800
7 number.

8 We also use a street maintenance
9 process. The streets for each city and
10 town are maintained in the system and
11 denoted by district. One feature that we
12 have found is helpful with using the street
13 maintenance data is to allow voters on our
14 website to look up their polling places as
15 well as their locally elected officials by
16 entering their street address.

17 Presently, our system is not fully
18 HAVA compliant. The one piece that we are
19 missing is the verification with the
20 Registry of Motor Vehicles, which is
21 currently being developed by our in-house
22 development team working with the Registry
23 of Motor Vehicles development team.

24 I agree that the success of any

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1 system is dependent upon a cooperative
2 effort by state and local election
3 officials. In Massachusetts, elections are
4 conducted on a municipal level at the
5 direction of 351 local election officials.

6 Prior to the implementation of
7 VRIS, each municipality had a different
8 system of maintaining voters. The VRIS
9 system exists today as a result of
10 cooperative effort of local election
11 officials and the state. The development
12 of the original system and all subsequent
13 modifications has been achieved by
14 suggestions and requests from the users
15 themselves.

16 The staff that maintains the
17 database regularly meets with a user group,
18 which is comprised of representatives of
19 both the City and Town Clerk's
20 Associations. Any user that has
21 suggestions provide them to the user group
22 and then the user group presents them to
23 our staff.

24 This process has led to the

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1 development of a user friendly system with
2 extensive functionality. The process has
3 also led to the successful transition from
4 local systems to using the statewide
5 system.

6 Additionally, having
7 representatives from both cities and towns
8 provides each with a different perspective
9 of the usability of suggested modifications
10 relative to the size of the municipality.

11 I also agree with the proposed
12 guidelines, but it is imperative to define
13 the obligations of all parties clearly.
14 The VRIS has regulations that define what

15 information must specifically be entered
16 into the system and the timeliness in which
17 such entries must be made. Such
18 definitions are critical to ensure the
19 accurateness of the information.

20 The proposed guidance is helpful
21 for the development and implementation of
22 the system, but in my opinion, it is
23 essential to include that any system being
24 developed must incorporate the present

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1 functionality of local systems already
2 being used. If the system provided to a
3 local election official does not provide
4 the functions that they already have in
5 their local system, they will most likely
6 maintain both systems. And in my
7 experience from the transition of local
8 systems to the statewide system in
9 Massachusetts, this is a dangerous practice
10 that results in one list being compromised.

11 The capabilities of such systems
12 can expand as user demands expand.
13 Accordingly, I think it's important to
14 continually improve any system to make it
15 more useful. However, it would be helpful
16 if the guidance would include the types of
17 information the Election Assistance
18 Commission concludes are necessary to
19 successful implementation, not just the
20 names of voters, but also any other
21 information that the Commission may seek in
22 the future, such as that related to
23 absentee ballots and provisional ballots.

24 Again, I'd like to thank you for

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1 the opportunity to participate in this

2 process. And if there are any further
3 questions, I'd be more than happy to answer
4 them. Thank you.

5 CHAIR HILLMAN: Thank you to all the
6 panelists. Commissioner Soaries, we can
7 begin the questioning with you.

8 COMMISSIONER SOARIES: I have no
9 questions.

10 CHAIR HILLMAN: All right.
11 Vice-Chairman.

12 VICE-CHAIRMAN DeGREGORIO: Thank you
13 Madam Chair. Ms. Weiser, thank you for
14 your comments. We've heard from election
15 officials, but I think it's important for
16 us to hear other viewpoints, certainly.
17 And you raise some good issues in your
18 testimony in talking about periodic audits
19 of the information that's put into the
20 systems; I think that's certainly a good
21 idea and the states should develop uniform,
22 nondiscriminatory and transparent standards
23 for determining when a registration record
24 is subject for removal from the list.

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1 Certainly, we want to make sure
2 that when public officials remove someone's
3 name from a voter registration list for
4 whatever reason, that there is a record of
5 it that is transparent, that people know
6 why it was done and can defend why it was
7 done.

8 We talk here about having
9 registration forms submitted to state
10 officials at voter registration sites,
11 driver's license offices, other state
12 offices and processed on an expedited
13 basis. Certainly, there's terms within
14 HAVA that are subject to some
15 interpretation. And this working group

16 tried get to that.

17 How would you define expedited
18 basis?

19 MS. WEISER: Well, I wanted to explain
20 I didn't have an opportunity to say it
21 today, but with respect to that written
22 testimony, the guidance currently does
23 reference that local officials have to
24 enter the data on an expedited basis, but

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1 it doesn't talk about what happens to the
2 data when it reaches other officials before
3 it reaches -- and we believe that HAVA
4 really does require the entire processing
5 to be done on an expedited basis.

6 I unfortunately, can't give an
7 answer to what an appropriate time frame
8 would be because I have not studied what
9 the different ranges of time periods are.
10 With the database, we believe that it could
11 be done within a day, once all the
12 electronic integration is set up. I
13 haven't studied to see whether that is
14 feasible, that exact timing yet, so I will
15 hope to have an opportunity to respond
16 after this hearing on that.

17 VICE-CHAIRMAN DeGREGORIO: Sure. And
18 we recognize that voter registrations come
19 in, thousands of them come in on one hand
20 through driver's license offices and state
21 offices through the state and others come
22 in from the local officials, through voter
23 registration groups. And it's not part of
24 our guidance, but there are some problems

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1 with voter -- people who register voter's
2 groups who don't get their registrations in
3 on a timely basis; that's a continuing

4 problem.

5 I'd like to ask the folks here,
6 we've got Rhode Island and New Jersey, who
7 described their implementations since HAVA,
8 since HAVA was passed, and how you had to
9 come forth through RFPs, put together
10 groups and move forth to put together your
11 Statewide Voter Registration Database. And
12 we have others, Oklahoma and Massachusetts
13 describe your 10-year process, you've had
14 it for over 10 years and that experience
15 that you've had in doing so. And then, of
16 course, the subject is this guidance that
17 we've proposed here.

18 There are some states, a few
19 states, couple of big ones that really
20 haven't done anything. I mean, to -- and
21 the time is ticking and January 1st, 2006
22 will be here soon. Do you see, any of you
23 see anything in this guidance that could
24 delay implementation in those states or

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1 might the guidance that we issue help these
2 states and benefit them, a benefit that you
3 didn't have when you put together and put
4 together your RFPs in your systems months
5 and years ago. Jan, you can go ahead and
6 start.

7 MS. RUGGIERO: I see any information
8 that you can provide them as a benefit.
9 The best way that I can describe Rhode
10 Island for other states is you have to look
11 at Rhode Island as a county.

12 And what we did, these bigger
13 states are going to have to mirror in each
14 county. So there will have to be somebody
15 above where I was who oversees the county
16 leaders and the county leaders will have to
17 go out and to do exactly what I did to my

18 39 cities and towns. And it's going to
19 have to happen simultaneously or it's never
20 going to get done. It's a massive project.
21 But whatever guidelines we can give them
22 and direction for fast-tracking, certain
23 things and whatnot, absolutely.

24 MR. GALLAGHER: Yeah. It is a -- I

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1 think that any guidelines that are provided
2 are certainly helpful. I think one of the
3 things that certainly helped New Jersey
4 that are in these guidelines that I just
5 recently read was the fact that there could
6 be local, sort of a localized collection of
7 data and servers.

8 We spent months in New Jersey
9 fighting about this with the counties and I
10 do mean fighting, to the point where there
11 was almost a lawsuit filed on behalf of the
12 counties because they felt it was their
13 data. And this is no secret. And you
14 know, the communication plan and all that
15 helped, you know, kind of bridge those
16 troubled waters.

17 But in reality, had we had some of
18 this guidance up front, the state may have
19 been more inclined to agree with that
20 architecture from the get go. So certainly
21 that's going to help some. But quite
22 frankly, with 8 months left before January
23 1st, if you're not in the determinative
24 process at this point, I just -- I don't

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1 even know how we're going to do it, I mean,
2 and I know we're going to do it because I
3 don't sleep until it happens, but I just --
4 I just don't know how it could get done.

5 SECRETARY SANDERSON: In my comments I
6 mentioned flexibility and, you know, in the
7 upper top-down or the bottom-up and all
8 that, and the reason for that was, of
9 course, Oklahoma is basically a top-down or
10 however you want to phrase it, state. We
11 have a statewide system.

12 But I think the Commission should
13 be cautious about how specific they get in
14 their Voluntary Guidance because some
15 states, as you discovered, may find
16 themselves in situations where they don't
17 have time to develop really a statewide
18 system and they're going to have to cobble
19 something together from among the different
20 counties to make it work, to comply in
21 2006. So that's my general comments.

22 We obviously, you know, in
23 Oklahoma think a statewide system with a
24 statewide database is preferable, but just

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1 realizing the time frames involved here,
2 some state may have to do otherwise, at
3 least initially.

4 MS. TASSINARI: I would agree that any
5 guidance is obviously helpful. I would
6 like to say that I think it's important to
7 remember that we're to include in
8 guidelines what is the minimum information
9 that you think needs to go into the system,
10 but also to emphasize that although this
11 may be the minimal and this is the deadline
12 to have that minimal information added,
13 that it's a growing feature, that you can
14 add to the system to include additional
15 functionality after January 1st. That what
16 you have in place as of January 1st, 2006
17 does not have to be the final system that
18 you use forever; that it is a system that

19 can grow and expand as the needs grow and
20 expand and as you learn from your
21 experience.

22 MS. WEISER: I just wanted to add,
23 really encourage the Commission not to
24 water down any of its recommendations or

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1 HAVA's requirements in the interest of the
2 time frame. Hopefully, states can develop
3 systems that can grow in their
4 capabilities. We don't think that any of
5 the protection should be left out.

6 This is a massive undertaking that
7 states are not likely to do more than once
8 and they should do it right the first time.
9 And if they're behind at all, then they can
10 figure out other ways to get up to speed.
11 But I don't think one of those ways is
12 watering down the protections in HAVA and
13 for voter rights.

14 MR. GALLAGHER: And just to bank on
15 that a little bit, there seems not to be a,
16 at least it's not apparent to me or I don't
17 know about the public, a communication
18 between the Justice Department and the EAC.
19 So I guess there's that uncertainty out
20 there that the guidelines you're putting
21 out, will the Justice Department actually
22 accept as this is the appropriate
23 interpretation of HAVA.

24 So when we see a lot of your --

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1 some of your advice come our way that are
2 somewhat disclaimed, you know, this is only
3 our opinion, this is our interpretation,
4 the Justice Department may see it
5 differently, that puts a certain level of
6 uncertainty on the people that are trying

7 to put the systems in place which as a --
8 you know, the result of which is that the
9 people who we're putting into place for
10 have the same concerns and are less likely
11 to buy into the implementation of the
12 system. So it's something I'd like to see
13 more communication on.

14 VICE-CHAIRMAN DeGREGORIO: You raise a
15 good point. Let me just ask Commissioner
16 Martinez because I think the Department of
17 Justice was involved in the development of
18 --

19 COMMISSIONER MARTINEZ: Yeah. No. I
20 think it's an extent point that Mr.
21 Gallagher makes. And I think certainly we
22 had taken that responsibility very
23 seriously to engage in constant
24 communications with our Federal partners at

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1 DOJ.

2 In this particular instance, Mr.
3 Gallagher, the working group that we pulled
4 together actually included representation
5 from the Office of Civil Rights, the
6 Department Justice, Hans von Spakovsky, who
7 I think is the HAVA, I don't have Hans'
8 exact title, but he's the HAVA point
9 person, if you will, in the Office of Civil
10 Rights he was at the table.

11 I don't want to represent that
12 this reflects his opinion because that
13 would be an injustice to Mr. von Spakovsky
14 and his colleagues at DOJ, they'll have to
15 make that determination accordingly. But
16 we were very careful in assuring he was at
17 the table when we did all this guidance.

18 MR. GALLAGHER: Do you think there will
19 be a point where they will actually sign
20 off on the guidelines that the EAC

21 officially puts out as their opinion?
22 COMMISSIONER MARTINEZ: Good question.
23 And I don't know the answer. Obviously,
24 their enforcement authority kicks in once

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1 the deadlines come into play. They have
2 civil enforcement authority under Title III
3 and the guidance that we issue will be
4 instructive to helping them determine what
5 is necessary enforcement action, if any.

6 COMMISSIONER SOARIES: Madam Chair?

7 CHAIR HILLMAN: Commissioner Soaries.

8 COMMISSIONER SOARIES: This is our
9 first guidance, which means that we are
10 establishing precedent; that's why it's
11 important how we juxtapose our guidance to
12 the future potential direction of Justice
13 is subject to working through this process.

14 And I think what the Commissioner
15 said is that the first level was to invite
16 the Justice Department to sit at the table.
17 Secondly, the Advisory Committee has to
18 concur and has input on our guidance and
19 the Justice Department is part of that
20 committee.

21 But I want to really be clear in
22 distinguishing between the issuance of this
23 guidance and any other communication that's
24 ever gone out from EAC. Because the

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1 guidance as described by our general
2 counsel is subject to a development process
3 that, for instance, our best practices. So
4 I want to differentiate between anything
5 else we've really done and this. And how
6 we do this will set a precedent for future
7 guidance issuance. So I take your point.

8 CHAIR HILLMAN: Just one more point of
9 clarification, there really is no
10 requirement in the Help America Vote Act
11 that the Justice Department sign off on our
12 guidance before it's issued. It's
13 voluntary guidance. And it's up to the
14 state to use it as best it wants.

15 Okay. Commissioner Martinez,
16 before I turn the mike over to you, I do
17 have a question for the states about the
18 cost of developing and implementing the
19 system and projected costs for maintaining
20 it. And then of course, in the situation
21 of Massachusetts where you've been doing
22 this, what you found your maintenance costs
23 have been. Maybe we'll start with Rhode
24 Island.

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1 MS. RUGGIERO: Sure. Our overall cost
2 to implement the system was about
3 \$2.8 million and we have given the local
4 boards everything. I mean, we went in and
5 we installed every piece of hardware. I
6 mean, we routinely have a networking
7 specialist on state payroll that goes out
8 and makes the rounds to the cities and
9 towns to make sure the printers are
10 working, if they forgot their password,
11 their boxes, all that stuff.

12 So we imagine that what we had
13 hoped to do, because the Secretary of State
14 is the Chief State Election Official, and
15 we had planned the HAVA funds so that we
16 would always have money in reserve and we
17 would use that money to maintain the cost.

18 Now, we've had some issues with
19 our state budget office who wants to spend
20 the HAVA money faster than the Secretary of
21 State wants to spend it. But that's pretty

22 much our game plan and we pretty much see
23 it moving out in that track that the state
24 will always support and maintain. I mean,

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1 the RINET-MUNI is \$100,000 a year for that
2 closed, private Internet connection. We've
3 just piggybacked onto the Department of
4 Health and we have a management system in
5 the state on their closed Internet system.
6 And that's what we are using. So we have
7 found resources. And again, we have a very
8 robust IT department within the Secretary
9 of State, so that will help us with a lot
10 of the IT concerns to keep these 39 cities
11 and towns, almost 100 users, operating.
12 But we believe we have enough money
13 budgeted that way that we will never spend
14 all the money, that there will always be
15 that reserve gaining interest that we will
16 use to maintain and replace equipment.

17 CHAIR HILLMAN: And I realize that the
18 state has -- the State of Rhode Island has
19 put some funds in, but it looks like about
20 one-third of the HAVA dollars that you've
21 received have gone into the -- or going
22 into your database?

23 MS. RUGGIERO: That is just about.
24 Keeping in mind that we already have an

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1 optical scanning voting equipment system.
2 So we were just looking to pick up an
3 accessible piece, so that we can devote a
4 lot of attention to the voter registration
5 system.

6 CHAIR HILLMAN: Thank you. New Jersey.

7 MR. GALLAGHER: Ours are a little bit
8 higher, actually. And just to compare it
9 apples to apples, I think you really need

10 to see exactly what it is you're
11 implementing and buying when you hear these
12 numbers. And not knowing that. But it's
13 costing us about \$14.8 million to put in a
14 Statewide Voter registration system,
15 complete with all of the equipment out at
16 the county level, servers, PCs,
17 connections, everything.

18 On top of that \$14.8 million, we
19 have -- I have estimated with absolutely no
20 foundation whatever, but I have estimated
21 we'll spend about another million dollars
22 in equipment that we have not yet -- we
23 don't know what we need yet. I think the
24 original survey was done about a year and a

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1 half ago. County offices have expanded.
2 We're out there doing surveys to find out
3 what their needs are. This county has four
4 more people, so they need four more PCs;
5 this county has six more people, so they
6 need six more PCs and so forth.

7 We also have committed to counties
8 because of the fear I spoke of in my
9 testimony early, that, you know, what
10 happens when the system goes down, I can't
11 print my poll books, what do I do? We are
12 providing them an additional server so
13 there's actually two servers going out to
14 each of the 21 counties, one to handle the
15 SVRS, the application itself, which will
16 reside resident on their server, and then a
17 server for which they can print off of it,
18 print server, because the first server
19 didn't really have the capacity to handle
20 both the printing capabilities and the
21 database capabilities.

22 So I expect there will be about
23 another 500,000 to a million dollars in

24 additional hardware costs. I anticipate

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1 there will be an additional million dollars
2 in communication line costs, who needs a T1
3 line. They still deliver their mail, you
4 know, walking it across the street. They
5 don't know what e-mail is, that kind of
6 thing. So there's those issues we have to
7 contend with. Then putting infrastructure
8 in place to support those communication
9 lines.

10 So I'm guessing there may be
11 another million or two on top of the 14, 8
12 that I originally stated.

13 Now, here's another cost, though,
14 that most people don't look to and I would
15 highly encourage the federal government to
16 consider additional funding on an ongoing
17 basis after the January one implementation
18 date, now that we've put these extra --
19 because we've put an architecture in place
20 that consists of all these additional
21 servers and all this additional equipment,
22 now there's a support mechanism that needs
23 to be put in place for those on an ongoing
24 basis, their communication lines and

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1 whatnot. And so as not to unfairly burden
2 the counties with that expense, since quite
3 frankly, this has been forced upon them, we
4 need to look at funding scenarios that help
5 them meet those ongoing costs.

6 And just to clarify, the 14.8
7 million, two million of that is for two
8 subsequent years of support. So actually,
9 the system itself is only about 12 million
10 or so.

11 CHAIR HILLMAN: Okay. Oklahoma.

12 SECRETARY SANDERSON: Madam Chair, I'm
13 just the local Election Board Secretary
14 there, so I really don't have, fortunately
15 I think, much information on what it takes
16 to run a system. But I think our initial
17 costs were comparable to the figures that
18 were mentioned previously, but I have no
19 idea what they are today.

20 CHAIR HILLMAN: Massachusetts.

21 MS. TASSINARI: With our initial
22 system, I believe the cost started at
23 around 5 million and then with litigation
24 afterwards, probably increased slightly.

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1 Our continued implementation costs
2 do average around \$3 million out of the
3 Secretary's budget, which we have requested
4 from the legislature every year
5 approximately that amount. But that amount
6 also includes a support to each of the
7 cities and towns.

8 We did originally provide them
9 with all of the hardware and the software.
10 We have done one hardware upgrade since its
11 initial implementation and will be looking
12 to do additional hardware upgrades and
13 maybe provide some additional equipment as
14 the communities are growing.

15 And we also staff a help desk.
16 And our help desk staff also includes a
17 consultant that does -- includes a
18 maintenance contract with a company that
19 does go out and address any issues that are
20 software/hardware problems, wires, routing,
21 things like that. And just the cost for
22 the line coming into our office I think are
23 one of the most expensive yearly
24 maintenance costs because they are directly

1 connected to our office.

2 CHAIR HILLMAN: Thank you.

3 Commissioner Martinez.

4 COMMISSIONER MARTINEZ: Thank you,
5 Madam Chair. My thanks to all of our
6 panelists. I think the testimony was
7 excellent in addressing the questions that
8 we were trying to get to.

9 I will be brief in my questions.
10 I want to start if I could with the
11 election administrators on the panel. And
12 that is, in Question 9 of the guidance, we
13 give language that basically says that the
14 Statewide Voter Registration Lists should
15 be synchronized with local Voter
16 Registration Databases at least once every
17 24 hours to ensure that the information is
18 accurate. Doug, in Oklahoma County, how
19 does that play for you, just in terms of
20 how you do that?

21 SECRETARY SANDERSON: Right now, we
22 only update basically every three days.
23 And so it's going to be a major undertaking
24 but we're going to get it done and we'll

1 basically have a system that will update
2 within the 24-hour time frame. But it's a
3 significant change for us.

4 COMMISSIONER MARTINEZ: Jan, are y'all
5 realltimeing in Rhode Island?

6 MS. RUGERI: It's realtime.

7 MR. GALLAGHER: New Jersey's is
8 conceptually realtime. And our election
9 officials just were not comfortable with
10 having a longer lead time. They wanted
11 immediate response from the state on
12 verifications from our lists and whatnot.

13 COMMISSIONER MARTINEZ: Michele?
14 MS. TASSINARI: Ours is a realtime
15 database, as well.
16 COMMISSIONER MARTINEZ: Thank you.
17 Question 10 of the Draft Guidance, the
18 first paragraph states that, "States should
19 coordinate the Statewide Voter Registration
20 Lists with other agency databases, for
21 example, voter registration agencies as
22 defined by the NVRA that may contain
23 information relevant to the Statewide Voter
24 Registration List." Doug, in Oklahoma

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1 County, how does that play for you?

2 SECRETARY SANDERSON: Well, as you may
3 have noticed, I mentioned we get our
4 Corrections Department information from the
5 County Court Clerk. And the reason we do
6 that is because the state computerized
7 system didn't work.

8 When the state -- we at one time
9 did get the information electronically from
10 the state Corrections Department directly,
11 but the data that they gave us was not the
12 sort of data that we needed, because it
13 wasn't specific enough, didn't give us
14 specific enough detail on the felony
15 convictions, on the length of the felony
16 convictions and stuff like that.

17 And I think you'll see that also
18 with the driver's license situations in
19 many states. We get information from our
20 state Department of Public Safety on
21 driver's license for people who have
22 surrendered an Oklahoma driver's license
23 outside the state of Oklahoma. However, so
24 far, let's just say we're still in

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1 negotiations about trying to get our state
2 election database hooked up with the
3 Department of Public Safety.

4 COMMISSIONER MARTINEZ: All right. Jan
5 how --

6 MS. RUGGIERO: What we are doing in
7 Rhode Island is, as far as Department of
8 Health, we have a system with ElectioNet
9 where we've worked out with the Department
10 of Health where they will periodically send
11 us the electronic transmission of all death
12 records.

13 The system internally, ElectioNet
14 is the one who sought those and dropped
15 them into the potential appropriate cities
16 and towns where those voters might have
17 been registered. With ElectioNet, when a
18 user turns on that system, there's a
19 reminder screen and it tells them
20 everything they've got waiting for them,
21 whether it's Department of Health notices,
22 court cancellations for convicted felons or
23 driver's license transactions that became
24 voter registrations. So they have these

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1 prompt screens. So that's how we're going
2 to handle Department of Health.

3 Right now, we only take felony
4 convictions from the courts. When I leave
5 here, I will go back to Rhode Island to
6 testify to be able to expand that to get a
7 better source for felony convictions where
8 we can track all the information.

9 Again, it would be handled the
10 same way. The database would be picked by
11 Covansys or PCC, merged into our ElectioNet
12 system, and then just spun off every
13 morning to the right city or town in the

14 reminder screen.
15 We're in the final changes now of
16 electronic transmissions of voter
17 registrations taken at DMV. When somebody
18 is applying for a driver's license, that
19 whole file will come over electronically at
20 the end of every day. Again, we have a
21 reminder screen. The registration from DMV
22 is only an application at that point. We
23 don't take that authority away from local
24 board of canvassers. It comes over as a

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1 reminder. It will be a split screen.
2 The person that's trying to
3 register, they would validate it, make sure
4 it's not a duplicate registration, accept
5 or reject. We are not asking DMV to pass
6 upon the validity of any voter
7 registration. Everything that's processed
8 at DMV will come over electronically. We
9 are assured that way everything will come
10 over. There will be no data entries on the
11 local level. The local boards love it. I
12 mean, they're saving thousands of key
13 strokes in putting all these records in.

14 So we have integrated -- the
15 Secretary mentioned we have legislation, as
16 far as other agencies, social service
17 agencies, whatnot, it's such an expensive
18 process and security and equipment and
19 whatnot, to bring another agency on board
20 to send information electronically, that if
21 it's an agency only doing five or six
22 registrations quarterly, we wouldn't be
23 looking at that agency. But we're going to
24 start tracking. And any agencies that are

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1 going to show a significant number, then we

2 bring them on board for electronic
3 transmission as well.

4 MR. GALLAGHER: New Jersey's
5 implementation plan actually calls for five
6 DIA, Direct Impact Agency Integrations. We
7 are currently in the process of meeting
8 with each of those agencies and making sure
9 that we can do -- that their systems can
10 accept, you know, some type of interface so
11 that we can pull that data.

12 So far, we've been pretty
13 successful in those meetings. Nobody seems
14 to think there's a major issue. Sometimes
15 there is the issue of well, do we take a
16 flat file and bump up against it on a
17 periodic basis, maybe once a day or
18 whatever, versus a realtime interface,
19 which then, quite frankly, makes your
20 systems -- you know your system could
21 actually -- the verification of
22 registrations could be slowed, not the
23 system, but verification of
24 re-registrations could be slowed if their

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1 system is down, if one of your DIA systems
2 is down. So we're trying to balance those
3 and find the appropriate balance so that we
4 get immediate response.

5 COMMISSIONER MARTINEZ: Right. Michele
6 in Massachusetts?

7 MS. TASSINARI: In Massachusetts, RNV
8 the applications come over electronically
9 in a batch file. And then within our
10 office we sort the batches. And similar to
11 Rhode Island, they have prompt screens in
12 the morning that, you know, you have these
13 pending applications to process.

14 And for the RNV applications, the
15 signatures are actually stored

16 electronically as well, so that the local
17 election official can view a signature,
18 which is something that's been added fairly
19 recently. Prior to that, it would be just
20 the regular app. The information came over
21 and if they had need to view the signature,
22 we'd have to get them the piece of paper
23 from the Registry. The storage of the
24 electronic signature through the Registry

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1 is something that's fairly new.

2 With death records, we're not
3 connected to the Department of Public
4 Health, but we regularly get disks from
5 them of their deaths. And then we sort it
6 for the cities and towns. We don't send it
7 to them electronically just because we want
8 them to be able to verify the information
9 and there may be more than one place that
10 it could be a possible death to be removed.
11 But we do encourage the local election
12 officials to also work with their local
13 funeral homes and the local hospitals.

14 The place we have the most problem
15 unfortunately, are on the border cities and
16 towns, where a person may have died in
17 another state and it wasn't reported that
18 they lived in Massachusetts if the hospital
19 was closer in the other state.

20 With our felony records, our
21 felony law is something that's fairly new
22 that we've been working with the Criminal
23 History Systems Board to figure out the
24 access to that type of information since it

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1 is governed by statute as to who can have
2 access and how to get that access and what

3 type of release you have to sign to get
4 that access.

5 COMMISSIONER MARTINEZ: Michael, when
6 your system is up and running, will you be
7 able to have your local election officials
8 on election day have a laptop that they can
9 verify or that they can pull up actual, the
10 actual official list of registered voters
11 for that federal election?

12 MR. GALLAGHER: That is not in the
13 current implementation plans, although it
14 is something we've talked about and we have
15 discussed and we hope to implement after we
16 get the system in first.

17 COMMISSIONER MARTINEZ: Jan, any
18 thoughts on that?

19 MS. RUGGIERO: I agree. When we
20 decided what the priorities were to get
21 this implemented, I mean, that's in the
22 back of our mind, but not on the fast
23 track.

24 COMMISSIONER MARTINEZ: All right. And

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1 what about allowing voters to have access
2 to, you know, go to a computer themselves
3 and pull up their information and be able
4 to see, here's my assigned precinct, here
5 is where I'm supposed to vote, et cetera,
6 is that built into your system?

7 MR. GALLAGHER: Yes. That is in New
8 Jersey.

9 COMMISSIONER MARTINEZ: Jan?

10 MS. RUGGIERO: It is built in. In
11 fact, in some of the hardware and software
12 allocated for public inquiry terminals,
13 plus we have also linked it to our website
14 where you type your street address, your
15 polling place will come up, your ballot
16 will come up, your candidates associated

17 with your ballot, everything with respect
18 to that particular street address will come
19 up on our Internet.

20 COMMISSIONER MARTINEZ: Okay. I will
21 wrap up with Ms. Weiser, and I didn't mean
22 to ignore you today. I think your
23 testimony, your written testimony is very
24 compelling. I will just tell you that.

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1 And I think it's very beneficial.

2 And I want to address something
3 that Commissioner Soaries said earlier
4 which I think needs some clarification. I
5 agree with him that this sets precedent in
6 terms of how we conducted this. But in a
7 sense we chose intentionally to build a
8 working group in this instance of election
9 officials who were calling us constantly
10 and DOJ, saying we need some help to
11 interpret some of these ambiguous terms.
12 So we intentionally comprised or built a
13 working group so that it was exclusively
14 election administrators so that we could
15 get at the first take what are the policy
16 issues that are causing consternation and
17 frustration as jurisdictions are trying to
18 build their systems.

19 So in addressing Commissioner
20 Soaries point, I want to make sure that we
21 don't send a signal that our precedent is
22 to avoid the important voice of the
23 advocacy community, voting rights and civil
24 rights organizations. We do not intend to

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1 do that.

2 I think we've gone out of our way,
3 in both the chairmanship of Mr. Soaries and
4 our current chair, to ensure that those

5 stakeholders absolutely have a place at the
6 table and are valued in terms of what we're
7 trying to do.

8 So I want to say that as an
9 opening statement. And then also, just to
10 say that I think, again, I think the
11 testimony that you submitted is very
12 helpful. And I think my microphone may
13 have turned off. Can everybody hear me?
14 Okay. Good.

15 Ms. Weiser, what states, if any,
16 serve as examples in terms of the matching
17 protocols that you suggested? Can you
18 point to any states in particular? Don't
19 give me the bad; give me the good in terms
20 of the states that might have the type of
21 protocols that you suggested.

22 MS. WEISER: Well, there are a number
23 of states that said that they aren't going
24 to reject the applications.

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1 COMMISSIONER MARTINEZ: Sure. I saw
2 that.

3 MS. WEISER: We haven't had the
4 opportunity yet, we plan to actually go in
5 and study the technological way in which
6 they're going to be conducting the matches.

7 But I could list the states so far
8 that we've spoken to that at least will not
9 reject the applications, will go and either
10 seek more information from the voters or
11 ask them at the polling place or have them
12 swear to their eligibility if they can't
13 find a match. And those include Oklahoma,
14 Louisiana, Kansas, Massachusetts that it
15 most likely was planning on doing that and
16 we can -- Delaware, West Virginia,
17 Tennessee and Connecticut.

18 There are a number of states that

19 haven't decided what they're going to do
20 with the matching protocols yet. I think
21 that a guidance on this would be
22 extraordinarily useful at this time and it
23 won't, I don't believe it will slow down
24 what states are already doing.

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1 And I wanted to just also thank
2 you for expressing an interest in including
3 more groups representing voters' interests
4 and I hope that perhaps in future guidances
5 that you might consider also bringing such
6 groups in earlier in the process as well.

7 COMMISSIONER MARTINEZ: It goes without
8 saying, I think that's what we were trying
9 to convey is that that will happen. In
10 this instance, we felt this was
11 appropriate. Plus, we built in a big
12 window of comment, essentially, so we still
13 have another four or five weeks before we
14 even consider going final. So yes. But I
15 think your point is very well taken.

16 And if you will, Ms. Weiser,
17 refresh my memory as to NVRA obligations in
18 terms of, there are obligations under NVRA
19 for local jurisdictions to go and
20 supplement information when a voter
21 registers and they have not given complete
22 information, isn't there an obligation
23 under NVRA for jurisdictions to go and get
24 the complete record, if you will?

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1 MS. WEISER: There are such
2 obligations. I unfortunately, don't have
3 the NVRA with me.

4 COMMISSIONER MARTINEZ: And I don't
5 either. And that's fine. But that plays

6 into some of your suggestions, as well, in
7 that again, we are not obviating, we are
8 not in any way eliminating the obligations
9 that currently exist for election
10 jurisdictions under NVRA. So I will simply
11 reiterate that point. I just wonder if you
12 have -- I've probably gone way over my
13 time.

14 CHAIR HILLMAN: Yes, you have, sir.

15 COMMISSIONER MARTINEZ: Okay. I
16 usually get that stern comment there from
17 the Chair.

18 So my last question, do you have
19 any comments, if you will, regarding the
20 top-down versus bottom-up discussion we've
21 been having, particularly during the first
22 panel? Ms. Weiser.

23 MS. WEISER: We haven't taken a
24 position on the top-down versus bottom-up.

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1 We do agree that a more central system is
2 more consistent with the language or with
3 what the intent of the statute was. We
4 don't have a view at this point as to the
5 extent to which bottom-up systems can
6 comply with and whether in some
7 circumstances they might be the better way
8 to go. So we don't have a view on that
9 yet.

10 COMMISSIONER MARTINEZ: Thank you.

11 MR. GALLAGHER: Can I make a comment on
12 New Jersey's architecture with regard to
13 that statement? The way, in New Jersey,
14 the way we're kind of convinced ourselves
15 that we are in full compliance with HAVA is
16 although the data is collected locally and
17 passed to the state on a conceptually
18 realtime basis, it is at the state level
19 that the DIA checks are done. And once

20 those checks are completed, they are then
21 passed back down to the counties.
22 Unless there's a catastrophic
23 failure of the main system, only at that
24 point would the locals then use their local

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1 system to generate those poll books. They
2 are using the state system.

3 So even though the data is being
4 collected and administered locally, it only
5 becomes an actual complete voter
6 registration when those DIA checks are
7 done. And so therefore, the state system
8 is the system of record, if you will, and
9 is a centralized system.

10 COMMISSIONER MARTINEZ: Thank you.

11 CHAIR HILLMAN: Commissioner Soaries,
12 did you have something you wanted to add?

13 COMMISSIONER SOARIES: Yes. Being a
14 frequent victim of my name being
15 mismatched, I would urge us to take very
16 seriously this notion of providing guidance
17 on this matching process. You know, HAVA
18 is, I think, defined by some as hope
19 America votes and others hinder America
20 from voting.

21 And when I go to check into a
22 hotel and they say I'm not registered,
23 almost every time I know they put my first
24 name last and my last name first and leave

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1 out the middle initial, if you decapitalize
2 the F, you can't get an exact match.

3 And this rush to verify could
4 undermine voting rights in unprecedented
5 ways. And so I really do appreciate the
6 Brennan Center's work, not just on this,
7 but on other work that we've done together

8 and I would really hope that we would take
9 these recommendations very seriously.

10 CHAIR HILLMAN: Indeed, we will. To
11 the panelists, thank you all very much for
12 taking your time for your very thorough,
13 complete and insightful presentations. We
14 appreciate it.

15 The next panel, we reserved time
16 for members of the public to register who
17 wanted to provide comments on the proposed
18 guidance. I'm going to call the names of
19 the four people who did register. I want
20 to see if those individuals are here now.
21 Secretary Mary Kiffmeyer? Mrs. Lillie
22 Coney? Thank you. Dr. Sheila Parks. And
23 Ms. Jeannette Sineco (phonetic). Is
24 Jeannette Sineco from the League of Women

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1 Voters here?

2 Okay. We had indicated that that
3 portion of our hearing would begin at 3:20.
4 We are very close to 3:20. And I think I
5 would have provided Secretary Kiffmeyer the
6 opportunity to go first. But I think that
7 we can get through the first two persons
8 who are here, and hopefully by that time,
9 we will be at 3:20 and hopefully the other
10 two presenters will be in attendance. If
11 not, we'll take a short break and hope that
12 they arrive to include their presentation.

13 So bearing your indulgence,
14 Commissioners, we don't have to break and
15 then break up conversations to get people
16 to be back in their seats.

17 The public comment period was
18 designed for public participation.
19 Pursuant to the public notice for this
20 hearing, members of the public or
21 organizations were contacted and were told

22 that they would be given three minutes of
23 hearing time for comment. All groups and
24 persons have preregistered and have been

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1 contacted regarding their participation.

2 Comments will be strictly limited
3 to three minutes to ensure the fullest
4 participation possible. And the
5 Commissioners will not be asking questions
6 of the persons during this public comment
7 period time.

8 Now, I might be a minute or two
9 fast, but I have 3:15. And I guess we will
10 go in alphabetical order. So I will call
11 on Mrs. Lillie Coney to make the first
12 presentation.

13 MS. CONEY: Thank you. My name is
14 Lillie Coney and I am Associate Director of
15 the Electronic Privacy Information Center
16 located in Washington D.C. EPIC is a
17 public interest research center established
18 in 1994 to focus public attention on
19 emerging civil liberties issues as they
20 related to information technology and to
21 protect privacy and the First Amendment and
22 constitutional values.

23 It is EPIC's position that
24 compliance with Section 303(a) with HAVA

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1 should include transparency, privacy and
2 security for voter registration
3 information, while at the same time meeting
4 the challenge of realtime authentication of
5 voters during an election.

6 Transparency or open government
7 can be accomplished by public meetings,
8 public rule making, public notices,

9 reasonable public comment periods, access
10 to rule making proceedings and open records
11 laws. The same process that's being used
12 by the EAC should be replicated in each
13 state and county as they move forward.

14 The start of good privacy
15 practices for the purpose of voter
16 registration systems begins with the
17 collection of voter registration
18 information. First and foremost, caution
19 should be taken when using information that
20 was not collected specifically for voter
21 registration purposes to clarify or correct
22 these databases.

23 The core principles of privacy
24 protection in our current communication age

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1 is based on fair information practices or
2 FIPs.

3 FIPs dictate that the best source
4 of information are the voters themselves.
5 Voters' registration applications should
6 limit or retain only the information
7 necessary for voter participation. If FIPs
8 principles in voter registration and voter
9 authentication processes are followed, many
10 other complications and problems found with
11 voter roll purges, felony roll purges, as
12 well as disenfranchises that occur on
13 election day could be resolved.

14 Security is also vital in any
15 computerized system. Computer security
16 should be approached as an end-to-end task
17 that should include all the hardware,
18 software, as well as training of
19 individuals that will be associated with
20 the process of voter registration.

21 The current proposal which allows
22 for checking and verification of voter

23 registration by using driver's license,
24 vehicle or databases, as well as other

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1 state databases should be carefully
2 considered because of the implications of
3 false positives or false negatives. None
4 of the processes that use other databases
5 should be done automatedly. They should
6 all require human intervention before any
7 changes are made to records.

8 The process that allow the
9 comparing of information on nonvoter
10 related systems when found to be of some
11 benefit should not have that information
12 treated as if it was, in fact, authentic.
13 It should be known that the threats or risk
14 to one system can also impact the voter
15 registration system. If there are
16 vulnerabilities on the driver's license
17 record system or on the death record
18 systems, that could be used to undermine
19 the effectiveness of voter registration on
20 election day.

21 I have written testimony I would
22 like to ask that the Commission allow me to
23 have inserted into the record that can
24 expound much more broadly on the things

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1 that I've talked about. Thank you for this
2 opportunity.

3 CHAIR HILLMAN: Thank you very much.
4 Dr. Parks.

5 DR. PARKS: You know, with the racism
6 that's so rampant in this country and our
7 prisons and jails being filled with people
8 of color and low income people of all
9 color, I sit here and wonder why we're
10 talking about purging felons from the

11 voting list, unless it's once again, to
12 keep on disenfranchising people of color
13 and low income people.

14 Now, I know that the law is now,
15 for example, in some states felons can vote
16 no matter what, even while they're in
17 prison. I know that in Vermont, in one of
18 those states, even murderers --

19 CHAIR HILLMAN: Ma'am, if you would
20 just slow down and speak a little more
21 slowly.

22 DR. PARKS: So I'm wondering why
23 they're more disenfranchisement here, it
24 looks to me like purging felons. And is

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1 this going to be across the whole country.

2 Last night I had the pleasure of
3 listening to Jesse Jackson, Jr., and he
4 wants HAVA dismantled and I want to really
5 agree with him. Let's dismantle this
6 program and get a Constitutional amendment
7 that gives every person in this country a
8 right to vote.

9 Kenneth Lay, I think is still
10 walking the streets. DT Technology, which
11 are the people, the Bendons, that purged
12 100,000 plus in Florida, supposed felons,
13 in 2002 to '04, what's going to happen to
14 companies like that?

15 And Choice Point which is now
16 going to be the company in California doing
17 this kind of work just bought DT
18 Technologies. So it seems to me we're
19 going to have more purging and more purging
20 and more disenfranchisement and more
21 disenfranchisement.

22 Then I hear Rhode Island saying
23 that Dell is the computer company that's
24 going to be used in that state. And I know

1 that Dell is one of the highest
2 contributors to the Republican party that
3 exists in the corporations. So I think now
4 we've got Dell, now we've got Diebold, now
5 we've got ES&S running the vote in this
6 country.

7 And as I understand this, voter
8 fraud is a very small part of what happened
9 in 2000 and 2004, not to mention 2002. So
10 I want to know why you're looking at voter
11 fraud and not looking at all the electronic
12 voting fraud that happened.

13 I find it particularly egregious
14 that Ohio is sitting here telling us how
15 they're going to run an election without
16 commenting about all the disenfranchisement
17 that went on there in that state.

18 It seems to me there are a lot of
19 felons and murderers and in the highest
20 echelons of power in this country and they
21 are the ones that are destroying this
22 country so that democracy is dead and, you
23 know, destroying our beautiful planet Earth
24 and I think you need to look very, very

1 carefully at purging these lists.

2 CHAIR HILLMAN: Dr. Parks, thank you.
3 I just want to check again to see if
4 Secretary Kiffmeyer or Jeannette Sineco
5 have joined us here.

6 We are running a little early. So
7 we will take a 10-minute break and see if
8 they appear by 3:30. If they are not here
9 by 3:30, we will make a decision about how
10 we continue. Thank you.

11 (Proceedings interrupted.)

12 CHAIR HILLMAN: Let me just ask if Ms.
13 Jeannette Sineco is here? Okay. It
14 appears that the two people who were
15 scheduled to present will not be with us.

16 I would like before we conclude
17 these hearings to call to everyone's
18 attention that comments on the draft
19 guidance for the Statewide Voter
20 Registration Lists can be presented to the
21 Election Assistance Commission before 5:00
22 p.m., Eastern time on May 25. So we have
23 about another four weeks, four and a half
24 weeks for people to provide their comments

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1 and opinions on this proposed guidance.

2 The guidance is posted on the
3 website of the Election Assistance
4 Commission. And that website is
5 www.eac.Gov. We did also publish the draft
6 guidance in the Federal Register. The
7 postal mailing address for the EAC, as well
8 as our e-mail address, are posted on our
9 website.

10 And we encourage and welcome
11 comment on this guidance. And with that,
12 our hearings are coming to a close. I ask
13 my commissioners if you have any final
14 comments before we pull this to a close?

15 Thank you all very much. The
16 hearings are completed.

17 (Whereupon, these proceedings were
18 concluded at 3:36 p.m.)

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CERTIFICATE

COMMONWEALTH OF MASSACHUSETTS
SUFFOLK, SS

I, Dana Welch, Registered Professional
Reporter and Notary Public in and for the
Commonwealth of Massachusetts, do hereby
certify:

That the proceedings hereinbefore set
forth, were reported by me and that such
proceeding is a true record of my stenotype
notes taken in the foregoing matter, to the
best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set
my hand this 16th day of May, 2005.

Dana Welch, CSR, RPR, CLR, CLSP
Registered Professional Reporter