United States Election Assistance Commission
Public Meeting

1225 New York Avenue, NW

Suite 150

Washington, DC 20005

Held on Thursday, October 8, 2009

VERBATIM TRANSCRIPT

The following is the verbatim transcript of the Public Meeting of the United States Election Assistance Commission ("EAC") held on Thursday, October 8, 2009. The meeting convened at 1:05 p.m., EDT. The meeting was adjourned at 2:44 p.m., EDT.

PUBLIC MEETING

CHAIR BEACH:

> This meeting of the United States Election Assistance Commission will now come to order. I'd like to welcome everybody and thank those of you in the audience for attending the meeting. I ask that you please turn off all your cell phones, BlackBerries and pagers and join me now in the Pledge of Allegiance.

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[Chair Gineen Bresso Beach led all present in the recitation of the Pledge of Allegiance.]

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CHAIR BEACH:

> Counsel, may I get a roll call please?

ASSISTANT GENERAL COUNSEL NEDZAR:

> Would each Commissioner please respond verbally for the record when I call your name?
>
> Chair Gineen Beach?

CHAIR BEACH:

> Present.

ASSISTANT GENERAL COUNSEL NEDZAR:

> Vice-Chair Gracia Hillman.

VICE-CHAIR HILLMAN:

> Here.

ASSISTANT GENERAL COUNSEL NEDZAR:

Commissioner Donetta Davidson.

COMMISSIONER DAVIDSON:

Present.

ASSISTANT GENERAL COUNSEL NEDZAR:

Madam Chair, three Commissioners are present. A quorum is present.

CHAIR BEACH:

Wonderful, thank you. At this point we'll move to the adoption of today's agenda. I do have two updates to the agenda regarding the panelists for discussion on voting accessibility. We have Dr. Lisa Schur is a representative from Rutgers University School of Management and Labor Relations, and David Baquis from the Access Board will be the second panelist.

Is there any other discussions on the agenda?

VICE-CHAIR HILLMAN:

I believe there's one item that we will be deleting from the agenda under New Business, consideration of the MOU with OAS, Memorandum of Understanding with Organization of American States.

COMMISSIONER DAVIDSON:

Sorry about that. Yes, you're correct. I move that we make the changes that has been mentioned, both with the OAS, deleting that, and with the changes of the panelists.

VICE-CHAIR HILLMAN:

Second.

CHAIR BEACH:

Great. So, all in favor for the motion to adopt the agenda as

amended, say aye.

[The motion carried unanimously.]

<center>***</center>

CHAIR BEACH:

The motion carries and the agenda is adopted as amended.

Again, I want to welcome everybody, and before we move to

the Old Business section, I want to just talk briefly about

contingency planning and elections and the flu season.

Election officials are usually prepared for anything, power

outages, court decisions, high turnout. You name it, they've been

prepared for it. We've seen it, particularly this past election cycle.

But the added threat of H1N1 virus during this year's flu season,

could further complicate the already challenging task of recruiting

enough poll workers. And I know election officials are considering

this new challenge as they develop contingency plans. And things

that election officials may want to consider is coordination

strategies with state and local health departments, backup staffing,

technology solutions and prevention measures, like the addition of

hand sanitizer at polling places. This is things that I've heard on

the road. And the best solutions in elections do come from officials

who directly serve voters.

I personally believe that the EAC should play a role in

sharing these solutions with election officials throughout the nation.

And, as I said, I had spoken with election officials, including ones in

New Jersey and Ohio recently, and they've expressed this to me as

an important issue. I believe these plans should be shared with

election officials and need to be throughout -- with election officials throughout the nation. And I would like to ask my colleagues for their support with my initiative to share best practices in contingency planning and add state and local election contingency plans to the EAC clearinghouse and utilize this portal as envisioned by the Help America Vote Act. I believe we should work together quickly as the flu season is upon us. And I would ask for all of you to work with me on this in the coming days.

And for additional information about contingency planning, I ask that you visit the H1N1 and -- visit flu.gov for any more information.

And now, I would like to turn to the Vice-Chair for any opening remarks.

VICE-CHAIR HILLMAN:

Thank you very much. I'd like to begin by acknowledging Congresswoman Carolyn Maloney, who has been a staunch supporter of the overseas and military voters, and to express deep condolences for the loss of her husband, Clifton Maloney, two weeks ago. You know, we all send our best to Congresswoman Maloney at this difficult time.

I'd also like to express our best wishes to our colleagues and friends in American Samoa who were hit very hard by the recent tsunami. I'm a little concerned that we haven't been able to establish contact with our colleagues in America Samoa, yet we certainly can understand why with the communication equipment being down. And so, we just hope that they are all well, and our best wishes are with the people of American Samoa, as well.

Thank you.

CHAIR BEACH:

Commissioner Davidson?

COMMISSIONER DAVIDSON:

Yes, I agree with everything that has been stated here this morning, and just to add to the contingency planning. You know, I guess our cry to the -- to the states and to the locals is when you share with us ideas and we put it on our Web site, it definitely gives others ideas on how they can improve. And, as we know, we learn from each other. We continually learn from our stakeholders constantly, and so, as we put efforts forward in suggesting things it really helps others make those plans. And we know that we have some elections coming up this fall, even some governor races, and so, having the people planning ahead has always been official. So, I think that as we move forward it's a help to provide that kind of effort.

So, I'm looking forward to being able to reach contact, obviously, with everybody, too. And with Congresswoman Maloney, definitely, our best wishes go out to her and we understand the time that this is and the sorrow that she's experiencing.

Thank you.

CHAIR BEACH:

Thank you. Now, we'll move to the first item under Old Business, it's the approval of the minutes from the September 2, 2009, meeting.

Is there any discussion on the minutes?

VICE-CHAIR HILLMAN:

I am providing a written amendment to the minutes of the
September meeting and I will pass a copy to each of you.
Basically, it's a summary of my concerns that I expressed about the
communication from the National Association of Secretaries of
State regarding the resolution that we discussed at the September
9 meeting, and the lack of official representation to discuss that
resolution. And I will read the amendment, so it can go in the
record.

"Commissioner Hillman expressed concern that the National
Association of Secretaries of State did not send an explanatory
transmittal letter to EAC when it sent the resolution that is being
discussed at today's meeting. She expressed further concern that
NASS chose to not send an official representative to speak to the
resolution. Commissioner Hillman stated her understanding that
Secretary Gardner of New Hampshire was the author of the
resolution and that NASS had indicated it would be okay for him to
speak to the resolution, yet he chose to not attend. Commissioner
Hillman expressed concern that Secretary Gardner would not
appear before EAC to speak to his own resolution, but rather sent a
representative, who is not even a member of NASS."

And I would request that that be inserted on page seven of
the minutes as paragraph two, right under "Questions and
Answers" immediately following the summary of my line of
questioning. And I will make sure that our transcriber has a copy of
this.

And with that, I would move acceptance of the minutes, as amended.

CHAIR BEACH:

I just have -- where on page seven are you adding this?

VICE-CHAIR HILLMAN:

On page seven at the top is "Panelists."   Right underneath is "Questions and Answers."

CHAIR BEACH:

Right.

VICE-CHAIR HILLMAN:

The first paragraph is a summary of my line of questioning.

CHAIR BEACH:

Okay.

VICE-CHAIR HILLMAN:

And then, I would ask that this be inserted after that paragraph.

CHAIR BEACH:

So, it's right before where…

VICE-CHAIR HILLMAN:

Where you pointed out that…

CHAIR BEACH:

…that she provided a copy…

VICE-CHAIR HILLMAN:

…copy of the -- right, um-hum.

CHAIR BEACH:

Okay.

COMMISSIONER DAVIDSON:

I second.

CHAIR BEACH:

Okay, we have a motion to adopt the minutes, as amended. All in favor say aye.

[The motion carried unanimously.]

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CHAIR BEACH:

The motion carries and the minutes are adopted as amended.

At this point, we'll move to our Executive Director's report, Mr. Tom Wilkey.

EXECUTIVE DIRECTOR WILKEY:

Thank you Madam Chair. And thank you everyone for being here today.

The summer has flown by. It's my favorite time of the year. I hated to see it go, myself, but fall is upon us and the leaves are changing and it's already shaping up to be a very busy fall.

Under Voting System Testing and Certification, the 120-day comment period for the VVSG 1.1 has passed. We received over 300 comments, and we thank all those who provided input. EAC will work with NIST to resolve the comments, make changes to the draft and make policy decisions regarding this proposed revision to the 2005 VVSG. After all comments have been resolved and final policy decisions made, EAC will publicly publish the final version of the VVSG 1.1.

In accordance with our Testing and Certification Program requirements, ES&S has submitted to the EAC updated registration applications due to their purchase of Premier Election Systems. The letters, which are posted on our Web site, state that Premier is

a wholly owned subsidiary of ES&S, and that ES&S will manufacture and brand products under the Premier name.

We also posted several documents related to our Testing and Certification Program:

The ES&S Unity 3.2.1.0 test plan version 1.0, a recommendation from iBeta on reuse of source code for the Unity 3.2.1.0 M100 precinct scanner, EAC's approval of iBeta's recommendation to reuse the source code review previously conducted by SysTest for the Unity 3.2.1.0 M100 precinct scanner, MicroVote's Election Management System version 4.0, modification test plan and EAC's approval of the test plan, the final iBeta Policy and Procedures Audit Assessment Report, the final SysTest Policy and Procedures Laboratory Audit Report, SysTest's response to EAC on its site assessment, the Notice of Clarification on the determination of changes to a system's Technical Data Package as being a de minimis change, or not.

We also recently issued decisions on three Requests for Interpretation relating to battery backups for the central count systems 2009-03, audit log events 2009-04, and T-Coil requirements 2009-05.

Under Requirements Payments, since our last public meeting in September we've disbursed more than $30 million in Requirements Payments, which includes 15 million in FY-2008 funds to Massachusetts, Mississippi, New York, South Carolina and Washington; 18.8 million in FY-2009 funds to Kentucky, Massachusetts, Minnesota, Mississippi, Montana, New York, Oregon, South Carolina, South Dakota, Washington, Wyoming.

And for the benefit of the public, the figures relating to these states will be part of the report and up on our Web site. We've disbursed a total of 54.4 million of the 115 million of 2008 funds and 28 million of the 100 million in 2009 funds. Previous disbursements of '08 funds include: Arizona, Arkansas, Colorado, Connecticut, Florida, Georgia, Idaho, Iowa, Kentucky, Louisiana, Minnesota, Montana, Nevada, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah and Wyoming. And previous '09 payments to Arizona, Arkansas, Colorado, Georgia, Iowa, North Dakota and Utah.

Under Grants, we recently announced the recipients of our $300,000 grant to fund student mock elections in six states and the Commonwealth of Puerto Rico. And I might add we had a number of very, very excellent applications. This was a very difficult process, but I think that the people who came out on top provided us with some excellent plans. And the recipients are: The Chiesman Center for Democracy in South Dakota, the Institute for the Formation of Democracy in Puerto Rico, Kids Voting North Carolina, the League of Women Voters of Greater Pittsburgh, the League of Women Voters of Illinois, Miami-Dade County, Florida, State of Nevada Secretary of State.

We also announced awards totaling $750,000 to 11 colleges and universities and two non-profits in 11 states to recruit students to serve as poll workers. And, again, we had a number of -- a very large number. And I don't have the number here, but I will get them for addition to the report, of applications. And they were all excellent. But those that were chosen included: The Catskill Center

for Independence, New York; Hampton University, Virginia; LaGuardia Community College, New York; Missouri Western State University; Palmetto Project in South Carolina; Regis University in Colorado; Salish Kootenai College in Montana; the University of Missouri; the University of Baltimore, Maryland; the University of Central Florida; the University of Texas in Austin; the University of Southern Mississippi; and, Vassar College in New York.

Next Tuesday, we'll be holding a roundtable discussion to solicit input on EAC's accessible voting technology initiative grant. The grant will award up to $5 million to fund research and technology adoption to make voting systems more accessible to all voters. The meeting will be held at Gallaudet University from 9 a.m. to 5 p.m. and is open to the public. We are also soliciting public comments on this initiative as well as a pre-election logic and accuracy testing and post-election audit initiative through October 15, 2009. And this information is on our Web site.

Research, Policy and Programs. We began work on three new Election Management Guidelines chapters: Technology in elections, office management and accessibility. We hosted working groups on the topics that included state and local election officials from across the country, disability advocates, and the Department of Justice officials. We are now working with program consultants to develop annotated outlines before writing the Quick Start Guides and the EMG chapters.

We also are in the final stages of completing five EMG chapters on: Building Community Partnerships, Canvassing and Certifying an Election, Communicating with the Public, Conducting

a Recount, and Provisional Ballots. The chapters have been reviewed by working groups, EAC staff and Commissioners, and the Board of Advisors and Standards Board. The comments will be incorporated in the document before the Commissioners consider it for adoption.

We also invite the public to comment on proposed information collection for an evaluation of EAC educational products, and the 2010 Election Administration and Voting Survey. The 60-day comment period for both of these ends November 9th.

In addition, we have posted a 2008 Statutory Overview, and expect to release the 2008 Election Administration and Voting Survey next month.

Under NVRA, we've commissioned a study to determine the feasibility and issues associated with translating the National Voter Registration form into the five Asian languages covered by the Voting Rights Act – Chinese, Japanese, Korean, Tagalog and Vietnamese. The study is completed; we're reviewing our findings and will be preparing recommendations to the Commissioners for their approval.

Under Tally Votes, five tally votes were certified since our last public meeting. They are related to: The 2009 Mock Election Program; the 2009 Help America College Poll Worker Final Recommendations; the Appointment of an Alternate Agency Ethics Official, the Appointment of a Designated Agency Ethics Official and the FY 2011 Budget Request.

In Other News, the EAC Office of Inspector General recently issued HAVA funds audit reports for the States of Iowa and Rhode

Island. And EAC is recruiting for a communications intern. The job posting closes on October 16 and can be viewed on our Web site.

And with that Madam Chair and Commissioners, that is my report.

CHAIR BEACH:

Thank you. Vice-Chair Hillman do you have any questions for our Executive Director?

VICE-CHAIR HILLMAN:

Just one.

EXECUTIVE DIRECTOR WILKEY:

Just one?

VICE-CHAIR HILLMAN:

I think.

EXECUTIVE DIRECTOR WILKEY:

Okay.

VICE-CHAIR HILLMAN:

Clarification and a reminder regarding the $5 million in grant funds -- not grant funds, but in funds to research technology for accessibility.

EXECUTIVE DIRECTOR WILKEY:

Um-hum.

VICE-CHAIR HILLMAN:

Following the roundtable and the close of the public comment period, is -- well, let me ask my question. EAC hasn't put out anything -- request for proposals or bids or anything yet, right?

EXECUTIVE DIRECTOR WILKEY:

Not as yet.

VICE-CHAIR HILLMAN:

This is all preliminary?

EXECUTIVE DIRECTOR WILKEY:

That's correct.

VICE-CHAIR HILLMAN:

Okay, all right, any sense of the timeline? I mean, are we looking at early 2010, probably, before this program gets underway?

EXECUTIVE DIRECTOR WILKEY:

Probably, because we need to take all of the information we have received via the roundtables, which we think we're going to get some extraordinary feedback, as well as the feedback from getting it out on the Web, and together sitting down and looking at how we can come up with the best possible contract or partnership with a group of people to work on this.

Since this is going to be long-term…

VICE-CHAIR HILLMAN:

Um-hum.

EXECUTIVE DIRECTOR WILKEY:

…and we already see funds proposed for it in our 2010, when Congress finally enacts it, and going into 2011 we don't know yet, but we certainly sense that there's a lot of movement towards keeping this updated and keeping it funded for awhile. So, we really will have to look at some long-term issues also. So, we want to be very careful on how we put this together. Certainly, we want to get this out as soon as possible and get working on it, but I also think that we need to take a lot of time, both our Grants Division and the U.S. Commissioners, to make sure that we come up with a

best possible way to move forward with this. And hopefully, we can

get it done sooner than the beginning of the year, but I want them

to be able to come up with a proposal that I think will be acceptable

to you, be acceptable to all of the many people that have so far

worked on this and who will be working on it and giving us the input

that we need.

VICE-CHAIR HILLMAN:

Thank you.

EXECUTIVE DIRECTOR WILKEY:

You're welcome.

CHAIR BEACH:

Commissioner Davidson?

COMMISSIONER DAVIDSON:

Just to ask one more question. So, we see this roundtable giving

us information, so we have the grant proposal that we're putting it

out correctly to the public. And also, does it include -- are we

working to see how we include NIST, that the law requires us to

involve them as we assess what's being done and as they move

forward? Is that also being part of what we're looking into?

EXECUTIVE DIRECTOR WILKEY:

Yes, Commissioner. As you may be aware, we have already had a

preliminary meeting with NIST. In fact, we've discussed this from

the very beginning with them on how we would use their resources

in working with us. NIST has been a partner of ours going back to

the formation of the Commission, and regardless of what the

language in the bill says, we would have always gone to them for

the technical assistance that they can provide. So, we're working

now on a Memorandum of Understanding to take a portion of that

research money, which was actually appropriated within that

funding and called for in the appropriation, to work with them on a

MOU, so that we have staff at NIST available, particularly those

who do work in their accessibility and disability area, to work with

us, in giving us their feedback, and working closely with us on the

whole project.

COMMISSIONER DAVIDSON:

Very good. Thank you.

CHAIR BEACH:

Okay, well thank you.

EXECUTIVE DIRECTOR WILKEY:

Thank you.

CHAIR BEACH:

Moving to the next item, under Old Business, is an update on the

iBeta Lab assessment report from Mr. Brian Hancock, who is the

Director of our Testing and Certification Division.

Just as some background for all of you, at the EAC's July

public meeting, the Commission reaccredited iBeta and SysTest

Labs under the EAC's Voting System Testing and Certification

Program. Both labs met all of the program requirements to receive

reaccreditation. In addition to this assessment, EAC conducted its

biennial review of both iBeta and SysTest Labs practices and

procedures outlined in the EAC's Test Lab Accreditation Manual.

As a result of the review, EAC staff issued a report, which includes

recommendations for the continued improvement of operations.

These recommendations were not mandatory for the labs. These

were issues the EAC reviewers identified above and beyond program requirements. EAC knows that even though these are only recommendations, the labs take them seriously and will work to meet our high expectations.

I know Vice-Chair Hillman had follow-up questions regarding these recommendations, and now we will hear from Mr. Hancock on this. And I urge the public to follow along with the discussion by accessing the report at eac.gov, click on the homepage calendar and go to the link for today's public meeting.

And with that, I'll turn it over to Mr. Hancock.

MR. HANCOCK:

Thank you Madam Chair, Commissioners, Executive Director Wilkey, Associate General Counsel Nedzar.

At the beginning -- again, I should remind everyone that the lab report that we're discussing was written pursuant to the requirements of Section 4.5 of the EAC's Laboratory Accreditation Program Manual. Section 4 discusses our compliance management program and Section 4.5 deals with our on-site reviews.

Specifically, this report was the result of the EAC policy, procedures and practices review noted in Section 4.5.1 of the Manual. This section requires EAC personnel to enter a VSTL facility, examine a variety of documentation and meet with VSTL personnel to confirm that the VSTL's policies, procedures and practices meet the requirements of the EAC's Laboratory Accreditation Program. As was noted, each VSTL receives such a

review at least once every two years, and the report itself is a summary of the findings from the on-site review.

A report can outline three separate types of findings. A critical finding is a determination that the VSTL has not met a requirement of the program that is fundamentally critical to the VSTL's technical capability to test voting systems. A critical non-compliance is a violation of program requirements that, by its very nature, compromises the integrity of the EAC's Testing and Certification Program. An example of a critical finding would be if, during the course of our review, we found that a lab maintained no personnel records or had no documented quality or management processes that were followed. Another example would be if we found that the personnel responsible for conducting, say, source code review had no education, no practical experience or no training in software development or source code review.

A required finding is a determination that the VSTL has failed to meet a requirement of the program that is not considered technically critical. An example of a required finding might be if an on-site review determined that the lab maintained inadequate records related to test engagements. Another example would be if we found that a lab maintained inadequate records of substantive communication between themselves and voting system manufacturers.

A recommended finding is the determination that a VSTL practice could be improved, but that the identified improvement is not absolutely required by the program.

The items noted in the iBeta report were all determined to be of the recommended variety, and I will very quickly review those items for you.

The first item discussed that, in iBeta in particular, the laboratory has two current department heads that generally have -- are very experienced and have their own unique approaches to managing staff and leading test engagements. Our recommendation was that they develop procedures to ensure that both of these leads were working in a uniform manner in all of their testing engagements.

The second item the EAC assessors found was that current processes used by the lab to familiarize employees with the quality management system, that they do have, was somewhat weak. They do give the employees a test, but it wasn't as rigorous as perhaps it might be, and so, we recommended that iBeta develop a more rigorous and thorough method for educating employees on the requirements of their quality manual.

The next item we noted was that many of the written policies were quite old and hadn't been updated since an initial release of 2006. We felt that, given the testing that they have done for our program, perhaps iBeta had found improvements that they could make. And we also noted that some findings that they uncovered during their 2007 internal management review had not yet resulted in the implementation of some changes.

The next item is that EAC assessors were not able to view a consolidated list of document revision status. It's likely that the SharePoint program that they use can print a report with a specified

content, but the assessors did not see the report at the time of the review. And we'll be discussing SharePoint here, so I guess I should just remind everyone that SharePoint is a Microsoft product that in fact, several of our labs use to process documentation and manage documents related to their program and processes.

Let's see, the next item noted that some obsolete documents are currently marked by notation only in the document's file name, but the hardcopy documents itself do not appear to contain a date stamp or a notification that they're obsolete. Now, in this instance the lab contends that all of their work is done electronically and that they don't really have hardcopy documents. And I believe that's true, but we all know that, you know, paper copies of documents do get out there. So, our recommendation is that they put suitable marks on documents, in case there might be hardcopies floating about at some point.

The next item noted was that current processes used by iBeta for documenting changes only described modifications at a high level in their electronic change log, but don't delineate specific changes in the body of the document. And our recommendation was that they institute a more detailed process for identifying document changes.

The next item is that we found no evidence that validated the effectiveness of corrective actions by the lab. And what we're talking about when we mean corrective actions would be any methods that they might have to correct or prevent laboratory errors. I should note here that, again, the 2008 audit was not completed -- they had not completed or instituted the findings from

their 2008 internal audit at the time that we did our assessment, and so, we recommended that they do that and develop written procedures to monitor the results of their corrective actions.

The next two items basically go together, and we noted that although a training log was maintained for each employee, we found no evidence of the existence of formal personnel training plans or goals. iBeta did indicate that the training needs are a part of the employment annual review, but we were not able to find evidence to confirm that fact. We recommended that they work with employees to develop such long-term training strategies.

Number nine, very similar, in that we did not find a laboratory-wide policy of identifying training needs for employees and, again, the same recommendation.

On item ten, while past training certifications and education certainly were contained in the individual's resumes and personnel files, assessors were not able to determine where iBeta generated records of any additional training. We just recommended that they develop and maintain such records.

The next item, we noted that iBeta documents are not -- or appear not to be updated real time as they're used by the testers, but instead appear to be updated on something like an annual basis. This practice could possibly enable testers to accidentally use obsolete documents or unapproved documents from a period of time, up to several months. Again, the lab contended that they are updated on a quarterly basis in their SharePoint files and that everything is done electronically there and, again, has an internal control within that SharePoint function.

The next two items, 12 and 13, sort of go together in that the EAC assessors found that general practices and procedures appear to need improvement in the consistency of their test method validation. They do validate their test methods on as-run testing and they do perform a peer review during the testing. We think they need to develop a bit better method for their test validation, and again, for their peer review practices we'd like to see that documented because we could not find suitable documentation for that.

And, finally, the last item is when there is some question about the suitability of an item for testing, or when an item that they get in from a manufacturer doesn't appear to meet the description of the item, or when there's some other discrepancy, the laboratory is supposed to consult the customer, in this case, the voting system manufacturer, for further instructions before proceeding. And we noted that, although this appeared to be followed, it was not necessarily consistent. And so, our recommendation is that they formalize this process and develop more consistent practices.

I should say, in conclusion, again, the assessment of iBeta found no non-conformities in the lab's policies and procedures determined to be critical to their technical capability to test voting systems. In addition, the audit assessment found no items that would require the laboratory to initiate immediate corrective action to formally resolve a non-critical non-compliance. As noted, the EAC will, however, work with iBeta to address the recommendations noted in this report. And the EAC will also share this information with the National Voluntary Laboratory

Accreditation Program for review during their next regularly

scheduled NVLAP audit of iBeta Laboratories.

I think this last item is of particular note, because if we have

learned nothing else since we began our certification program,

we've certainly learned that constant communication and

information sharing between NVLAP and the EAC is critical to the

success of our program. In fact, we are actually very lucky and

have one advantage over many other federal bodies that conduct

product testing and certification. This advantage lies in the fact that

not only does the certification body, in this case the EAC, act as

one of the laboratory accreditation bodies, but we also see the work

of the labs on a daily basis, as we work on our voting system

certifications. This will allow us to, hopefully, catch problems as

they are manifested in certification work, if that happens. And,

therefore, we don't have to rely, solely, on records and policy

reviews conducted under a limited timeframe, by either the EAC or

NVLAP, and which occur only once annually, or sometimes

biannually, as the case might be.

That's my report and with that I'd be happy to answer any

questions you might have.

CHAIR BEACH:

Thank you. Vice-Chair Hillman do you have any questions,

comments?

VICE-CHAIR HILLMAN:

Two questions for you, Mr. Hancock.

One is, you also made a report in July, I think, about

SysTest. Is that the other…

MR. HANCOCK:

Correct.

VICE-CHAIR HILLMAN:

…in which there were -- will you be doing a similar follow-up with us on the SysTest items?

MR. HANCOCK:

We can do that. SysTest has already -- there were only, I believe, five items that were noted, and they have already responded and corrected all five items on that report.

VICE-CHAIR HILLMAN:

Um-hum.

MR. HANCOCK:

And both the report and SysTest responses are posted on the EAC's Web site.

VICE-CHAIR HILLMAN:

Okay. My other question goes to, on a couple of these items, you referred to noting a procedure where it was possible that staff could inadvertently refer to, or use obsolete information in the course of the work, and yet that's not considered critical. And I'm wondering, why, if it's possible, that there is a document, a procedure, a manual, a report, something, that is obsolete, but not clearly identified as obsolete, such that staff could use it in the course of testing, why that isn't considered critical.

MR. HANCOCK:

Right, in this case, it's because the labs rely almost solely on their electronic SharePoint portal for doing all of their work. They do not have hardcopy documents, per se. And, in fact, their own

procedures say that the electronic documents are the documents of record.

> We know, however, from past experience that people do print out documents, you know. We know that from here, you know, people just do that. And perhaps, if those documents are printed out and the employees don't follow their own internal procedures, you know, which would be a problem in and of itself, there could be a potential for those things to happen. But, because the lab's own procedures are to use the electronic documents, that's why we thought it wasn't a critical item at this point. We will keep a very close eye on that, however.

VICE-CHAIR HILLMAN:

> Yes, I would just have to say that I think if there's any procedure, and I know it happens at EAC, where an individual can access a hardcopy of something that's obsolete, that's not marked as obsolete, and use it in the course of their work, I think I would consider that more critical than not critical. But, that's just Commissioner Hillman expressing her view.

> One other thing, which, probably is minor, and I think you have the same hardcopy report that's in our binders here, in the last paragraph, under "Assessment Conclusions"…

MR. HANCOCK:

> Yes.

VICE-CHAIR HILLMAN:

> …in the next to the last sentence, you say, "All progress related to the 15 recommendations" and then later refer to 14

recommendations. I just want to make sure we're talking about one

set of 14…

MR. HANCOCK:

We are. That…

VICE-CHAIR HILLMAN:

…and that the 15 is a typo.

MR. HANCOCK:

It is a typo.

VICE-CHAIR HILLMAN:

Okay.

MR. HANCOCK:

And it's actually been corrected. I thought that the corrections had

been passed out, but apparently not.

VICE-CHAIR HILLMAN:

All right, thank you.

CHAIR BEACH:

Commissioner Davidson, do you have any questions or comments?

COMMISSIONER DAVIDSON:

The one question I have for you, Brian, and it's more, I think, a help

to the public, when you mentioned NVLAP they go in every two

years, we go in, basically every two years, unless we see problems,

as you work with them daily. And we report to them. But would

you explain how -- is there a difference in our review and their

review, the type -- what they're looking for and what we look for? Is

there any type of variation there?

MR. HANCOCK:

Yes Commissioner, there is, there is some variation. NVLAP uses the ISO 17 025 International Laboratory Standards as the basis for their reviews. We use that, as well, but we also have, as you know, additional requirements that are set out in our Program Manual, as far as the relationship, or the lack of relationship, between the labs and the manufacturers and several other specific things that are not included in 17025 or in any of the NVLAP program handbooks. So, there a slight difference in the things that we look at.

COMMISSIONER DAVIDSON:

Okay, I appreciate that. I just wanted to see the difference between the two.

Thank you.

CHAIR BEACH:

Can you briefly describe for me what you look for when you conduct an on-site review?

MR. HANCOCK:

Sure. You know, again, we follow International practices, meaning that the lab gets notification that we're going to do the on-site review. We'll go in and do sort of an opening/briefing. At that point, we will divide up into a team. We usually have four assessors that go in, as I believe, NVLAP generally has. They also have three or four assessors going in. Part of the team does the documentation review, and the other part of the team does personnel interviews. And so, we sort of get personnel background, personnel's sort of take on the policies and procedures in the laboratory, how well they're followed, as well as a document review, to sort of see what they're supposed to be following.

CHAIR BEACH:

Okay.

MR. HANCOCK:

At the end of that time, usually it's two days, we will have an exit
interview. Then, as you see, the report is written. And before the
report is finalized, there can be some back and forth with the labs.

CHAIR BEACH:

Okay. And if during the course of testing a problem arises, does
EAC or NVLAP have to wait until the next scheduled assessment to
take action on that?

MR. HANCOCK:

We would not. I'm not -- in fact, not sure what NVLAP's procedures
would be if it was a serious concern. We certainly would make
them aware, and then they would work within their processes. You
know, I think, one key is to show that we don't necessarily have to
wait, was the SysTest suspension. That was sort of an in-process
suspension. NVLAP did suspend their accreditation, but it was not
only the result of their review, it was through things that we found in
the certification effort.

CHAIR BEACH:

Okay. Any more comments?

VICE-CHAIR HILLMAN:

I just have one more thing.

CHAIR BEACH:

Sure.

VICE-CHAIR HILLMAN:

I'm a little slow on the uptake sometimes, but we just had the conversation about obsolete documents, and the end of our discussion was my briefing book had the report that was incorrect and the correct one hadn't found its way. So, I mean, that's just an example that it happens. In this case it's not critical. But I do have that mild concern about lab procedures that take care of any possibility that some staff could be using the wrong information.

MR. HANCOCK:

Right, and I agree with you. And, again, if the lab's procedures were to use hardcopy documentation, that absolutely would have been a critical problem that we would be taking care of at this point.

VICE-CHAIR HILLMAN:

Thank you.

CHAIR BEACH:

Okay, thank you.

MR. HANCOCK:

Thanks.

CHAIR BEACH:

Okay, next we'll be turning to the item under New Business, the panel discussion on voting accessibility.

EAC was directed to provide the House and the Senate Committees on Appropriation a proposal for a $5 million grant program to fund research about accessible voting technologies. Before issuing a final grant solicitation, the EAC believed it was very important to get input from the public on this. The 2009 accessible voting technology initiative grant proposal is out for public comment, and you can go to eac.gov and click on "Submit a

Comment" if you are so interested. On October 13th, as our

Executive Director noted in his report, we will be having a public

roundtable discussion about the grant proposal. And today's

meeting will inform us in advance of the roundtable discussion.

And, more important, this discussion will provide another opening to

discuss how to increase opportunities for voters with disabilities to

vote privately and independently.

Before we begin, I want to thank -- say a thank you to Bruce

Bailey, and David Baquis, who is with us today, of the Access

Board. They have been a valuable resource to EAC staff, doing

everything from helping us caption videos on YouTube and to

answering the many questions we have about how to make

documents more accessible and usable. I also want to thank Paul

Lloyd, the Education Coordinator at U.S.D.A. Target Center. EAC

staff recently attended a workshop he conducts to learn how to

improve our efforts regarding accessibility. And, last, EAC staff

deserves recognition for contacting these experts to learn more

about accessibility. They did this on their own initiative, and I am

very proud of them.

And at this point I'd like to call our two panelists to the table,

up front. First, we have Dr. Lisa Schur, who is the co-author of a

study about disability and voter turnout in 2008. Dr. Schur is a

professor at Rutgers University and an expert on voter turnout and

other forms of political participation among people with disabilities.

She's received her J.D. from Northeastern University School of

Law, and her M.A. and Ph.D. from the University of California-

Berkeley, both in Political Science. After I read her study, we

tracked her down and asked her to testify, and I am very pleased

that she has agreed to do so today.

Next is Mr. David Baquis, an Accessibility Specialist with the

U.S. Access Board. He responds to inquiries about accessible

electronic and information technology, including disability issues in

election administration. Currently, he's working on updating

accessibility standards and guidelines for Section 508 of the

Rehabilitation Act and Section 255 of the Telecommunications Act.

Each of you will have ten minutes to make your

presentations, and I ask that you remain at the table to answer any

questions that Commissioners may have.

And first we'll start with Dr. Lisa Schur.

DR. SCHUR:

Well thank you. I'm pleased to be here. There's been growing

awareness of the importance of accessible polling places and the

Election Assistance Commission has played a critical role here

helping promote a voting system that is truly accessible to all

citizens. You are doing very important work.

I've worked with my colleagues at Rutgers and other

universities over the past 15 years studying voter turnout and other

types of political participation among people with disabilities, and an

important part of our work involves conducting and analyzing

nationally representative surveys to compare voter turnout between

citizens with and without disabilities, and to examine the factors that

encourage or discourage voting among people with disabilities.

Our most recent work has been to analyze data from the 2008

elections using survey data collected by the Census Bureau.

And what I'd like to do is to briefly review our findings from the 2008 elections and relate them to findings from earlier elections. In addition to information on voter turnout, I'm going to review what we know about absentee voting and the difficulties people with disabilities encounter at polling places.

A consistent finding from all of the surveys covering the elections from 1992 to 2008 is that people with disabilities have lower voter turnout than people without. The disability gap ranges from four to 21 percentage points across the different surveys. Now, this partly reflects differences in the types of samples and different ways of measuring disability in the different surveys.

Using the 2008 Census data, we estimate that 14.7 million people with disabilities voted last November, which is 57 percent of eligible voters with disabilities. This was 7 percentage points lower than the 64 percent of people without disabilities who voted. And we provide some of the detailed breakdowns in the fact sheet submitted along with the testimony. But I want to briefly describe just a few of those numbers now.

Compared to people without disabilities, voter turnout was not significantly lower among people with hearing impairments, but it was seven points lower among people with vision impairments, and seven points lower along people with mobility impairments. Voter turnout was especially low among those with cognitive or mental impairments, and those who have difficulty going outside alone. Members of these groups were 18 points less likely to vote than people without disabilities. And these patterns are consistent with results from earlier surveys. I should note that the measure of

disability used in this voting survey may miss a number of people with disabilities, such as those with diabetes or epilepsy.

People who have difficulty going outside alone due to a disability can, of course, vote by absentee ballot. And we find that among all voters with disabilities, over a quarter, 26 percent voted by mail, and that's compared to 15 percent of people without disabilities, and not surprisingly, voting by mail was especially high, 35 percent, among those who have difficulty going outside alone. Even with the option of absentee voting, however, turnout is lower among people with disabilities. This suggests that absentee voting does not compensate for the factors that depress voter turnout among people with disabilities.

One striking finding is that there's no difference in voter turnout between employed people with and without disabilities - the disability gap is among the non-employed. But that is a large group, because the majority of people with disabilities -- of voting age people with disabilities are not employed.

Why is the voter turnout lower among non-employed people with disabilities? Political scientists divide the factors affecting political participation into three broad categories:

The first one is resources. "Are you able to participate?" The second one is recruitment. "Did anybody ask you to participate?" And the third one is psychological factors. "Do you want to participate?"

And our research shows that each of these factors plays a role in the lower turnout among people with disabilities. And I've

attached a short article from the Encyclopedia of Disability that summaries the evidence.

Some of the lower turnout can be accounted for by lower resources, especially lower average education and income levels among people with disabilities. People with disabilities are also more socially isolated and they're less likely to be part of social networks that are important sources of recruitment for political activities like voting. Our national survey, following the 2000 elections, found that people with disabilities were 10 percentage points less likely to report that anybody asked them or encouraged them to vote.

With regard to psychological factors, surveys following the 2000 and 2004 elections found that people with disabilities reported lower levels of perceived political competence, and they were less likely to say that the political system was responsive to people like themselves. These psychological factors also help explain lower levels of voting.

Where does polling place accessibility fit in here? Inaccessible polling places, obviously, impede the ability to vote, and they can also have psychological affects by sending the message that people with disabilities are not fully welcome in the political process. I'm sure you're familiar with the GAO report finding that only 27 percent of polling places were completely accessible in 2008. This is up from 16 percent in 2000, so improvements have been made, but more work needs to be done.

The 2008 Census survey does not have information on who encountered problems in voting in polling places, but we have this

information from a national survey we did following the 2000 elections. Among people who voted at a polling place in the past ten years, we found that 6 percent of those with disabilities reported some type of difficulty in voting, and that's compared to 2 percent of those without disabilities. Among those who hadn't voted at a polling place in the past ten years, 33 percent of those with disabilities and 2 percent of those without disabilities reported they would expect to encounter difficulties.

Among people with disabilities who reported difficulty in voting at a polling place, the main problems they reported were: General mobility problems, such as walking or standing, 12 percent reported that; problems in getting to the polling place, 21 percent of people reported that; and, 66 percent of those who had difficulty reported difficulties once they were at the polling place. Among these difficulties, 25 percent said that the process was confusing, 18 percent had physical difficulty with the ballot or the voting machine, 16 percent had difficulty seeing or reading the ballot, and 18 percent said that the polling place officials were not helpful enough to them.

These difficulties may help explain the lower voter turnout of people with disabilities. As I mentioned, citizens can always vote by absentee ballot. But when we asked, in our 2000 survey, for opinions about whether voting by absentee ballot was just as good as voting in person, over one-third of people, both those with and without disabilities, said that it was not as good. Many people like the act itself of going to a polling place to participate in democracy

with their fellow citizens, rather than marking a ballot in isolation in their home.

Part of the lower voter turnout of people with disabilities is accounted for by lower registration rates. As shown on our fact sheet, people with disabilities were 3 percentage points less likely to be registered to vote, so efforts to increase registration would be valuable.

What else should be done? Some of the reasons for lower turnout of people with disabilities, such as lower exposure to recruitment networks, are outside the control of election officials. But there are some things that election officials can do. Continuing to improve the accessibility of polling places should be a top priority, particularly given the growing number of people with disabilities we can expect as the population ages. This includes, not only improving physical accessibility, but also increased poll worker training, to improve poll workers' ability to provide assistance and accommodations.

As a final point, it would be useful for election officials to have access to summary disability data from the Census, at the precinct level, so that election officials can be fully prepared to provide effective accommodations for voters who need them.

Again, I want to commend the Commission for your efforts to make democracy work. Accessible polling places are critical to helping ensure that citizens with disabilities are fully welcome in the political sphere.

Thank you.

CHAIR BEACH:

Thank you. Mr. Baquis.

MR. BAQUIS:

Good afternoon. And thank you Commissioners for this invitation to address you on matters related to accessibility for persons with disabilities. My name is David Baquis and I work as an Accessibility Specialist with the U.S. Access Board. I wish to recognize Ron Gardner from Utah and Phill Jenkins from Texas, who are Presidentially-appointed Access Board members that serve on both the EAC Board of Advisors and Technical Guidelines Development Committee. I'd also like to acknowledge David Capozzi, Executive Director of the Access Board, who is here behind me. And also Jim Dickson, the Chair of the EAC Board of Advisors is also in the audience.

I'd like to acknowledge EAC for its comprehensive accessibility initiative that includes convening public meetings, such as the one today and next week, to gather recommendations for accessibility research. And since this meeting is to serve as a prelude to that roundtable, I'd like to offer some issues that might be considered for discussion. These are eight different recommendations for research.

The first is accessible verification. Above all else, I believe that the disability community will tell you that they would like a portion of the grant money used to fund research on accessible verification. Where paper verification is considered, such research should consider the needs of people who are blind who can't read print on paper, as well as people with low vision who want to read what's on the paper, but may need larger font or other visual

enhancement features, and people with manual dexterity
disabilities who may have difficulty handling paper.

The next recommendation would be development of training
curricula. And I had to rank them these would be the top two. This
training curricula could be divided into separate training modules,
one for poll workers, which could include information about
disability etiquette, ADA regulations, accessibility features of voting
machines, and best practices in providing assistance to voters with
disabilities. Another module could be for voters with disabilities,
which can include information about an overview of polling places
and their accessibility, again, the accessibility features of the
machines, the voting systems themselves, and maybe where to go
for assistance if they have a question. And a module for election
officials, so on the high level tips for communicating with the public
about disability issues, convening a disability advisory group,
including people with disabilities as trainers. Recently, the EAC
convened an Accessibility Working Group, and one of their
recommendations, very clearly, was the development of a training
video. So, maybe that could be specified as a contract deliverable.
In addition, an interactive training course provided online could be
readily shared by jurisdictions throughout the country.

Next recommendation, interoperability between voting
systems and assistive technologies. Manufacturers of switches
have raised a number of questions about requirements for
supporting interoperability of switches in voting systems. So,
discussions with these assistive technology companies could help
inform research focus areas. Guidance is also needed to provide

promising practices regarding set-up and placement of accessible voting stations, such as considering glare from the lights and privacy issues.

Fourth recommendation, usability of accessibility. A design feature that could be fully conformant, perfectly accessible, could still have usability issues. If it's taking people with disabilities close to an hour for example to vote, then we might need usability research to better understand what the problems are and to propose some possible solutions. That would also include usability of research on assistive technology when it's attached to voting systems. A good example of a usability problem would be a touch screen when it's in the zoom mode. You know, normally when we use touch screens we just touch it once, remove our finger and whatever we wanted to happen would happen. However, not in my case. I went to vote and I had it in zoom mode and it appeared to be frozen. And I finally figured out how to use it, because they didn't understand how to use it at the polling place. You have to keep your finger continuously pressed against the screen, and then it slowly moves over a centimeter at a time to get to another portion of the ballot, so you can vote.

So the next recommendation, cognitive disability. The TGDC felt that research was needed to help identify the needs of people with cognitive disabilities and to recommend possible design solutions. One of the challenges is that the term "cognitive" encompasses a variety of people, including those with intellectual disabilities, attention deficit disorder, psychiatric disabilities and learning disabilities.

The next recommendation, personal assistant services. Research may be needed to define requirements to support use of personal assistants, which could include a professional personal assistant hired by somebody with a disability or maybe a volunteer friend or family member who is providing requested help. There might be metrics to define to serve as a basis for additional space requirements to support two people within a voting booth. There may be also practices to recommend for how to interact with both parties throughout their experience from entrance to exit. For example, people with developmental disabilities have reported incidences where their personal assistants were not allowed into voting areas.

The seventh recommendation, acoustics. Polling places, as you know, can get incredibly loud. But from the disability perspective, this can pose a particular barrier to people who are trying to hear an audio ballot. In addition, the average age of a poll worker is 72 years old, and statistically as people grow older they have a higher rate of hearing loss, so an environment that promotes hearing access might improve poll worker performance and make their experience more pleasant. So, an EAC-commissioned report on this subject might include considerations for how to select a polling place with better acoustics and tips for mitigating noise within a polling place. The Access Board has published information on acoustics, it's on our Web site. It's specific for classrooms, but it might help inform polling places.

And, finally, the accessibility of absentee voting is an issue we're considering for research, especially given the statistics we

just heard about the high percentage of people that vote through absentee ballot.

And so, my final remark is, it's just been a delight to work with the EAC over the past eight years, too many staff to mention, Brian, Bryan, Jeannie, Emily, Sarah, Matt, Maisha and others. And we look forward to a continuing close and effective relationship.

Thank you.

CHAIR BEACH:

Thank you. I would now like to turn it over to Vice-Chair Hillman, if she has any questions for the panelists.

VICE-CHAIR HILLMAN:

Sure, thank you. Thank you very much. Dr. Schur, I'll start with you, if you don't mind.

The study that you referred to, and I think I'm correct in using the word "study," analyzing the 2008 elections, was that an internal Rutgers' study? Or was that funded from an outside source?

DR. SCHUR:

No, that was using the Census data.

VICE-CHAIR HILLMAN:

Um-hum.

DR. SCHUR:

Yes, so that was…

VICE-CHAIR HILLMAN:

That was your own study? Or did you do that for another group?

DR. SCHUR:

Yeah, that was our own study using the Census data. I'm sorry.

VICE-CHAIR HILLMAN:

Okay, okay, fine, thank you. You referred to political scientists divide the factors affecting political participation into three categories: resources, recruitment, psychological factors. Could you just expound on that for a little bit for example using, "Are you able to participate?" as an example of a resource?

DR. SCHUR:

Yes. Going back to political scientists like Schlozman & Brady -- Verba, Schlozman & Brady, who sort of came up with these categories, people have found -- studies have found consistently that people who have fewer economic resources have more difficulty and are less likely to participate in voting and other types of political participation. Another resource would be education levels. Studies have consistently found that people with higher education levels are more likely to participate in a variety of political activities. Other resources, and this would specifically affect people with disabilities, can be, "Do you have accessible transportation?" "Is there some -- do you have a van that's accessible?" "What kind of difficulties would you have in getting to the polling place?" Those would be resources as well.

I don't know if that addresses your question.

VICE-CHAIR HILLMAN:

And it does. I think the recruitment one, for me, is fairly obviously, "Did anyone ask you to participate?" But, on the one for psychological factors, "Do you want to participate?" if you could expound on that a little bit.

DR. SCHUR:

Again, there are studies that look at political efficacy, and there's both internal political efficacy and external political efficacy. Internal political efficacy is the belief that you are capable of participating; that you are competent to vote or engage in other types of political activities. External political efficacy is the belief that the political system and government officials are responsive to people like you and to your needs. And studies have consistently found that, on average, people with disabilities have lower levels of both internal and external political efficacy. Again, people who are employed who have disabilities tend to have higher levels of political efficacy, so this tends to be concentrated among non-employed people.

VICE-CHAIR HILLMAN:

Thank you. A little later in your presentation you talked about the message that people with disabilities are not welcome in the political sphere stemming from inaccessible polling places. Is that the same kind of message that people would receive from stores, restaurants or other places that are not accessible?

DR. SCHUR:

I believe so. I believe the message is that, "We don't care if you are excluded from this process." And since voting is such a basic part of our democracy, it sends a real clear message that, "Your vote is not important and we don't care whether you participate or not," that you're marginalized. I think it's a similar message to inaccessible restaurants or other public accommodations. I think it's particularly egregious in the case of polling places.

VICE-CHAIR HILLMAN:

To that extent, if an election jurisdiction is challenged by finding accessible polling places or having enough time and resources to make a polling place, even if temporarily, accessible and they provide an alternate accessible voting source, does that lessen the negative message? I mean, does -- or does it send a message, separate but equal?

DR. SCHUR:

Um-hum, I think it's the latter Commissioner. We've heard of instances where people have driven up to a polling place, they can't get in, and somebody comes out to the car with a ballot and says, "Okay, fill it out in your car and we'll take it in." I think that sends a real clear message that this is separate and not equal, so I think alternatives are generally not -- not as good.

VICE-CHAIR HILLMAN:

Okay. And then, on the national survey that you did following the 2000 elections, could you just describe that survey a little bit numbers, how many, you know, were in the survey, the survey data, so on and so forth?

DR. SCHUR:

I believe that's in the handout. Doug is the statistical expert here, but it's 1,000 people in the -- in the survey.

VICE-CHAIR HILLMAN:

And again, was that a survey that Rutgers conducted? Or was it conducted by an outside polling?

UNIDENTIFIED SPEAKER:

Conducted by the Rutgers Center for Public Interest Polling.

DR. SCHUR:

Yes.

VICE-CHAIR HILLMAN:

If you could repeat…

DR. SCHUR:

The Rutgers Center for Public Interest Polling.

VICE-CHAIR HILLMAN:

Okay, okay. And so, that survey is the one that you referred to,

there's a fact sheet. Now this is…

DR. SCHUR:

This is the 2008.

VICE-CHAIR HILLMAN:

Eight, yes.

DR. SCHUR:

Yes.

VICE-CHAIR HILLMAN:

I was looking for the 2000…

DR. SCHUR:

We can get you data on the 2000.

VICE-CHAIR HILLMAN:

That would be great…

DR. SCHUR:

Sure. We can send you that, absolutely.

VICE-CHAIR HILLMAN:

…if you could provide the data on the 2000.

One last question, is there any entity or individual who has

taken exception to any of the findings in your report from the 2008

elections?

DR. SCHUR:

Not that I'm aware of. I don't think there is.

VICE-CHAIR HILLMAN:

Okay.

DR. SCHUR:

Yeah.

VICE-CHAIR HILLMAN:

All right, thank you. Mr. Baquis, thank you so much…

MR. BAQUIS:

You're welcome.

VICE-CHAIR HILLMAN:

…for being here.

I want to ask you to talk a little bit more about disability etiquette. I think that, irrespective of the date and how long it's been since the ADA, Americans with Disabilities Act was passed and how long we've been working at this, there is a high discomfort among people knowing even how to have a discussion about accessibility issues and persons with disabilities. And I was once chastised and said, "They're not people with disability, they are people who are differently able." And so, I was wondering if you could just talk a little bit about what you mean when you refer to "disability etiquette", and what helps people get more savvy and comfortable with the conversation and the accommodation?

MR. BAQUIS:

The first thought that came to mind is that there's a lot of published information on this subject, so if I was to give somebody a five-second answer, I would give them a referral to a couple of books on

disability etiquette and this is a free resource that could be provided

to all polling places. "Eastern Paralyzed Veterans of America" is

one and there's another one.

VICE-CHAIR HILLMAN:

I'm sorry, I couldn't hear you.

MR. BAQUIS:

EPVA, Eastern Paralyzed Veterans of America. And there's

another one out there on the Internet.

I think one of the keys is to feel comfortable within oneself, to

be able to say what you want to know and what you're unsure

about. So, if I'm shaking somebody's hand, I might ask them if it's

okay if I shake their hand, because they might have difficulty lifting

their arms. I think the comfort in asking what somebody needs is

part of it, and that's internal. But they give very specific tips on what

to do and don't do. For example, don't pet somebody's guide dog,

if it's a service animal.

Is there more that you want me to say on this subject?

VICE-CHAIR HILLMAN:

No, I think that you're doing that. And with respect to even

something as simple as referring to voters with disabilities, voters

without disabilities, voters who are differently able, are those terms

that individual groups choose to use? I mean, is there one that's

correct and the other not?

MR. BAQUIS:

Well, terminology has evolved over years. There's a concept we

call "people first language," so voters with disabilities puts voters

first with the modifier second. So that's appropriate.

But sometimes you can't please everybody, and I've learned from experience. I was referring to people with visual disabilities once to a man who was blind and he said, "Stop that David. Just call me blind, okay?" And I was speaking to somebody else, and I referred to blindness and he said, "I'm not blind, I'm visually impaired." So, sometimes you can't please everybody. And I've learned to just get comfortable with myself about that, too. So, there's a balance between the two, if that helps.

VICE-CHAIR HILLMAN:

That does help, thank you.

Under cognitive disability, you referred to several terms, and I am interested in hearing the distinction and differences between intellectual disabilities, learning disabilities and developmental disabilities. I think very often people categorize that into one group, and so, if you're trying to develop a system, a voting system, in particular, that can be accessible to people with cognitive disabilities, they seem to fall into different categories.

MR. BAQUIS:

This is a good discussion question. I can certainly respond, but there's probably other people here who are biting at the bit to answer that, too.

People with intellectual disabilities were formerly referred to as people who were mentally retarded. So, that's what I meant by that group.

VICE-CHAIR HILLMAN:

Okay.

MR. BAQUIS:

Which might be very different than somebody who has difficulty --
who has a learning disability where lines might merge together or
they might need help from a different way of organizing information
on the ballot.

People with developmental disabilities, from my experience,
tend to be associated similarly with people with intellectual
disabilities or people who are mentally retarded, although that can
get more complicated, because that can include some physical
disabilities, as well.

Another group I mentioned in there was psychiatric disability
and attention deficit disorder. These are all things we've grappled
with in trying to update the Section 508 standards, and we were
actually hoping that research that you might do on cognitive
disability for voting system could in turn inform the standards we're
writing for electronic and information technology that are being
looked at worldwide. But, yes, we need more information on this.
Something that might be an issue for somebody with attention
deficit disorder would be if there was some kind of flashing that
would distract them.

VICE-CHAIR HILLMAN:

Um-hum, thank you. And can you cite an industry that has made
remarkable, effective progress in providing accessible, I'll say
system, whether it's in equipment or whatever, that could in any
way be compared to voting? I don't know whether it's in, you know
-- I don't know if it's in libraries, or if it's in schools, or if it's in…

MR. BAQUIS:

Yes. When we initially published the Section 508 standards in the year 2000, the copy machine industry hit the ground running and at that time one might say there weren't any accessible copy machines, maybe one that was way overpriced, and they all got into it. And many of them even met with us for -- and they sent their engineers from overseas here to the U.S.

And so, what's interesting is they solved the problem in different ways. If you didn't know it, there are talking photocopy machines now. So, somebody who is blind could actually walk up to it and it has voice guidance. It would -- it has speech output so they can hear double-sided, stapling and all that information. It's also possible to design it so it's compatible with assistive technology.

So, in that answer I've actually addressed a couple of things that the EAC is thinking about now, which is when the solution would be built into the voting system and when, at least in a limited scope, the solution might be allowed through with the attachment of assistive technology.

VICE-CHAIR HILLMAN:

Thank you so much.

CHAIR BEACH:

Commissioner Davidson.

COMMISSIONER DAVIDSON:

Thank you. Thank you both for being here.

I want to start out first about the 2000 study, and I appreciate you being willing to give us that data because when you talked

about that people really are problemed, I guess you might say, or have a problem about voting absentee…

DR. SCHUR:

Um-hum.

COMMISSIONER DAVIDSON:

…and the reason why I bring this up is in the West we see more and more and more states going to absentee…

DR. SCHUR:

Yes.

COMMISSIONER DAVIDSON:

…and open absentee. And, you know, I wondered how that data compares to the data now, and the question you might ask. And I wondered if you had it broken down even in the 2008…

DR. SCHUR:

Um-hum.

COMMISSIONER DAVIDSON:

…data to know how states felt if the Western states didn't mind absentee as bad because they see everybody else voting absentee. Or, you know, how is it working in the Western states compared to other states? I did look at your 2008 information…

DR. SCHUR:

Yes.

COMMISSIONER DAVIDSON:

…and tried to pick out the states that are doing that kind of voting a lot, because they have no excuse absentee.

DR. SCHUR:

Yes.

COMMISSIONER DAVIDSON:

Some of them are full mail ballot states. Others have permanent absentee. They call it different things, but can you kind of address that area how you see…

DR. SCHUR:

Um-hum.

COMMISSIONER DAVIDSON:

…the public going and moving in that direction? How does -- the citizens in the disability community, how is their feeling? Does it marry what the others are saying?

DR. SCHUR:

That's a really good question, and we obviously need to do a lot more study of that. We don't really have detailed breakdowns on that. But what's interesting, if you just look at I think it's Oregon here, on page -- in the handout, which I believe is completely mail in now, it's absentee ballot…

COMMISSIONER DAVIDSON:

It is.

DR. SCHUR:

…and you still see like a large gap. You see like a 7 percent gap in terms of people with disabilities and people without disabilities voting. So, clearly, moving completely to absentee voting does not seem to eliminate the gap between people with and without disabilities, in terms of voting. So other factors are at work here, which we really need to explore.

Cleary, just moving to absentee ballot is not going to be a solution to the issue of lower voter turnout.

COMMISSIONER DAVIDSON:

> I totally understand. I just wondered if their attitude changed where they accept it more. I mean, it's -- we see this happening in the states that have a large number of ballot issues…

DR. SCHUR:

> Yes.

COMMISSIONER DAVIDSON:

> …because it takes them so long -- anybody, anybody so long to vote in a polling place.

DR. SCHUR:

> That's right.

COMMISSIONER DAVIDSON:

> So, that's where I was trying to gain some information, because I think it also helps the states, in knowing how they move forward, in how their citizens can vote. And I certainly understand it doesn't meet all the needs. And, you know, I know that Oregon has put a machine in at least every county to allow people to come in and vote using the equipment that has been designed for the disability community. But that sometimes is a great distance to drive…

DR. SCHUR:

> Right.

COMMISSIONER DAVIDSON:

> …to get there to be able to vote.

DR. SCHUR:

> Obviously, we have to go into this area a lot and do a lot more research. I think this might be helpful, but as I said before, I don't think it's going to be a panacea, in terms of getting rid of the gap

between citizens with and without disabilities. However, if the

social norms shift, so that going to the polling place is no longer this

act of citizenship that we associate with it, then perhaps the gap

can shrink somewhat, if everyone is doing it at home. I don't know

if we all want to move in that direction, but that's something to look

into. It could be helpful.

COMMISSIONER DAVIDSON:

Well, it's not our choice…

DR. SCHUR:

Right.

COMMISSIONER DAVIDSON:

…obviously…

DR. SCHUR:

Right.

COMMISSIONER DAVIDSON:

…as you understand.

DR. SCHUR:

Yes.

COMMISSIONER DAVIDSON:

But, I think that, obviously, the research in some of the areas that

other people do, I think, assist states as they move forward in

changing laws…

DR. SCHUR:

Yes.

COMMISSIONER DAVIDSON:

…because it's a state issue of what the laws might be. I just was wanting to see if you had information that was compared, at all, and how that's relating.

The other area that I think that's important is you mentioned over the past ten years how they felt about voting. But have you done any studies that talk about how people vote recently, with the new equipment? Because there's more equipment now that meet the needs and does your studies include that? I didn't see that in…

DR. SCHUR:

No, we don't have that information. That's obviously something that we need to gather…

COMMISSIONER DAVIDSON:

Okay.

DR. SCHUR:

…and analyze, yes.

COMMISSIONER DAVIDSON:

Okay, because I think that it almost seems like we need that type of information…

DR. SCHUR:

Yes.

COMMISSIONER DAVIDSON:

…to know how everything fits together.

DR. SCHUR:

Absolutely.

COMMISSIONER DAVIDSON:

…and -- because there is more equipment out there now.

DR. SCHUR:

Yes, I agree.

COMMISSIONER DAVIDSON:

Okay, David thank you for being here. It's always a delight to see you. And I will tell you how much I appreciate you attending nearly every meeting that we have, whether it's on the issue or not, and then also, going to other -- our Standards Board meeting, our Advisory Board meeting, whenever you can attend, you're always there. And you're like a sponge absorbing all the information that you possibly can get, and we appreciate that.

The question I have for you is, you definitely gave us a great deal to think about, and as we have the roundtable next week, this will give some insight in that area. You mentioned the two biggest areas that you thought was important, and I'm trying to flip to them.

MR. BAQUIS:

Was the paper verification issue and the training.

COMMISSIONER DAVIDSON:

Right. And in the paper verification issue, tell me more about how you see that working when you have somebody being blind. Is there other methods -- I mean, that's some of the things that we are constantly concerned with; that maybe paper is not the only way. Have you looked into other technology that can meet -- you mentioned something, speaking like a -- I like the idea of a copy machine speaking and directing me how to make a copy, because I make one so seldom that I have to stand there and try to figure out that copy machine. So, is voice something that is how an individual voted? Is that something that -- obviously, there is that type of technology. Is that something you have really looked into?

MR. BAQUIS:

I've only been part of discussions, and this goes back to the times when the TGDC was meeting regularly, I guess the TGDC was considering a number of variables there, of accessibility, as well as the independent verification need, as well. So, certainly, somebody who is blind could hear verification, but I don't know how a machine would be designed to ensure the independence of that. So, that's why I think it needs to be opened up for research to explore different options.

COMMISSIONER DAVIDSON:

Okay, all right, I understand now more about what you're saying. I was taking this a little different direction, so…

MR. BAQUIS:

But I wasn't limiting it to only research on paper. Really, the open question is accessible verification…

COMMISSIONER DAVIDSON:

Right.

MR. BAQUIS:

…not limited to paper. But if it's going to be paper, let's not overlook low vision and dexterity disability…

COMMISSIONER DAVIDSON:

Okay.

MR. BAQUIS:

…too.

COMMISSIONER DAVIDSON:

Now, I understand more about how you were really trying to direct this conversation.

So, okay, I appreciate that. Thank you.

CHAIR BEACH:

Okay, Dr. Schur, I have questions for you. Looking at your report, you have "Why people are not registered," and I found some of these statistics pretty interesting. I guess, out of the highest percentages cited for disabilities of, if you're registered to vote and why not, 32.7 percent said "Not interested in the election" or "Not involved in politics", and with individuals with no disability that's at 42.5 percent.

DR. SCHUR:

Yes.

CHAIR BEACH:

And then, looking at among those who had registered who had a disability, 2.7 did not know where or how to register to vote. And then, with no disability 4.0 did not know how or where to register to vote. Why do you think there's such a larger percentage of those without disabilities did not know how to register to vote?

DR. SCHUR:

That's an interesting question. I'm not sure. I mean, I think that maybe because it is generally more difficult, or can be more difficult for people with disabilities to register.

CHAIR BEACH:

Um-hum.

DR. SCHUR:

People make that extra effort to figure out how to do it; that there's more of an incentive to actually go and do it. That's just -- I don't have evidence for that…

CHAIR BEACH:

Right.

DR. SCHUR:

…but that was what I would guess.

CHAIR BEACH:

Okay. And in looking at this, also, regarding those who are

registered but did not vote, 2.3 percent of those with disabilities

cited inconvenience, and 3 percent of those without disabilities

cited inconvenience. I mean, what do you think that says about the

motivation of voters with disabilities? It seems like there is more

motivation.

DR. SCHUR:

I think that's true. I think that's true. Again, if something is more

difficult to do, and you go out and you do it, then that shows that

you have a greater motivation to do that. So, yes, I think I agree

with that.

CHAIR BEACH:

And then, also on the same page you have "Other reasons why,"

and for disability and no disability, they were each at 18.2 and then

18.1 percent. Can you provide an example of what another reason

would be or other reason? Or you don't know, that was just what

was on the Census?

DR. SCHUR:

We don't really know. I mean, I could speculate on that, but I don't

have hard evidence on that.

CHAIR BEACH:

Okay, thank you. Mr. Baquis, what are, in your opinion, the biggest challenges that voters face when trying to cast a ballot, voters who have disabilities? Is there one that stands out? Or are there a myriad of ones that are out there?

MR. BAQUIS:

Gosh, that's hard to generalize without imagining a specific disability group. We could just do that, initially, we could look at it at that level, first. People with speech disabilities aren't going to have any problem.

CHAIR BEACH:

Um-hum.

MR. BAQUIS:

People with hearing loss generally don't have any problem at the machine, but they tend to have a lot of difficulty communicating with the poll workers, to begin with, during time of check-in. And there are some best practices there. They could provide inexpensive amplification devices at the desks.

At the machine, the people who are going to have the most difficulty are people with visual disabilities, blind and low vision, and perhaps people with dexterity disabilities, depending on how severe their disability is. And hopefully, we solved it for wheelchair users, but there's always that potential for barriers for people with mobility disabilities.

So, I'd have to break it down. That would be the first level of my answer.

CHAIR BEACH:

Okay, okay. And, you know, I've heard a lot of discussion regarding the use of assistive technology at the polling place, and by assistive I mean, you know, headphones, switches, other devices by voters with disabilities. Are you aware of any survey or data regarding whether voters with disabilities prefer using their own devices, or ones that are provided at the polling place?

MR. BAQUIS:

I don't know of any survey on that. I can tell you that people who are experienced in accommodating their blindness, that is, somebody who is not just newly blinded, they're accustomed to carrying their own headsets with them. Although, I'd have to discuss that a little bit more with the community and see if they're carrying the one that only works with their cell phone, which is a smaller plug, or one that would work like with a portable stereo that would also fit into a voting system.

By the way, we don't consider those assistive technologies, the headphones…

CHAIR BEACH:

Okay.

MR. BAQUIS:

…because they're -- and I think this is the way it's framed within the VVSG itself and the TGDC talks -- because that was considered to support privacy. The assistive technologies that we're really -- that I was focused on in my comments, was the subject that really got just opened up, in the Board of Advisors meeting, when they made a recommendation that voting systems be compatible with switches

that somebody with severe disabilities might normally have with them. And so, I'm really just thinking of the switch issue.

The headphone issue -- the headset issue is a much smaller issue. They may or may not have them with them. If the polling place provided one, you can get inexpensive little covers for the earpieces, they're worth like 5 cents, you can get a whole bunch of those. So, the sanitary matter would be easily solvable. And, you know, a pair of headsets doesn't cost that much.

So, it's the switch issue we're worried about. You should hear what the manufacturers have to say about this. One company said, "I wonder if you need two switches, one to navigate, and another to actually make your selection and vote." Another company said, "Let's think this through. I think you need another VVSG provision that requires a table to be placed next to the accessible voting system, so you have something to put the switch on." Another company said, "You know, there's a lot of powered chair users who already have a switch to use to operate their chair. There may be a way of using that existing switch and hooking that up with a cable to the voting machine, but then, the chair needs to be set up in advance and the poll worker needs to be trained to this." This stakeholder group has been absent from our discussions and we need to bring them in.

CHAIR BEACH:

Thank you. I think our Executive Director, Tom Wilkey, had a question or comment for the panel.

EXECUTIVE DIRECTOR WILKEY:

Thank you Madam Chair. And I thank both you, Dr. Schur and our good friend David Baquis for being here today. And I thank you for your comments, particularly as they relate to our role in this area, because I'm one of those who absolutely believes that while our controlling statute, the Help America Vote Act, provided for a lot of good things, one of the most important things that it provided for was that voters have the opportunity to vote privately and independently. And we still have a long way to go, but it's our responsibility to go as far as we can.

I guess, I have, probably, a difficult question to ask, but it's one that is very important to us as a government agency and to any other government, be it federal, state or local, that has laws on the books which use the general term "provide assistance to people with disabilities." We have no broad sense of what that encompasses. In other words, I have yet to find anyone that can give us a true list of every possible scenario which encompasses the terminology "disability." And I know -- and I praise you, for both of your work in this area. Dr. Schur, I think you said you've been doing this for 15 years. Is there a way to do this?

DR. SCHUR:

To have a…

EXECUTIVE DIRECTOR WILKEY:

A true definition of the word "disability," I know it's difficult because…

DR. SCHUR:

That's one of the million dollar questions for disability researchers, and I think the answer is, no, there will never be one definition that

everyone will agree upon. There are broader definitions. The ADA

has one definition, "Substantially limited in a major life activity --

physical or mental impairment that substantially limits you in a

major life activity." That has been criticized for being under-

inclusive. If anything, what we've used is somewhat under-

inclusive. As I said, it doesn't include people, such as people who

might have cancer or epilepsy or diabetes. Other definitions of

disability would include individuals with those conditions.

So, no, the answer is, I don't think we'll ever get to a

universally accepted definition of disability.

EXECUTIVE DIRECTOR WILKEY:

And I praise you for using the term "universally accepted." I think

that's very important.

David do you have a comment?

MR. BAQUIS:

Yeah, there's a federal entity known as ICDR. It stands for

Interagency Committee on Disability Research. You may recognize

them, because they actually -- they actually -- the research of

voting systems is on their agenda. They set the federal agenda for

research on disability issues. And the TGDC, actually,

recommended that ICDR hold a conference on voting systems. So,

these two -- I can connect the dots there.

Anyway, I'm mentioning them because they actually

commissioned one of their contractors to collect all the definitions of

disability that they could find. And that's information that's publicly

available. I could send you the link to that.

EXECUTIVE DIRECTOR WILKEY:

Thank you. And I appreciate those comments.

Dr. Schur, in part of your great statistics that you provided in this report, one of them indicates that of the percent voting those being -- having difficulty walking or climbing stairs was quite high, 56.8 percent. I am sure your answer -- I am sure this is directly related to the whole access to the polling place or to the polling area. Is that correct?

DR. SCHUR:

Yes, absolutely.

EXECUTIVE DIRECTOR WILKEY:

Yeah, because we still got a pretty dismal record in that area.

Also, I'm wondering if, perhaps, in looking at the five -- you list the states here and their statistics also. If you took a look at the five highest and the two or three lowest, because there is quite a gap there, and were able to formulate any opinion on why one was better than the other? In fact -- and I'm going to be nice to my Commissioner sitting next to me, because I think the highest one here is Colorado, but yet the lowest one, I won't even go there -- but were there any correlation between -- were their laws better? Were their practices better? Were they using better equipment?

DR. SCHUR:

That actually is the next -- one of the next stages for our research is to look more deeply into the states and to look at that. But that's our next stage. We haven't gotten there yet.

EXECUTIVE DIRECTOR WILKEY:

Okay. Thank you very much, again, for being with us, appreciate it. Thank you Madam Chair.

CHAIR BEACH:

Any other questions or comments for our panel?

Okay, well, thank you for your willingness to make presentations and inform the EAC on your findings. We look forward to working with both of you and everybody else in the disability community on our initiatives, as we move forward.

Thank you.

MR. BAQUIS:

My pleasure.

DR. SCHUR:

Thank you.

CHAIR BEACH:

I'd like to turn to either of my colleagues, if you have any closing remarks.

VICE-CHAIR HILLMAN:

No closing remarks, really. I just want to say that I look forward to hearing more about your thoughts and plans on the best practices for flu season.

CHAIR BEACH:

Great, and with that I'll just mention that our next public meeting will be November 5th.

And with that, this public meeting is adjourned.

**

[The public meeting of the United States Election Assistance Commission adjourned at 2:44 p.m.]