

**United States Election Assistance Commission
Public Meeting**

1225 New York Avenue, NW

Suite 150

Washington, DC 20005

Held on Thursday, November 5, 2009

VERBATIM TRANSCRIPT

The following is the verbatim transcript of the Public Meeting of the United States Election Assistance Commission ("EAC") held on Thursday, November 5, 2009. The meeting convened at 10:02 a.m., EDT and adjourned at 2:28 p.m., EDT.

PUBLIC MEETING

CHAIR BEACH:

The November 5th public meeting of the EAC will now come to order. I want to thank everybody for joining us today. And please turn off cell phones to silent and turn off all BlackBerries, and join me in the Pledge of Allegiance.

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

CHAIR BEACH:

Counsel, may I have a roll call please?

MS. NEDZAR:

Certainly, Commissioners please respond verbally when I call your name.

Chair Gineen Beach.

CHAIR BEACH:

Present.

MS. NEDZAR:

Vice-Chair Gracia Hillman.

VICE-CHAIR HILLMAN:

Here.

MS. NEDZAR:

Commissioner Donetta Davidson.

COMMISSIONER DAVIDSON:

Here.

MS. NEDZAR:

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

CHAIR BEACH:

Okay, thank you very much.

Okay, before us today we have our agenda and I'd like to turn to my colleagues to see if we have any discussion of the agenda.

COMMISSIONER DAVIDSON:

I have none.

VICE-CHAIR HILLMAN:

None.

COMMISSIONER DAVIDSON:

I move that we approve the agenda.

VICE-CHAIR HILLMAN:

Second.

CHAIR BEACH:

Okay, all in favor say aye.

[The motion carried unanimously.]

CHAIR BEACH:

The motion carries and the agenda is adopted. Now I have a couple of remarks before we move to Old Business.

Last month, election officials were asked to share contingency plans in light of the flu season and concerns with H1N1. Their preparedness included measures such as hand

sanitizers at polling places, alcohol wipes to clean off touch screens and spacing out people waiting in line. I thank the election officials who shared their plans with the EAC and I'm sure that your peers throughout the nation benefited from seeing your plans.

I'd also like to recognize the hard work of all election officials who had elections earlier this week and the many poll workers who served their community and their country.

I'd also like to note on October 13th the EAC had convened a roundtable discussion on Accessible Voting Technology Initiative. It was a healthy discussion and I thank everyone who had participated in that event.

And I also thank Mr. Kevin Kennedy and Mr. Nathaniel Robinson and their staff at the Wisconsin Government Accountability Board. I was there a few weeks ago to see their elections operations, and it was a very productive visit.

And finally, I also would like to take this opportunity to congratulate the best team in Major League Baseball, the New York Yankees, for winning the 2009 World Series. I know our Executive Director will join me in that. Congratulations.

And with that, I'd like to turn to Vice-Chair Hillman, if she has any opening remarks.

VICE-CHAIR HILLMAN:

Not this morning, thank you.

CHAIR BEACH:

Okay, Commissioner Davidson do you have anything?

COMMISSIONER DAVIDSON:

Yes, thank you. You know, I really feel that we need to say congratulations to the election people throughout the nation that had elections this past Tuesday. But, I also want to say to New York, I thought most of their counties was putting in new equipment and that went very smoothly. There was a few hiccups along the way, but all in all, as I remember back when we put new equipment in other states, there was a lot more issues and problems. And New York hadn't had new equipment for, oh, maybe 50 years?

EXECUTIVE DIRECTOR WILKEY:

Longer than that. Close to a hundred in some places.

COMMISSIONER DAVIDSON:

Close to a hundred years. So, not only did the election officials do well, but their poll workers and the voters, they accepted that equipment very well and it went very smoothly. So, I'm very relieved, and it's nice to know that New York is moving forward with new equipment.

The other thing I wanted to say is there's a couple of bills that definitely has moved to help the overseas and -- well the military and one to help the overseas. The MOVE Act, for DOD, as we know, has done some things to move things forward to allow people to vote and to get their ballots back. But also, there's one other. There was a Civil Relief Act, which was Senate Bill 475, and that's on -- I believe, on the President's desk for signature, but that allows spouses, whether it's a husband or wife, to claim the same deductions as the military individual themselves. In other words, they can register wherever they lived at first, their car, their voter registration, all that, and taxes can be done. So, it allows the

spouse to do the same, that way it shows the same thing. So, that in a lot of ways will close some confusion for states, and I'm really pleased that that bill has moved forward. And hopefully, it's signed before long and helps the military out.

Thank you.

CHAIR BEACH:

Okay, next we'll move to the first item under Old Business, and that is the correction and approval of the minutes from the October 8th public meeting.

Is there any discussion of the minutes?

VICE-CHAIR HILLMAN:

Move acceptance.

COMMISSIONER DAVIDSON:

Second.

CHAIR BEACH:

Okay, all in favor say aye.

[The motion carried unanimously.]

CHAIR BEACH:

Okay, the motion carries and the minutes from the September 2nd (sic) public meeting are adopted.

Next, we'll move to the report of the Executive Director, Mr. Tom Wilkey.

EXECUTIVE DIRECTOR WILKEY:

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

We know, as the Chair mentioned, in trying to get jurisdictions to send us their plans for combating the flu, I was out on the road in upstate New York this week and that situation, particularly in their colleges, is getting to be rather severe. So, we hope everyone takes good care of themselves.

It's proven to be a very busy month for all of us in all of our program areas here at the EAC. Under Voting System Testing and Certification, EAC is continuing to work with NIST to resolve comments we've collected about Version 1.1 of the VVSG. We'll work together to make changes to the draft and make policy decisions regarding the proposed revision. After this process is finished, we will publish -- publicly publish the final version of the VVSG 1.1. We've also added another report to our voting systems clearinghouse. Connecticut recently submitted several reports about their pre and post-election audits of memory cards for the 2008 primary and Presidential elections. We have posted them to our online clearinghouse and encourage states to continue sharing these types of reports with us and the broader election community.

Under Requirements Payments, so far we've distributed 54.4 million of the 115 million appropriated in Fiscal Year 2008 funds, and 28 million of the 100 million in the 2009 funds. These disbursements include FY 2008 funds. And the list is now so long that with your indulgence, I'm just going to submit it as part of my report. These are all up on our Website when this report is concluded. We'll be holding a Webinar next week on how to complete the new Federal Financial Report, the SF425's. This is a new reporting form that consolidates the old financial reports

required by the Office of Management and Budget. The workshop is designed to help fund recipients, states, and discretionary grantees become familiar with the new reporting requirements. HAVA coordinators, state election directors and the financial staff that complete the form have been invited to attend. The event will be recorded and available on our Website for those that miss the meeting.

Under Grants, during a roundtable discussion last month, we received valuable feedback from our stakeholders about our accessible voting technology initiative, a \$5 million grant to fund research and technology adoption to make voting systems more accessible. We're reviewing the feedback from the meeting as well as the public comments. We're also reviewing public comments for the pre-election logic and accuracy testing and post-election audit initiative grant. The comment period for both draft grant announcements ended October 15, 2009. And we want to thank everybody who provided input, and we expect to issue the final grant notices this month. Later this month, we'll also be announcing the availability of competitive grant funds through the HAVA College Poll Worker and Mock Election programs in time for the 2010 election cycle. All grant opportunities will be announced through a press release and posted prominently on our Website.

Under Research, Policy and Programs, the National Academy of Sciences recently released an EAC-funded study of statewide voter registration databases. It represents the culmination of three years of study and includes recommendations for improving and implementing databases. The report is posted on

our Website. We also recently posted a report EAC commissioned to analyze the translation of the National Mail Voter Registration form into Chinese, Japanese, Korean, Tagalog and Vietnamese and we'll be hearing more about that topic during today's meeting. The 60-day comment period for the proposed information collection to evaluate EAC educational projects and the 2010 Election Administration and Voting Survey is open through November 9th. Our Website contains instructions on how to comment.

Under Tally Votes, we've held four tally votes since our last public meeting: To approve advisory opinion request 09-009 concerning the use of HAVA funds to remodel office space for use in election administration activities, to approve advisory opinion request 09-005 regarding the use of HAVA funds to purchase a van for use in voter education activities; approve advisory opinion request 09-004 regarding purchase of vehicles to use in voter education activities and to designate Alice Miller as EAC's Acting Chief Information Officer.

Other news, Chair Beach has posted notes from the road, a summary of her observation and experiences during a recent trip to Wisconsin to learn more about their election process. And as the Chair has previously mentioned, we called on states to submit their plans for contingency plans for the H1N1 virus, and we received those from the States of Wisconsin and Virginia and from Contra Costa county in California. We want to thank them for submitting those plans through our clearinghouse. They are packed with effective and practical ideas and we encourage everyone to read them.

I also want to acknowledge the people in New York. I had the opportunity to be in upstate New York to see a voting system being used in several counties. And as Commissioner Davidson mentioned, in some parts of the state, it was almost a hundred years that they've used the current voting system. In fact, they pulled out a lever machine for me, in the County of Monroe on Saturday, while I was there for training, that was made in 1899. And they are keeping it for historical purposes.

As the Chair mentioned, and the great news today, our New York Yankees, in case anybody didn't know, won the World Series last night.

And that, Madam Chair, is my report.

CHAIR BEACH:

And in their new stadium.

EXECUTIVE DIRECTOR WILKEY:

And in their new stadium.

CHAIR BEACH:

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

VICE-CHAIR HILLMAN:

I do, I do. Under the Voting System Testing and Certification, you reported that EAC and NIST are working to review the comments and make recommended revisions. What is the -- do you have an estimation of the timeline for when the document will be presented to the Commissioners?

EXECUTIVE DIRECTOR WILKEY:

I don't at this point. I think we're continuing to work with NIST. We don't want to be too overly, you know, out -- where we are with it right now, but I think we're coming very close. And I'll work with staff and get back to you to get a timeline for us.

VICE-CHAIR HILLMAN:

But do you think we're talking about December, January, February, July?

EXECUTIVE DIRECTOR WILKEY:

I think it's probably going to be more like January.

VICE-CHAIR HILLMAN:

Um-hum, okay.

COMMISSIONER DAVIDSON:

I can add one thing. I do know that NIST was told that we'd like to see those in December, so that they could be reviewed before the January meeting.

VICE-CHAIR HILLMAN:

Okay. Under the grants, you talked about information about the availability of grants will be announced through a press release and posted on the EAC Website. Do you know is there any place else in Federal Government that lists grant opportunities that EAC links to? Or do people only learn of these opportunities from our Website?

EXECUTIVE DIRECTOR WILKEY:

I know we've looked into that and there are some other Websites that list grants that we're going to become a part of and we'll start doing that now with our future grants, because we're continuing to get more grant opportunities. But there is a Website, I can't put my

finger on it right now, where that is, but I'll get that information for you and announce it via this report at our next meeting.

VICE-CHAIR HILLMAN:

Okay, thank you, and my last question. Under your tally votes, I know we did a tally vote this week to adopt the reports that are going to be discussed. Was that tally vote completed and certified?

CHAIR BEACH:

It has been completed. It hasn't been certified. It will be certified today.

VICE-CHAIR HILLMAN:

Okay.

EXECUTIVE DIRECTOR WILKEY:

It will be certified today.

VICE-CHAIR HILLMAN:

Okay, so do we -- well I guess I'll wait...

EXECUTIVE DIRECTOR WILKEY:

Well that will be the November...

VICE-CHAIR HILLMAN:

...until the reports come up as to when the reports that we're going to be discussing will be available, because I thought the purpose of the tally vote was to have it done so that the reports could be available today.

EXECUTIVE DIRECTOR WILKEY:

We can get the certification done.

CHAIR BEACH:

Yes.

EXECUTIVE DIRECTOR WILKEY:

During the break we can...

CHAIR BEACH:

Yeah, it will be done during the break, the certification.

VICE-CHAIR HILLMAN:

Okay, all right, thank you.

EXECUTIVE DIRECTOR WILKEY:

You're welcome.

COMMISSIONER DAVIDSON:

I have no questions, thank you.

CHAIR BEACH:

Okay, I don't either, so thank you.

EXECUTIVE DIRECTOR WILKEY:

Thank you.

CHAIR BEACH:

Okay, next we'll be moving to New Business. The first item on the agenda is the discussion of the 2008 Election Day Survey report.

At this time I would like to call up Dr. Toby Moore and Dr. Shelly Anderson. Dr. Shelly Anderson, our Deputy Director of Research and Dr. Toby Moore from the Research Triangle Institute will provide an overview of the project and the processes used to gather information from the states. Following the overview, because we'll be discussing both the Election Day Survey and the UOCAVA survey, a question and answer session will follow.

The reports and the raw data will be available on our Website shortly, and I want to thank EAC staff for working hard this week to ensure that we have, also, an accessible version of these reports available on our Website. When the Commission learned

that GPO would not be able to provide us a 508 compliant version for about 30 days, Commissioners were very concerned and staff on their own initiative stopped what they were doing and they worked hard to make sure EAC did have an accessible version available to the public later on today.

I'd also like to take this opportunity to thank the Access Board again, for all their assistance they have provided to EAC and to staff on how to make these reports accessible and also their assistance with other accessibility issues. As a matter of fact, I was advised next week that the Access Board is giving a presentation about accessibility to the entire EAC staff. And these versions will be on our Website later on today, so please also contact EAC if you have any questions or need assistance with these reports.

And with that, I will turn this over to Dr. Shelly Anderson and Dr. Toby Moore for a discussion on the 2008 EDS report first.

DR. ANDERSON:

Thank you. Can you hear me okay? Commissioners, Mr. Wilkey, Ms. Nedzar, I come before you today to present the 2008 Election Administration and Voting Survey report and the 2008 Uniformed and Overseas Citizens Voting Act report.

Both reports contain data from the 2008 Election Administration and Voting Survey which is administered by the EAC every two years. The EAC collects the election administration-related data directly from the 50 states, four territories and the District of Columbia. The survey, which covers a host of topics such as voter registration, overseas voting, poll workers, early and

absentee voting and provisional balloting, captures data at the state and county level, or county equivalent.

The Election Administration and Voting Survey forms the basis for three reports: the first, a federally mandated report on the impact of the National Voter Registration Act, or NVRA, which was released in June; the second report is a Uniformed and Overseas Citizens Absentee Voting Act, or UOCAVA, under HAVA Section 703 requires EAC to report on the number of UOCAVA ballots that are transmitted and returned; and, lastly, the comprehensive election Administration and Voting Survey report, which summarizes findings across all areas of the survey.

The 2008 survey and corresponding reports represent the third iteration under the EAC's direction. The data collection and analysis for the 2008 reports were conducted by the Research Triangle Institute, or RTI, under Dr. Toby Moore, as the project director.

Before turning to Dr. Moore's presentation on the processes used for the 2008 data collection effort, I would like to talk briefly about the 2008 survey project and the attainment of significantly higher response rates than in previous years. While in 2006, the baseline number of jurisdictions surveyed was 3,123, in 2008, that number increased to 4,517, which is an increase of approximately 45 percent.

The additional jurisdictions were the result of EAC's ability to collect data at the township level in the Northeastern region of the country. However, we believe the increase in response rates, particularly for questions that may have proved somewhat difficult

in past surveys such as UOCAVA voting, can also be attributed in part to better question wording, data collection tools and a more intensive technical assistance approach. For example, in 2006, 64 percent of the responding jurisdictions were able to provide data on the number of UOCAVA ballots sent to overseas citizens. In 2008, 91 percent of responding jurisdictions were able to do so. We think that this is encouraging from a data collection standpoint and it allows the EAC to provide a clearer picture of UOCAVA voting in the 2008 election.

On behalf of the EAC, I would like to thank the states and local jurisdictions for their hard work and their effort to complete the 2008 survey. It is by no means an easy task, but by most accounts it appears that the states were better able to provide the information EAC requested, which means, we have better data with which to tell a national story of the 2008 election.

And with that I'd like to turn to Dr. Moore, and after his presentation I'll return to discuss key findings from both reports.

DR. MOORE:

Thank you Commissioners, thank you Shelly. Thank you for the opportunity to speak with you today about the 2008 Election Administration and Voting Survey and RTI's work in support of the Election Assistance Commission. RTI began work under this contract in July 2008. Our work will end at the end of this month.

Shelly has, I think, covered some of the introductory material and she'll return to the substance of the two reports. My presentation really focuses on what RTI did in providing technical assistance, what the database looks like, some of the successes

we had and some of the challenges we had, and in looking forward to 2010, maybe some suggestions for what the EAC may want to consider doing in 2010 and beyond, to further improve the data collection.

As Shelly mentioned, we collected data from all 55 states and territories -- at least, some data from all 55 states and territories. The total of 4,517 jurisdictions, as she said, was a 45 percent increase from 2006. I think the maximum number of jurisdictions you could collect data from is about 7,500 jurisdictions, if you were able to drill down to the township level in all the states that delegate voter registration and voting to the township. So, that would be, I think, the ultimate goal to be able to collect at that fine granular level. We're moving in that direction. I think 2006-2008 was a quantum leap forward, and I would expect that number to increase as we get better and better data collection. But we are dependent on the states to decide at what level they will report the data, so there's a limitation to that and I'll be glad to talk with you a little bit more about that in the discussion period.

The database was large. We had approximately 800 variables for each of these 417 records. So, there were 52 questions and sub questions, options for available and not available, not applicable and comment fields. So, this was a total of approximately 3.6 million data points. So, it's a big database and almost a million numeric data points. So, there's a lot of data in the database.

Our main tool for collecting the data was an Excel-based template, which we think got a good response from the states. This

was, basically, a spreadsheet into which we had inserted in the rows, spaces for the counties, for each state with a GEO code, and across the top and each column would have been a cell for each question and sub question part of the questionnaire. So, states could just fill out this spreadsheet and send it back to RTI for integration into our main database. That seemed to be, for the bulk of the states, a very good way to do it. They could keep this spreadsheet on their own computer. They could work on it. They could fill it in as the data came in and became available. They could check. We had some validation in the spreadsheet. And then, when they felt like it was already, they could upload it to us through a Web portal, as opposed to trying to do it live through the Web, which you might lose data. This seemed to be a successful strategy and most states used this.

A handful of states availed themselves of a Word-based template of the questionnaire that was useful for collecting data from a single jurisdiction, a single county. So, we did have some states that we worked with, to provide them with kind of customized Word-based templates that they could then send to their counties for some or all of the data collection, and then RTI took those Word-based templates back in, and then pulled the data out of the Word-based templates into the Excel-based template, and then into our database.

We worked under the time constraints to try to customize this as much as possible for states. The earlier the questionnaire is out, the earlier the work begins, the more we could -- EAC and its

contractors could do to customize this for each state's needs. And as we all know, states do collect their data in very different ways.

The data that came in through the Web portal to RTI was extracted into a SAS database. SAS is a statistical database package -- data package statistical package, and then aggregated some to collect the reports for the tables that Shelly will be discussing shortly, so the statewide totals were summed out of this database. Because of the timeframe, we were not able to vet the tables for the NVRA report, back to the states. In other words, we were not able to assemble the states, send them back to the states, and then get corrections, which is something that, again, with a more advanced timeframe, you might be able to do. And I think it's a useful tool. We were able to do it with UOCAVA and the EDS survey tables. We produced them, sent them to the states and asked them to review for corrections or additions. And that's a very useful process. The Congressional mandate for the NVRA report makes it very difficult to close off the data collection, get the data together, make the reports, get it to the states and back. It still may be possible to do, but that timeframe is going to be difficult.

Technical assistance from RTI to the states varied widely, from state to state. It was based on one-on-one contact between three RTI staff members and state officials. Overall, this worked pretty well. We were able to develop rapport with the individual staff members in the states, who were responsible for responding to the survey, and that led, I think, to better cooperation and better communication. Some states were much more responsive than others, and we were able to develop better communication lines

with some states than others. Most of the consultation came through email. There were also conference calls and individual telephone calls explaining the questionnaire, trying to reconcile the way the question was asked in our questionnaire, and with state law and state procedures. And that's always going to be a difficult task because, as you know, state and local procedures and laws can be very complicated and there are all sorts of exceptions. And trying to fit them into the categories that we need to have some standardization across the surveys is always going to be a challenge. But we had good cooperation from state officials and we were able to work through the issues, and where we needed to, we used the comments to clarify. This was supported by material on a project Web site, such as supplementary instructions, frequently asked questions, updates. They were able to access the Website at anytime to see the latest information. And our question to the states was always, "How can RTI make completion of the survey easier for you?" We tried to load as much of the work onto RTI as possible, for example, by extracting the data from these Word templates. Ohio used these Word templates, sent them out to each of the counties, the counties filled them out and sent them back to Ohio, Ohio sent those templates back to us and we took care of extracting that data into the main database. So, we felt like that was a good approach to take, because it helped the cooperation and it eased the burden for responding to the survey. So we -- and again, I think as the timeframe moves up and EAC's contractor is able to do more of this work, it will decrease the burden on states and increase cooperation and response.

Some of the main accomplishments and challenges, as Shelly mentioned, the significantly higher response rates. I think there are a number of reasons for this. Improved processes, states are just simply becoming familiar with this now. They expect it. They know it's coming. They feel like they need to comply. It's becoming part of their work routine, their work cycle. The earlier start helped. And I would suggest, strongly, the EAC continue to try to get the questionnaire out earlier, start the technical assistance earlier. Move all of this up as much as possible. And I know Shelly is working on doing that. And I think there's a general recognition of the importance of data collection. Congressional scrutiny and activity, the \$10 million grant program that the EAC handled, PEW charitable trust work and the Data for Democracy program, DOJ enforcement. I think there's just a growing sense of the importance of collecting and reporting this data, especially UOCAVA. The real market increase and response from UOCAVA, I think is just because that message is getting out and people are buying into it. I think we had better and more reliable tools. We didn't have breakdowns that frustrated state officials. The questionnaire, as Shelly mentioned, was improved. I think it can continue to be improved. And it's now a more stable survey. The parameters of what is going to be on the survey is more known and I think that helped increase response and cooperation.

Some of the improvements, I think going forward, as I mentioned, continuing to improve the timetable, getting the questionnaire out earlier. I know that the comment period is open for the 2010 survey. I would think you would want to get the 2012

survey in the pipeline, as well. I mean, ideally the survey would come out before the beginning of the election, the registration period. So, the 2014 survey would come out before the 2012 election, ideally. There's no reason why that couldn't take place. And I think there's a need for more pre-election technical assistance and assessment. If EAC could -- and its contractor could spend months before the election assessing what the states are doing, offering this, opening those lines of communication, that will really pay off after the election in getting the data through. Six months before the election would be a good time to call up all the states and say, "What are your plans for collecting the data for the survey? What can we do to help?" would increase cooperation and data accuracy. Better data tracking and validation. I mean, it's a big database. I think if there's one thing that I had to do over again it would be to better track the data that came in. We had states submitting data from, you know, bits and pieces and that needs to be improved to streamline that. And I think the EAC should consider investing in a GIS mapping component as the data improves to improve the GEO coding. Perhaps, you could even put a live mapping software in your Website, to allow people to come in and map this data in a way that they want to, because it is all GEO based, and as the data improves you can open up a lot of opportunities for mapping and for use from GIS systems.

Shelly is going to speak for a little bit on the substance of the reports, and I'll be glad to answer any questions you may have.

DR. ANDERSON:

First, we'll discuss the Election Administration and Voting Survey, which, as I mentioned previously, summarizes findings across all areas of the survey. In addition to highlighting some of the information contained in the EAC's NVRA and UOCAVA reports, it also covers information related to methods of voting, provisional ballots, poll workers, and types of voting technology used in a given election.

We know from the NVRA study that more than 190 million individuals were registered for the 2008 election. The states and territories responses to the question of how many people participated in the election indicate that 133,944,538 people actually participated. As we know, an increasing number of alternatives to voting in person on Election Day have expanded the ways in which we cast our ballot. If you will consult page one of your handout, you'll see that in 2008, 60 percent of voters cast a regular ballot in person at a polling place on Election Day, nearly 17 percent voted by domestic absentee ballot, and 13 percent voted early before Election Day.

Taking a closer look at absentee voting, we find that the 17 percent domestic absentee voting rate represents an increase from 2006, when absentee voting was reported to be about 14 percent. Of the 26 million absentee ballots that were transmitted to voters in 2008, nearly 24 million, or 91 percent, of those ballots were returned and submitted for counting. A small percentage of absentees were reported to have been returned as undeliverable or spoiled at about, maybe, 2 percent. Of the 24 million returned and

submitted for counting, 400,000 were rejected. And the top two reasons were a missed deadline or a lack of a valid signature.

Taking a closer look at early voting, we find it increased significantly from the previous election. In 2006, 6 percent of voters turned out to cast their ballots early. Yet, in 2008, that number jumped to 13 percent. If you turn to page two of your handout, you can see that five states, Nevada, Texas, Tennessee, Georgia, and North Carolina, stand out as having had large segments of their voters cast ballots before Election Day.

2008 was the third Federal Election in which voters were allowed to cast a provisional ballot if, say, their names did not appear on the registration rolls, or they did not have required identification, or if their eligibility was challenged. Pursuant to HAVA, such voters could cast a provisional ballot, which would be counted later, if it was determined that they were, in fact, eligible to vote. In 2008, more than 2.1 million voters cast provisional ballots nationwide. And page three of your handout indicates that roughly 62 percent of those ballots were counted in whole, with another 5.5 percent counted in part. Page four of your handout shows that more than -- of the more than 2.1 million provisional ballots cast, 28 percent were rejected, mainly because the voter was not properly registered. And that's the 53.6 percent that you see there.

Despite voters' use of alternative ways to cast their ballots in 2008, 60 percent of voters still turned out to the polls on Election Day. And in order to manage the millions of voters who showed to vote, all states employed some system of precincts and polling

places to conduct their elections. In 2008, the states operated 185,671 precincts and 132,237 physical polling places.

The states reported using 878,360 poll workers during the 2008 election. On average, there were seven poll workers assigned for each polling place in the United States. For the first time in this survey, the EAC attempted to learn more about the ages of poll workers serving across the country. There seems to be a myth circulating about the age of poll workers, in that poll workers are much, much older than we suspected they really were, and so we wanted to try and get a hold on the age ranges of poll workers that were serving across the country. And page five of your handout demonstrates that the largest number of poll workers fell into the 41 to 60 year old age range, followed by those between the ages of 61 and 70. And poll workers aged 71 or older accounted for only about a fifth of the total.

The last item we'll discuss has to do with voting technology, and voting technology is a rather difficult topic to measure in this survey, because jurisdictions use multiple systems. For example, a county might use an op scanner for absentee ballots, but an electronic voting machine for in-person voting. And polling places may have more than one type of voting system on Election Day. But still, the EAC attempted to measure the breadth of voting technology being used across the country. And so, states provided information about the extent to which they used direct record electronic, or DRE machines, with or without a paper trail, optical or digital scan systems, hybrid systems combining DRE and op scan, punch card systems, lever machines, paper ballots or other

systems. Page six of your handout, depicts the deployment of systems across the country. And we found that 21 states, the Virgin Islands and the District of Columbia, deployed 218,370 DREs without a paper trail, 16 states reported deploying DREs that produced a paper record that could be checked by the voter. The most widely deployed technology across the states, however, was the optical or digital scanner. 43 states reported using 107,519 of these machines, in at least some of their jurisdictions.

So, those are the highlights of the Election Administration and Voting Survey. And Toby, did you have anything additional that you'd like to add?

DR. MOORE:

No, I don't think so.

DR. ANDERSON:

With that, we can take questions on this first report.

CHAIR BEACH:

Okay, thank you. Vice-Chair Hillman, would you like to start with any questions or comments?

VICE-CHAIR HILLMAN:

I do. And I just want to make sure I'm clear, we're talking about the Election Day Survey report first...

DR. ANDERSON:

Correct.

VICE-CHAIR HILLMAN:

...and not yet UOCAVA?

DR. ANDERSON:

Correct.

VICE-CHAIR HILLMAN:

Okay. One thing I wanted to just clear up and I think it was a typo, but in your presentation, Dr. Anderson, you said that there were 4,517 jurisdictions surveyed, but your report said 4,527. And I noticed that Dr. Moore repeated 4,517. Is that the correct number, 17?

DR. ANDERSON:

That is the correct number.

VICE-CHAIR HILLMAN:

Okay, thank you. And then, for Dr. Moore, just bear with me a second here, you talked about data collection instruments, and the number of jurisdictions that were able to use, what I'll call, the online form, but some had to use a Word-based format. Did you get any reports from jurisdictions who found the form, in either version, that they had problems downloading or accessing it just because of their own capacities? In other words, the sophistication of the form versus what their systems could handle.

DR. MOORE:

Well to clarify, we didn't do any online, per se, data collection.

VICE-CHAIR HILLMAN:

Um-hum.

DR. MOORE:

So, everything was downloaded onto individual computers and the work was done there.

VICE-CHAIR HILLMAN:

Right.

DR. MOORE:

So, there was no data going back and forth.

VICE-CHAIR HILLMAN:

Right, um-hum.

DR. MOORE:

The states found the Excel-based template, in some ways, to be cumbersome. It was a large file and there were many, many --plus the complexity of the database -- that was a large file and you had to open it, save it, all that, was hard for some states' individual users. And I think it could have been made more user friendly. But because this data technology was not going down to the very local jurisdictions, say townships -- the small townships in Maine, we really didn't run into the problem of, you know, technological capacity, in the way we would have done, had we sent this directly to the small election offices.

VICE-CHAIR HILLMAN:

Okay. And then, referring to the accomplishments, under what you reported as accomplishments, based on the experiences that Research Triangle Institute International, or any of your affiliates or components has had, considering that EAC was brand new -- well, didn't even exist six years ago, came into existence in December of 2003, and that the data collection from the states on the general elections was also a brand new initiative for the Federal Government, has what has evolved and developed, in terms of the instrument, the improvement, the collection, the response, within the past six years, is that sort of a normal timeline for this kind of a startup? Were we a little behind the curve, a little ahead of the curve?

DR. MOORE:

I think there's been unusually rapid progress since 2004. You consider that's only three iterations, 2004, which was, you know, a very rushed effort, you know, get that off the ground very quickly. And then we've had three iterations. To have a survey that is this large and this complicated, to be as established and institutionalized as it now is, I think is unusual for this sort of government-sponsored data collection. So, I think that it's made more rapid progress than most have.

VICE-CHAIR HILLMAN:

Thank you. And I really do appreciate hearing that, given all the acrimony that we've been through during the past four years. So, I certainly want to say thank you to all the staff and the consultants and the technical assistance providers...

DR. MOORE:

Thank you.

VICE-CHAIR HILLMAN:

...and the states and jurisdictions that have participated, as well.

On your recommendation about a GIS mapping component, what are the cost implications of that? Is that a relatively affordable...

DR. MOORE:

It is now. The technology is off the shelf, wouldn't have to have a lot of customization. So, I don't think that's going to be a significant thing if you want to implement it onto a Website. It's just evolved to the point where it doesn't take a lot of special skills or time to program.

VICE-CHAIR HILLMAN:

Okay. And I have two more questions, and I think maybe back to you Dr. Anderson. In the report itself, or at least the draft of the report, I don't know if this was caught and corrected before the final is done, but page seven, under "Survey Results", under "Registering to Vote," the last paragraph, where it says, "The National Mail Voter Registration Form is the one document that allows individuals to register to vote from anywhere in the United States in states that allow it." And the Federal law requires that the form be accepted and used. So, I was a little confused by the caveat "in states that allow it." This is a federal requirement for the NVRA form. And then, it goes on to say, "The form is available on the EAC's Website." So, you may not be able to clarify that now, but I want to just, at least, point that out that we need to be clear what we're saying.

DR. ANDERSON:

You said that it's directly under "Registering to Vote"?

VICE-CHAIR HILLMAN:

I'm looking at page seven, "Survey Results", and on the right-hand side there's a "Registering to Vote." Well, there are two "Registering to Votes," I see what the problem is, but -- so I'm not sure what that caveat is trying to say, except that we need to be clear, that what the federal law requires on acceptance of the form. Okay?

DR. ANDERSON:

Thank you.

VICE-CHAIR HILLMAN:

And then finally, on these handouts, the charts that you handed out...

DR. ANDERSON:

Um-hum.

VICE-CHAIR HILLMAN:

...on what would be the fourth page, "Reasons why provisional ballots were rejected." Even though it's numbered page five, it's the fourth page in the set.

DR. ANDERSON:

The page numbers are off.

VICE-CHAIR HILLMAN:

I know you just wanted to see if we're paying attention, and I'm hanging in here.

DR. MOORE:

These are -- these are works in progress.

VICE-CHAIR HILLMAN:

I'm hanging in here. Are you with me?

DR. ANDERSON:

Yes.

VICE-CHAIR HILLMAN:

Okay, so the second and third reasons, "voter registered but in the wrong jurisdiction, voter registered but in wrong precinct."

DR. ANDERSON:

Um-hum.

VICE-CHAIR HILLMAN:

Is that 5.2 percent reflecting wrong jurisdiction, also reflected in the 11.6 percent for wrong precinct? Or are those two separate, some places calling precinct and others calling jurisdiction?

DR. ANDERSON:

Those are two distinct separate categories in the survey.

VICE-CHAIR HILLMAN:

And jurisdiction obviously being bigger than the precinct?

DR. ANDERSON:

Correct.

VICE-CHAIR HILLMAN:

Could jurisdiction be a polling place?

DR. MOORE:

No.

VICE-CHAIR HILLMAN:

No?

DR. MOORE:

This would be outside of the voter registration jurisdiction, the county or township.

VICE-CHAIR HILLMAN:

Okay. And then, on the poll worker ages, very useful and revealing, I'm just wondering if -- I couldn't do the calculation quick enough -- Dr. Anderson, did you happen to do a calculation that says, based on the responses we received and based on what this chart shows, what is the average age?

DR. ANDERSON:

No.

VICE-CHAIR HILLMAN:

No? Okay. So, I'll put this out there for any of our staff who are statistical wizards, if anybody -- and I'll look directly at Matt or somebody, to say, if you take the ages and percentages in this chart -- I really am curious to know what the average age is based on these numbers. Thank you.

CHAIR BEACH:

Commissioner Davidson?

COMMISSIONER DAVIDSON:

Thank you. Dr. Moore, I'm going to start out with you. When you mentioned in your presentation, I think it was Ohio, that went down to the local level to get the information, and then send it directly to you, did you see any variance from one county to another, in how they reported? Is there issues with that type of reporting that you're not getting the same quality? Because my fear is, is the state not reviewing that, is there some issues?

DR. MOORE:

Well, in Ohio's case, I think they did a very good job of working with the counties to inform them of how the counties should respond. And California, which used the same, for some of its data, did the same thing, you know. They came up with their own customized instructions that they distributed to the counties, which minimized that. But I think that's always going to be an issue with any bottom up data collection, is the variance within the state. But I think we're just going to have to live with a certain amount of that.

COMMISSIONER DAVIDSON:

So, where do you see the issues at? Because, I mean obviously, when we look at the total results and we see more ballots counted

in a district than people voting or something like that, we know that there's a reporting problem, in how it was reported. What do you got to say to us? How do we improve that?

DR. MOORE:

Well, I think it will continue to improve as long as you devote the resources and the attention to the survey. Some of that will just happen as this timeline improves and as states get accustomed to doing it, local jurisdictions know the numbers are going to be reported up. So there's a momentum that I think will take care of some of it.

Some of it is the non-response to items. For instance, if you have more jurisdictions that respond with numbers to the numerator than in the denominator, then you can get over 100 percent, which again, is just a matter of getting more jurisdictions to respond in data. But as the state data collection improves and the state centralized databases improve, and they're able to program their databases to produce the data that's being requested by the EAC, then, you'll get better data as well.

But this is, like I said, very complicated data. They're often using different sources for different parts of our same question. So they make take part of it from a voter history and part of it from voter registration, for instance. Some of it may be held locally, some of it may be centralized. So, it's just very messy and you're only going to be able to get it so clean, I think.

COMMISSIONER DAVIDSON:

Okay, you also mentioned that the NVRA report that we had to do -
- you didn't have time to send it back to the states to make sure that

their information was correct. And the reason why I'm asking this is because of that \$5 million grant that we did to the five states that that went down to precinct level. And if we go down to precinct level, the time involved in doing that, and the time that's in the law that we have to report what -- is there issues there that we need to be aware of, that we need to make sure that we definitely tell Congress about, if they did something like this, that we need to make sure there's timeframes built in to get correct data? I mean, data is only as good as what is input. And if it's not good data, it's not going to help anybody. So, my concern is, always make sure we really have accurate information that's going out to the public -- to Congress and to the public, really.

DR. MOORE:

Well, in the case of the NVRA, if you want to move up the deadline for data collection, then you're giving states less time to collect the data. So, if you cut that off in, say the beginning of March, then they have less time to get the data together and get their response together. That gives you more time to prepare the tables for the NVRA report, but it's robbing Peter to pay Paul, in that case.

As far as -- there's no reason why, technologically, all this couldn't happen very, very quickly. A particular state could collect all the data at the precinct level and report it up very, very quickly, as long as it's done electronically, if you had the system in place, and the states that got the \$2 million...

COMMISSIONER DAVIDSON:

The system and money?

DR. MOORE:

That's right. And the states that got the money and were able to put that in place moved toward being able to do that. But with the NVRA report, we're collecting data from 50 states and territories, all the different systems, and dealing with every state's different timeframes and different things. For instance, Minnesota had the recount controversy which was a distraction for them. Other states will face similar things. Other states had elections that came up fairly quickly afterwards, they weren't able to put the resources. So it's going to be difficult, but there's no technological reason why that can't be done very quickly.

COMMISSIONER DAVIDSON:

And I think this is probably one of the reasons why the states and all of our committees have said, "Please leave the form as it is", because they've got it programmed, and they feel that they can give better data the next time around. Do you see that as being able to improve? I mean, they're not going in -- like you said, when we change the form, we need to allow the states two years to be able to accomplish that, because it's changing their computer system to be able to accomplish it. So, by leaving the form the same, will that assist them this next time around? And they already know that for the next election in 2010.

DR. MOORE:

Well, I think they're interested in not seeing the questionnaire go through the massive changes that it did from 2004 to 2006, from 2006 to 2008. My communications with the states is that they're not trying to prevent corrections or improvements or reductions in their burden that could be done. For instance, there are

duplications in the questionnaire, that as we've gone through this, we've found, basically, the same information being asked twice, because the way the questionnaire is written out. We could reduce that and make it easier for the states to respond, without triggering any programming changes on their part. There's questions like the poll worker ages that may not change much from 2008 to 2010, and the EAC will have to decide whether that's worth that additional burden on the states.

My conversations with state election officials is they are not trying to preclude those kind of what I would call tweaks or corrections, they're trying to prevent the wholesale changes or addition of new information. Or, you know, the UOCAVA classifications changed from 2006 to 2008. They don't want to see that. But I don't think they want to see errors or things like that repeated, just for the sake of leaving it the same way. But, you know, I've communicated that with Shelly and Karen and that will be an EAC decision, of course, to make.

COMMISSIONER DAVIDSON:

I can see them eliminating questions, but obviously, changing the questions or changing how it's reported, I mean, they're going to have to change the computer system. And you're hearing a little different conversation...

DR. MOORE:

Not necessarily.

COMMISSIONER DAVIDSON:

...from the election officials than what we are.

DR. MOORE:

Well, let me give you an example. More and more jurisdictions are voting all vote by mail. It would be easier for states to respond if you gave them an option of denoting where they had all vote by mail ballots come in, as opposed to trying to figure out whether they classify those as absentee. So in 2010, you could add an option for reporting you know -- you could breakout absentee ballots between absentee, as we traditionally know it, and all vote by mail. That would make it easier for states to respond.

COMMISSIONER DAVIDSON:

But don't you think it's...

DR. MOORE:

It would require no more programming.

COMMISSIONER DAVIDSON:

Don't you think it would be helpful for people to know that people that's out of a jurisdiction that's asking their ballot to be mailed someplace else? A difference of all mail, and then absentee, could be two different things within a state also. And then, if they do it all by mail, then we're missing the information for UOCAVA, if they don't separate some of that information out.

DR. MOORE:

Well, I think you would maintain that separation for UOCAVA but...

COMMISSIONER DAVIDSON:

By law we'd have to.

DR. MOORE:

Right. But simply, in the questionnaire as it now exists, there's no option for all vote by mail jurisdictions, and that creates a question that we always get, which is, "My county now votes all vote by mail.

Is that absentee or not?" And I think those are the kinds of small changes that could be made, even for 2010, that would not complicate life for election directors, but make it easier. But that's an EAC decision to make as far as the scope of what changes, if any, you want to make to the 2010 questionnaire.

COMMISSIONER DAVIDSON:

Okay, thank you. Dr. Anderson, there's one -- and I think your pages are different than mine, but "What happened to provisional ballots" is the one that I wanted to talk about. In mine, it's page four, but I don't know what page it is on yours.

DR. ANDERSON:

Yes, the page numbers are off.

COMMISSIONER DAVIDSON:

That's correct. The "Counted the full ballot," I think this is somewhat confusing, because we say that 61.8 percent and that's the one we put out that the ballots were counted on provisional ballots. But you also have the count of partial ballots, and I think that when we do press releases, we should say that one because, really, all in all there were 67.3 ballots counted, in one form or another, either the total ballot or partial ballot, because a partial ballot, when you really think about it, is when somebody votes in a precinct -- a different precinct and that ballot type is not -- they can't vote on all of that ballot type, everything is counted, in most cases, except the portion that that voter is not qualified to vote on. So, obviously if it was a different House district than what they were qualified to vote, that vote wouldn't count. And I think that's a confusion that the public doesn't really understand and I think that

it's upon us to really have them understand that. Do I have the answer exactly? That's why we hire doctors to do our job for us. But in this case, I think that's a little confusing, because there's more provisionals counted, and I don't want Congress to pick up that we only counted 61 percent, when there really was 67 percent plus. That was more of a statement than a question, I appreciate it. And thank you.

DR. ANDERSON:

Thank you.

COMMISSIONER DAVIDSON:

That's all I have.

CHAIR BEACH:

Okay, thanks.

Dr. Moore I know you've answered Commissioner Davidson's questions, as far as some issues that states have experienced with reporting. I want to know if there was a common theme, or some sort of challenge that you found that states universally have expressed with the form, that we should take into consideration for 2010, whether it's with the format or a certain question.

DR. MOORE:

Well, I think some consideration needs to be made on question F7 on the voting technology and on what -- at the EAC level, what information are you trying to gather? What's the purpose of it? From our point of view, you know, there are ways we can make this easier to answer. But we -- it may be that the EAC is trying to collect more than it needs for its purposes, I'm not sure, but I think

that's very hard to answer for states and for local jurisdictions to convey. As Shelly talked about, it's very complicated at the polling place level, what machines are being used where and when and how. So I'm not sure, there may be a way to streamline that.

I think there -- and perhaps this needs to wait for 2012, but there's some duplications. There's some places that we could streamline and reduce the number of questions by asking it once, instead of twice. There are places where we ask it, and then when we come back and ask for a breakdown, we're asking it again, and those could be combined and streamlined. We also have a wealth of data from the comment fields that the states gave us that we're going to be analyzing this month to look at what the states told us about the questionnaire. So, I think those are the highlights, to me, of what we should do.

The other question I think is, and this is something that we ran into when we were working with Kim Brace and Clark Vincent and other consultants, which is we ask information about voter registration that may need to be collected before the election with telephone calls to the states. Because, when we collect it at the local level that's what we call the "big number," how many people are registered and eligible to vote. And it may be that this is not the proper way to get that number. We may need to do it separately, call the states after their registration closes, for those states that close registration for the election and say, "Okay, what number are you reporting as your eligible and registered voter list statewide?" Because that's a critical number, and doing it this way, we don't get that number the way that we should.

CHAIR BEACH:

And another question, did you see any evidence that the implementation of a statewide voter registration database has improved the voting process at all?

DR. MOORE:

The voting process or the response to the survey?

CHAIR BEACH:

Actually, okay, both.

DR. MOORE:

I think, as far as its impact on the voting survey is something that's beyond what we would have gotten into.

CHAIR BEACH:

Okay.

DR. MOORE:

Certainly, improvements to statewide voter registration databases make this much easier to complete and fill out.

CHAIR BEACH:

Okay. Dr. Anderson, according to the report, it states that there are 14 million more registered voters than there were in the last Presidential election cycle. Could you provide some specifics about how these 14 million new registrants, such as, like their age, or geographic region, were there more registrations, you know, by say student voters, or younger voters? Or was there an increase in a certain region of the country?

DR. ANDERSON:

Which page are you talking about?

CHAIR BEACH:

I was referring to the beginning, when you talk about the 14 million registered voters for the last Presidential cycle, the statistic. I'm just asking, in your data, have you seen -- or maybe Dr. Moore do you have an answer to that?

DR. MOORE:

Well, I think if you look at the tables in detail, you can get an idea of states that experienced increases. Georgia jumps out at me where...

CHAIR BEACH:

As a surge.

DR. MOORE:

...you had a surge. But that is highly variable across the states. I mean, as we know from the Presidential election, there were a number of battleground states, where the attention was focused and those saw large increases.

DR. ANDERSON:

And also some with the youth voting.

DR. MOORE:

Yeah, of course, we didn't -- we don't have a lot of data on the youth voting...

CHAIR BEACH:

Okay.

DR. MOORE:

...but that's certainly an important part of it.

CHAIR BEACH:

Okay and my last question, I'll throw it out to both of you. Do any of you have any idea why the rates of provisional voting haven't

changed very much since the last Presidential election cycle? Is there any indication from any of the data why that would be?

DR. MOORE:

Well, I think what's not appreciated is that there is what I call a classic use of provisional voting, which is you show up and your name is not on the list for whatever reason, you vote provisional. But states are using provisional ballots in lots of different ways; to process change of address forms or whatever. And so, you've got - - I think even if voter registration databases increased and cut down on the number of the classic provisional voting, you'd still have these other uses that states are piling upon the provisional ballot process. So, you may have some of that offsetting. But I think it's just so highly variable. I was really -- that's what struck me, was how differently provisional voting is handled in the different states and jurisdictions. And it would be very interesting to look at how it varies sub state, how it varies across different counties, in an administrative posture. But that's beyond what we really looked at.

CHAIR BEACH:

All right and I think you said California -- was it California, New York and Ohio, had the largest number of provisional voting? Is that because of also they had the largest populations voting, or the greatest number of registrants compared to other states?

DR. MOORE:

Some of it's that -- Ohio uses it to process change of addresses, which inflates theirs. But, you know I had a conversation -- I called around to several of our contacts about this, and I've asked whether provisional voting -- once you started provisional voting,

opened that up, you had more of it. In other words, administrators would be more likely to use it. And I got two different answers. One answer was, yes, that if you make provisional voting easier to do or more common, that administrators are more likely to give provisional ballots to get people -- keep people moving. But then, others said no because local officials -- polling place workers and local officials don't like provisional ballots, because it increases their workload, and so they discourage it. So, I think it's highly variable, and I think you're seeing a lot of different things going on in the states and in the counties and in the polling place. I think there's a lot of variability in the way that individual poll -- precinct captains handle provisional ballots and their willingness to give those out or to take the extra steps that might be required to determine if the regular ballot is appropriate.

CHAIR BEACH:

Do you think poll worker training and education for poll workers could make a difference in that?

DR. MOORE:

I certainly think so, but I think there needs to be a lot more research into what the source of that variability and what the impact is. And I think it would be very interesting to compare at the precinct level, at the county level, and just see how differently within a single state's laws provisional ballots are being -- and I think that research is being done by some people. There's a great interest in it.

COMMISSIONER DAVIDSON:

If I can add, just to touch on that, by the experience of what has happened in Colorado. They were one of the very highest, when

we did the first reports on provisional ballots, because they do the same; address change, they give them a provisional ballot, allow them to do that and then they -- it's counted later. But with the counties going in to doing they can vote anywhere within the county, they can vote in any precinct and they've got every ballot type within every precinct, that has cut down on provisionals because they get the correct ballot type when they change their address and they don't have to give them a provisional. So, things like that, within a state, if they change the state laws, it is decreasing the provisional ballots, because they're no longer one of the highest ones. And that has decreased. So, the counties that are utilizing that type of voting, it has reduced it. So, it depends on the state laws and how they treat different things, if we see that going down. And I think that what the states are seeing is, with their having their databases, this gives them an opportunity to assess what their issues are so they can go in and look at state law and see if something needs to be changed.

VICE-CHAIR HILLMAN:

Just staying on provisional ballots for a minute. I mean, I think that we've collected enough data, and based on what Dr. Moore and Dr. Anderson are saying, EAC may want to think about issuing guidance, again, on provisional ballots, based on the data collection we have. Because I was going to ask a question and I think you answered it, and that is the extent to which provisional ballots are used when jurisdictions have a problem and the machines aren't functioning, or they run out of paper ballots, so they use the provisional as the paper ballot, and it ends up getting counted as a

provisional even though it wasn't a "provisional ballot" cast. And then, also for same day registration if a state requires that the provisional ballot be used instead of a regular ballot. I mean, there are so many variances that the question is, how many of these provisional ballots cast because there was an administrative glitch that kept a correctly registered voter off the list? And that would be interesting to know if we can dig deep enough to say, "Here are all the reasons states collect and count provisional ballots." And of all those reasons, the one which I believe is what was behind provisional balloting, is, if I know I'm registered and my name isn't on the list, I have the right to cast a ballot while the election office reviews its records to see if I am correctly registered or not. And it seems to have gotten lost in the many uses, which I think it's great that on the one hand provisional ballots are being used, and if almost 70 percent of them are being counted, that's fabulous. But then it begs the question, why such a high rate of them being counted if what could be done on the front end to minimize the need for all those people to have to cast a provisional. But the mix is they're being used for legitimate reasons as well to allow people who, maybe, aren't registered where they are to still be able to vote. So, I think it would be worth, Mr. Executive Director, our really -- EAC's considering, in 2010, what it can do to help further discuss provisional ballot,, because it's still a concern among many members of Congress and others, but also to do another wave of guidance on the issue.

EXECUTIVE DIRECTOR WILKEY:

I'm glad you mentioned that Commissioner, because I think you'll be soon seeing, in a briefing paper that's coming to you very soon, that our Research and Policy Division will be making some recommendations on how we can strengthen the guidance that we have done in that area. Because certainly, I agree that this is -- it still remains a troubling aspect of the process. I mean, even in my own state where the rule of thumb is, nobody leaves the polling place unless they have cast a ballot somehow, we still find that there are places where there are deviations to that. And we see it throughout -- and I think that the data pretty much shows that. So, we've got some work to do in that area. And you'll be seeing, if not in this next briefing that you will be getting, but in future -- in the very near future, some recommendations on steps that we can take to try to alleviate that, because it continues still to be a problem that I have seen personally.

COMMISSIONER DAVIDSON:

You know one of the interesting things, I don't know if we could collect that from the data that we have currently, but on provisional ballots can we tell how many people got to vote because of a provisional ballot that would have been disenfranchised if they hadn't had that opportunity?

DR. MOORE:

Well, we certainly can't get that from the data. I don't even know that you could ask that -- that's a very good question. It's a very good question. But unless the precinct workers were making that judgment call, and reporting it, and then you wouldn't be able to get that from the state, necessarily.

COMMISSIONER DAVIDSON:

Well, unless they had it on their form, the provisional ballot form, you know, and go down deep into the reasons. And some states do go deeply into the reasons but...

DR. MOORE:

That would be -- it might be worth asking that to see how many states might collect that data, because that would be a very interesting number to know.

COMMISSIONER DAVIDSON:

Because that's really the purpose of having a provisional ballot, is making sure -- and to eliminate people having to go to the main office to be able to change an address, we'll say, or to do something that they had to accomplish before they were allowed to vote. And lot of times those were disenfranchised because they didn't have time to do it.

Okay, thank you. Sorry to step in again.

VICE-CHAIR HILLMAN:

No, no.

DR. MOORE:

Going back to Commissioner Hillman's question, my colleague Dr. Paul Gronkey (ph) has done a quick calculation. He estimates the average age of poll workers at 55.

VICE-CHAIR HILLMAN:

55.

DR. MOORE:

I would suggest taking that with a grain of salt, despite its source from Dr. Gronkey.

[Laughter]

DR. MOORE:

But I think that's a more realistic number than some of the numbers in the lower 70s that have passed for empirical data on that question.

VICE-CHAIR HILLMAN:

Well, EAC would probably stand up and say that the HAVA college poll worker program probably had a lot to do with lowering...

EXECUTIVE DIRECTOR WILKEY:

Absolutely.

VICE-CHAIR HILLMAN:

...the average of the anecdotal or mythical average age of 72.

One final follow-up question if I might. And it's to Dr. Anderson. I noticed that you very carefully used the word "Americans participated in the election." Could that number include people who did something like request an absentee ballot but never followed through? Or is that 133 million people who actually cast a ballot?

DR. ANDERSON:

I'll read you exactly what the question included. Is this from F1 in the survey?

VICE-CHAIR HILLMAN:

Well, I'm just looking at your talking points, under "Election Administration and Voter Survey."

DR. ANDERSON:

Um-hum, right.

VICE-CHAIR HILLMAN:

You said, "Based on responses from the states and territories, 133 million plus Americans participated in the election."

DR. ANDERSON:

Participated, um-hum.

VICE-CHAIR HILLMAN:

And I'm wondering why "participated" versus "voted" or "cast a ballot."

DR. ANDERSON:

To maintain consistency with the question that was asked of the states, and the question asked specifically about participation. And then we go onto define what's...

VICE-CHAIR HILLMAN:

Do the responses include something other than casting a ballot?

DR. ANDERSON:

It includes all voters, all types of ballots, including rejected provisional ballots, only if the jurisdiction credits the person's vote history even though the provisional ballot was rejected.

VICE-CHAIR HILLMAN:

So, it's people who cast a ballot in some form.

DR. ANDERSON:

Yes.

VICE-CHAIR HILLMAN:

Okay. And is there a reason -- I mean, I'm even not into -- I'm not even going about changing the form, that's not where I'm going, but is there a reason from a political scientist or a researcher's point of view why we're saying "participated" and not saying "cast a ballot"?

DR. MOORE:

I think the intention here is to get the bigger number, the larger number of all the different ways to ask it. And then, in our subsequent questions, we try to drill down and get, say, ballots cast. So, we're doing both, in other words. This is the larger number and then down below...

VICE-CHAIR HILLMAN:

But a ballot cast and not counted -- I mean, I know we've been into that. But I guess, because the question comes up, does this represent people who actually voted on a ballot, whether or not it was counted? They voted on a ballot and they submitted it to some election authority. Is that what this 133 plus million figure represents?

DR. MOORE:

That's what it seeks to get. The way the states collect the data and the way the states define participation makes it literally impossible to generalize that across the 55 states and territories. But we wanted to ask the states, "When you calculate participation, how do you do it?" And then, if you look at the state responses and their comments on this, you get a better picture of what they're including or not. But there is no one commonly understood or...

VICE-CHAIR HILLMAN:

Okay.

DR. MOORE:

...accepted way of measuring it.

VICE-CHAIR HILLMAN:

So then, I'll just ask my question again, until I make sure I'm correct. Would any of the states have reported a level of

participation that stopped before the person submitted a marked ballot? They asked for an absentee ballot and they were mailed one, but they never returned it.

DR. MOORE:

It's possible that some states would have included those people as listed in participation.

VICE-CHAIR HILLMAN:

Thank you.

CHAIR BEACH:

Okay, well, thank you for your presentation on the results of the 2008 Election Day Survey.

And now, we'll hear the results of the 2008 UOCAVA report.

DR. ANDERSON:

The 2008 UOCAVA report includes data related to the number of UOCAVA ballots that were transmitted, returned and submitted for counting by both type of ballot and type of voter, the ballots that were counted and rejected, and the reason why those ballots were rejected. States reported transmitting nearly 1 million UOCAVA ballots, specifically 989,208 across the states, territories and the District of Columbia. Included in that number would be 231,324 ballots that were automatically transmitted to UOCAVA voters. Nearly half of the ballots that were sent went to uniformed services members, that would be 48.6 percent, while just under 40 percent went to civilian citizens living overseas. Of the ballots that were transmitted to UOCAVA voters, 69 percent were returned and submitted for counting. States reported counting roughly 94 percent of the ballots that were submitted for counting. The last

page of your handout shows the number of ballots submitted by UOCAVA voters. And that's just for your reference.

Of the total number of ballots submitted for counting, we find that 39,533, or 6 percent, were rejected. And the main reason for those rejections were because of a missed deadline. In fact, 44 percent of the ballots were rejected for this reason. Another 11 percent were rejected because of problems with the required signature. For example, the signature did not match the one on file or the signature may not have been there at all.

Another point of interest is the use of Federal Write-in Absentee Ballots, commonly known as FWABs. And as we know, FWABs are available to UOCAVA voters who may have requested a regular absentee ballot, but did not receive it. The 2008 data showed that FWAB usage was a relatively small proportion of the UOCAVA voting for both uniformed services members, as well as civilian voters. FWABs accounted for 4 percent of the total ballots submitted for counting.

So, this is a very, very small report, and so those are the main highlights from this report. But I think we could say that the 2008 survey experience suggests that states' collecting and reporting of UOCAVA data is improving for many of the reasons that Toby mentioned earlier.

For the 2008 federal election, in key categories, nearly all states were able to report totals, generally at the county level. For example, the 55 states and territories and the District of Columbia were able to report the number of UOCAVA ballots transmitted, and 50 were able to report the number of UOCAVA ballots submitted for

counting. However, at more detailed levels the need for improvement in data collection remains. For example, less than half of the states and territories were able to provide sufficient data on the number of FWABs that were rejected. Of course, EAC is committed to working with the states to address their data collection and reporting needs as we move toward 2010, but again, I think that there is improvement in the 2008 survey.

Toby, do you have anything to add?

DR. MOORE:

No.

DR. ANDERSON:

Then, we'll take your questions.

CHAIR BEACH:

Okay, wonderful. Vice-Chair Hillman, would you like to start?

VICE-CHAIR HILLMAN:

I want to go back to the numbers you cited on the rejected ballots. If I'm looking at the correct information, it's under the "Executive Summary" on page two of the UOCAVA report. That would be item number five, "States reported rejecting," okay? So, states reported rejecting a little under 40,000.

DR. ANDERSON:

Um-hum.

VICE-CHAIR HILLMAN:

And that is 40,000 out of...

DR. ANDERSON:

Out of the 682,341 ballots that were returned and submitted for counting.

VICE-CHAIR HILLMAN:

Okay, because I didn't see that 682 figure. I'm looking at number four, I was seeing 637.

DR. ANDERSON:

It's number two.

VICE-CHAIR HILLMAN:

Number two.

DR. ANDERSON:

"Of the ballots transmitted, 69 percent. 682,000."

VICE-CHAIR HILLMAN:

Oh, okay, number two, okay. So, the difference between what's reported in number two and the difference between -- and number four if you could just, for the record, so that people observing will know what we're talking about, because you and I can have a one-on-one conversation and nobody will have a clue that we're talking about.

DR. ANDERSON:

Okay, so number two describes, "Of the ballots that were transmitted, 69 percent, 682,341 were returned and submitted for counting." Number four describes, "The states reported actually counting 637,216 of those ballots."

VICE-CHAIR HILLMAN:

So, if I do the math, that's where we come up to the 40,000 that were rejected, more or less?

DR. ANDERSON:

Well the -- yes.

VICE-CHAIR HILLMAN:

Right. Okay, so under number five, going back to the rejected ballots, it says, "States reported that 43.7 percent of ballots rejected were rejected because of a missed deadline." That would be 44 percent of the 40,000. Is that correct?

DR. ANDERSON:

Correct.

VICE-CHAIR HILLMAN:

Okay, I think that's it for the moment. A lot of numbers to digest...

DR. ANDERSON:

Yes.

VICE-CHAIR HILLMAN:

...but that's it for the moment.

CHAIR BEACH:

Commissioner Davidson, do you have any questions?

COMMISSIONER DAVIDSON:

My question, I think, goes to Dr. Moore, and methodology I think is where I'm coming from on this one or -- tell me why you think -- because we've been working with FVAP and their report and looking at the differences of numbers. And I know that theirs is a survey, because they do send it out to just a few people to get the information. But tell me why you think that our numbers are so far apart. Do you have any idea?

DR. MOORE:

Are you talking about participation?

COMMISSIONER DAVIDSON:

Participation.

DR. MOORE:

We purposefully did not calculate participation from our survey. I don't think that's an appropriate use of our data. There is no question on here about UOCAVA voters. We track UOCAVA ballots and it's -- there are many different reasons. It may be that voters covered by UOCAVA are voting and not being tracked properly by the states or local jurisdictions.

COMMISSIONER DAVIDSON:

And that is a -- I know that happens all the time in every county.

DR. MOORE:

Right. So, that is an issue that needs separate study to quantify that, but it's almost assured that that happens. But there are also -- that's the numerator, but there are also problems, I think, with the denominator, in knowing what the universe of UOCAVA voters is, both military, but also -- uniformed services, but, particularly, overseas civilian, we just don't know how many there are. It's also -- it's -- the numbers are far apart. There could be many different reasons. I think the better avenue is simply not to use the Election Administration and Voting Survey to try to calculate participation for UOCAVA voters. It just doesn't work. It was never intended to do that.

COMMISSIONER DAVIDSON:

Now, that you point that out, that's definitely true, because if somebody registers on a regular form and gives an address, they don't realize that they are a UOCAVA voter, and they make it an absentee, that a family member sends in for them, and they may be overseas, but if they don't even flag them as a UOCAVA or military voter in their systems.

DR. MOORE:

Right, yeah, I take the bus in from Fairlington with many people who are obviously uniformed services members. Now, they may be going to Fairlington Community Center and voting, I don't know what Arlington does to try to track those, but I can't imagine that they're able to track all of those people as UOCAVA voters.

COMMISSIONER DAVIDSON:

Most states don't track those individually.

Well that helps and that will help our staff be able to answer questions from -- I'm sure Congress will be asking questions, and so will the press, of knowing why those numbers are -- there's some differences there. So, that's important for us to know that we're really not tracking those. And I don't know how the states can track that because they get it in on their statewide voter registration form of an address or an application for an absentee ballot, so they're not tracking those unless there's a P.O., you know, for military or something like that. Knowing the difference, whether they're overseas working and knowing they're overseas on vacation is very difficult. Okay, that answers that one then.

The laws have been in place for a number of years, but we all know -- and I guess this is more of a statement than anything -- but we have some states that we have no data on, on UOCAVA voters, at all. And so obviously -- and this is better than what it used to be, but did you get indications from states that's because of their state laws? Or -- I did notice Oregon, because they're doing, you know, all mail ballots, they don't track it. Is that some of the reasons that you're seeing? Or did you pick up any indication at all

in the information that we collected, Dr. Moore, of why these states are not?

DR. MOORE:

I'll answer carefully. We did collect some data from all 55 states and territories. For instance, ballots transmitted, we got a number from every state and territory. So, we didn't strike out at all with UOCAVA. There are states, like Oregon, which don't separate UOCAVA from their regular transmitted absentee voters.

COMMISSIONER DAVIDSON:

When their ballots come back in?

DR. MOORE:

Right, we still do not get 100 percent cooperation from all states and territories.

COMMISSIONER DAVIDSON:

In their form that they submitted, though, that talked about their laws and their regulations, the upfront form that they give us, was there anything that indicated why, you know, to help everybody out of what the issues might be?

DR. MOORE:

With tracking UOCAVA voting?

COMMISSIONER DAVIDSON:

Um-hum.

DR. MOORE:

There's a lot of information in there about what they -- how they try to go about doing it. But we still have bottom up states that are dependent on cooperation from their local jurisdictions, and the states don't have much leverage in trying to get those filled out in a

timely fashion and submitted. So, that's not a matter of failure to track, it's just a matter of getting that number up the chain, up to us. But it just varies widely across the states, as to the top down and bottom up nature, and also their responsiveness and interest in participating. That will increase I think over time. We saw states, for instance, in 2008 that we began having -- we had trouble getting -- opening a line of communication and cooperation, but as time went through the project, they became more responsive. And I think the EAC can build on that in 2010.

COMMISSIONER DAVIDSON:

Shelley, I guess my -- I'm sorry, Dr. Anderson, I think the only thing that I would like for you to do is explain the differences to the public of precincts and polling places, because we report both of those, and I think it's very important. It's not the same, we're talking about apples and oranges and there's quite a variance in those numbers. Can you explain that? Or would you like for...

DR. ANDERSON:

Explain the definition of precinct and polling places? Or...

COMMISSIONER DAVIDSON:

Well, you know, a polling place is a physical place.

DR. ANDERSON:

A physical...

COMMISSIONER DAVIDSON:

A precinct -- I guess, I'll explain it in my words and then you can correct me, if you think you'd like to. A precinct is how the ballot types, and how it's laid out, different precincts that people vote in. And Congressional lines and House and Senate, they cannot cross

boundary lines in developing precinct lines. So, in lots of cases, you have a lot of precincts within one polling place, and that's why there's big variances on the numbers.

DR. ANDERSON:

Yes.

COMMISSIONER DAVIDSON:

And in some states you see that the number of precincts going down, because of the way they're voting their voters within that state. If you've got a state that's moving to more mail ballot, they decrease the precincts, because there's more people voting throughout the state on a mail ballot, or if they have different types of voting. So, our precinct counts are going down. That doesn't mean -- I mean, our polling place count is going down, pardon me, not our precinct counts. If you looked at your form from last year, you'll notice that polling places are reducing, and there's reasons why they are reducing and -- but your precinct count is not reducing, I guess is what I'm trying to say.

VICE-CHAIR HILLMAN:

Commissioner Davidson, if I can just follow-up. So, would it be correct for a person to think of a precinct as a geographical jurisdiction?

COMMISSIONER DAVIDSON:

That would be very good.

VICE-CHAIR HILLMAN:

It's a...

DR. MOORE:

It's a bounded area.

VICE-CHAIR HILLMAN:

It's land.

COMMISSIONER DAVIDSON:

It's a bounded area, um-hum.

VICE-CHAIR HILLMAN:

Right, okay, and the polling place is a building or a physical structure.

COMMISSIONER DAVIDSON:

Physical location.

VICE-CHAIR HILLMAN:

And some of the reasons, at least, that I have heard, as to why the number of polling places are being reduced is one, cost, the cost to the election administration operating the polling places, the availability of polling places because of the requirement of accessibility that so many places aren't accessible and the cost to make them accessible gets to be prohibitive at that time, or, you know, construction in a building that once was is no longer or it's become a condo, or some other reasons. And so, it could vary. Next year we could see an increase.

COMMISSIONER DAVIDSON:

Well, it can vary, but you're also seeing a decrease because a lot of your Western states are going more to permanent absentee. So, when they get 50 percent of their voters voting before Election Day, they decrease the polling sites because of the cost, one, but they don't...

VICE-CHAIR HILLMAN:

Don't need it.

COMMISSIONER DAVIDSON:

...have the need for it. So you see it going from a number that -- and so, there's more than one reason. You gave very good reasons in why they are, you know, have moved and changed and decreasing. But on the other hand there's the physical reason...

VICE-CHAIR HILLMAN:

Right.

COMMISSIONER DAVIDSON:

...within the office how they run their elections, why they decrease.

That's all I have.

CHAIR BEACH:

Okay, I just have one follow-up question. When we're talking about, on page two, the reasons for rejecting a UOCAVA ballot because it came in after the state deadline, the number was 43.7 percent, did you observe in the data you received any common themes or laws in states where this occurred? For example, I know there was -- I believe Alabama, I think the law still is they can't accept ballots by FedEx, or other means, other than the Postal Service. Are there laws or things like that in place in states that may have affected why ballots are returned late, that you found?

DR. ANDERSON:

I think -- did some states mention the notary requirement?

DR. MOORE:

Right, and we haven't done that analysis other than the data is there to be analyzed. Of course, some of the reports coming out of PEW have gotten at that very question and have identified those barriers, OVF has done some important research on that, too, but

we haven't analyzed the data for that purpose, although certainly somebody should grab it and look for those exactly -- to try to answer, exactly those questions.

CHAIR BEACH:

Do you have a follow-up?

COMMISSIONER DAVIDSON:

Well, now that our report is out, do you think that that will be analyzed, you know, PEW will move forward? I mean, have they asked for our information from you? I mean, obviously you couldn't give it to them until it was -- it goes through our step here, but they'll probably be wanting that by, you know, a disk or whatever, several people will, so they can analyze it in all different kinds of ways.

DR. MOORE:

The indications that I've had from meetings in the last six months is that there are people who are waiting for the release of this to be able to compare to other data and to do their own research on it. And I think that -- in my conversations with Sharon Kelly they're very eager to facilitate that use.

COMMISSIONER DAVIDSON:

Yeah, there is one that I think should be analyzed. The states that have late primaries and run-offs that cause ballots not to get back, have you analyzed in any of those the problems that might be there because the ballots were late, because of the timeframe of getting them out?

DR. MOORE:

We haven't, but I expect that analysis to be done by others, and that will be important information.

DR. ANDERSON:

And our data will be publicly available on the Website, following the release of these reports.

COMMISSIONER DAVIDSON:

And I do like the idea of GPS, so people could drill down to an area -- a certain area. I mean, that will be something I will ask that we look into and see what the expense would be. That, I think would be very helpful to anybody to be able to do some analysis on their own and not have to rely on the whole information.

Okay, thank you.

CHAIR BEACH:

Okay, are there any other additional follow-up questions or discussion?

VICE-CHAIR HILLMAN:

I do want to say -- and I want to go back to an observation that Dr. Moore made earlier, but it's one that I think that the Election Assistance Commission should take to heart, and that is the remarkable progress that has been made in instituting this survey. I mean, it is a survey of the Federal Government. It's not just Dr. Anderson's survey, because she thought that was something interesting to do. It is something that the EAC is committed to. And it did take a little while, I think a couple or three years, to help states and entities understand the value of collecting this data, particularly over the long haul, so that we could see and report accurately to Congress about the progress that's being made under the Help America Vote Act. It's just not enough to go to Congress and tell anecdotes, but that we wanted to be able to have figures and

statistics and survey results to back us up. And I know that we had talked about this survey becoming a document that other researchers would turn to and rely on and that people who want to analyze various portions of the federal election cycles would be able to use the data to do that. And I think we are, if not there already, we are very, very close. I mean, it's no more a light at the end of the tunnel. I mean, you know, we're there.

And I happen to agree with you Dr. Moore, that I think tweaking the survey that doesn't cause the state to have to change its data collection or data reporting process, but makes it clearer and more succinct as to what we're asking and how they provide the information could also be useful in terms of the amount of time and money that it costs to collect the data, analyze the data, synthesize it and report it back out. So, as we tweak this, I know we're tweaking it so that it will be a gold standard document that the Federal Government and Congress can be very proud of, and the President, as well.

Thank you.

COMMISSIONER DAVIDSON:

I also want to say I appreciate all the work that the states have done and I know it's at a busy time for them in trying to get -- meet our deadlines and get it in to us. There's a lot of information that we're gathering, and for it to be utilized and them know the value. And hopefully they are -- they can say to other people, "We're doing a federal survey" and they don't have to fill out hundreds of surveys that come in to them from other entities, not, you know, just, you know, techies that like to get the information, but they also get them

from colleges and everybody else, so that they can say, "Look, we do one form of a survey and you can go onto the Website and get it," that would be very helpful for the states, because they're filling out lots of surveys, or throwing them in the trash. And then, the survey is not complete that other entities are doing.

DR. ANDERSON:

And on that point, Commissioner, I think states are beginning to realize, going back to this question of the value of our survey, that if they submit the information, the data that we're requesting, it is, in large measure, what other entities are requesting. So, they simply provide the information. They don't have to keep reinventing the wheel.

COMMISSIONER DAVIDSON:

Right.

DR. ANDERSON:

They simply provide the information there.

COMMISSIONER DAVIDSON:

And that's helpful to them.

DR. ANDERSON:

It's very helpful.

COMMISSIONER DAVIDSON:

But, they've been a great deal of help to us in accomplishing the survey and improving it the way they have, and I do appreciate that from the states.

Thank you.

CHAIR BEACH:

Thank you. Thank you both for your presentations and thank you for your hard work on these reports.

And at this point, we'll take a break for lunch and reconvene at 1 p.m.

[The Commission recessed at 11:44 a.m. and reconvened at 1:06 p.m.]

CHAIR BEACH:

Okay, the afternoon session of today's public meeting will now begin.

At this point, we will receive a presentation on the five newest Election Management Guideline Chapters, from the EAC Programs Department, and that is the third agenda item under New Business.

And I want to thank -- at this point, also thank EAC staff, the working groups involved in drafting the EMG chapters, the EAC Standards Board and the Board of Advisors for their edits, their comments and their participation in this process.

We have here Karen Lynn-Dyson, the Director of Research, Policy and Programs, who will introduce the program and Matt Weil, our Research Programs Specialist, who will discuss the chapters.

You may begin.

MS. LYNN-DYSON:

Good afternoon Commissioners. I'm going to spend just a few minutes telling you about the process that was used to develop

these chapters. And then, as Chair Beach indicated, Matt Weil will spend some time dealing with the substance of these five chapters.

These five chapters, which are Building Community Partnerships, Canvassing and Certifying an Election, Communicating with the Public, Conducting a Recount and Provisional Ballots, represent more than a year of working groups, research, writing, and reviews by EAC's Board of Advisors and Standards Boards.

Working groups for three of the chapters were convened in Washington, D.C. in February of 2008. The chapters are Canvassing and Certifying an Election, Conducting a Recount and Provisional Ballots. Each working group included staff, which at that time was Brian Hancock and Laiza Otero, and our contractors Connie Schmidt and Brit Williams, as well as three or four election administration experts. These experts represented small and large jurisdictions from around the country.

The Communicating with the Public working group was convened in Philadelphia, Pennsylvania, in May of 2008. EAC staff for this chapter also included EAC's Director of Communications, Jeannie Layson. The five election administration experts represented jurisdictions from across the country, academia, and the National Association of Secretaries of State.

Each chapter working group meeting began with day-long discussions about all of the potential issues to include in an Election Management Guidelines chapter on the topic. The officials were asked to provide examples of practices in their jurisdictions and information about practices in other areas. Agenda were

crafted to allow experts to guide the discussions. After the meeting, EAC staff and contractors created chapter outlines and began to work on Quick Start Management Guides.

Using the outlines, the contractors and staff wrote initial rough drafts of each new chapter. These rough drafts were shared with the working groups in mid August of 2009. Six working group members submitted substantive comments about the individual draft chapters.

The Board of Advisors and the Standards Board participated in a review of all five chapters through the EAC's virtual meeting room. This virtual meeting room was conducted between September 9 and September 18. Six members of EAC's Standards Board and ten members of EAC's Board of Advisors submitted over 300 comments.

EAC staff then spent considerable time reviewing the comments and incorporating them into the drafts, which are before the commission today. I would also add that these drafts have been professionally edited. And I'm very pleased to say that, when I went back through the chapters and refreshed my memory on them I feel as if they read very, very nicely with the tone and the voice that I think is very appropriate for the EAC to be providing election officials and our friends in the field.

Let me, before I turn things over to Matt, also note, for the record that, as I mentioned in my comments, Brian Hancock, Laiza Otero, my colleagues, had responsibility for the initial work done on these Election Management Guideline chapters, Matt Weil and I having taken over this project, the early part of this year, and Matt

really beginning, in earnest, to work on these chapters in the March/April timeframe.

So with that, I'm going to let Matt tell you a little bit about what is contained in each of the chapters.

MR. WEIL:

Thank you. Commissioners, Mr. Wilkey and Ms. Nedzar, I come before you today to present five additional chapters to the Election Management Guidelines program. As Karen mentioned, they are Building Community Partnerships, Canvassing and Certifying an Election, Communicating with the Public, Conducting a Recount, and Provisional Ballots. And they represent more than a year of working groups, research, writing, and reviews by the EAC's Board of Advisors and the Standards Board.

As are all other EMG chapters, these new chapters are meant to serve as informational guides to local and state election officials as they administer elections. The following disclaimer appears in each chapter: "Jurisdictions are reminded to implement these voluntary practices only after reviewing state and local laws and regulations. Local election officials should contact their state election officials with questions about the legality of a specific policy or procedure in their state."

Karen Lynn-Dyson just spoke to you about the process by which these chapters moved from early concept to edited drafts. I will now give you a brief summary of the content in each chapter.

The first chapter is Building Community Partnerships. This chapter discusses the benefits of different types of partnerships. It also offers suggestions for creating new partnerships while

improving those already made. An election official might consider partnerships with other election officials, other government agencies, civic organizations, local businesses, schools, universities, and advocates. These partnerships may help election officials find new poll workers, manage crises on Election Day, pool resources for language assistance, assist voters with disabilities, receive technical support, and provide improved voter outreach opportunities. The Building Community Partnerships chapter also provides election officials with some ideas about managing the partnerships they create and ways by which they can recognize their volunteers.

The second chapter is Canvassing and Certifying an Election. This chapter covers possible ways for local jurisdictions to canvass and certify an election. Of course, as with all suggestions in the Election Management Guidelines, election officials should review state and local laws and regulations before implementing any new policy or procedure. And I say that again, for this chapter, because this one, specifically, is very local in its implementation, and so we try to keep it as general as possible, while also providing helpful information to the local election officials. In the chapter election officials can find information with which to begin creating internal office policies and procedures for canvassing an election and certifying the results. Information about the election calendar is outlined, potential canvass boards are defined, and interactions with observers are explained. The chapter includes a section about conducting the canvass, which includes inspecting returns, duplicating ballots, reviewing rejected

ballots, and documenting the process. It concludes with the issuance of the final certification of results.

Communicating with the Public. This chapter outlines the steps any election might take to create a comprehensive communication strategy that provides information to voters, candidates, and the public. Sections discuss the different media election officials can use, namely the Internet, call centers, printed materials, news media, blogs, social networking, et cetera. It also highlights the importance for an elections office to create internal procedures for releasing information to the public, in an efficient way and with one voice. The chapter concludes with information about working specifically with the news media and for communicating during a crisis.

The next chapter is Conducting a Recount. This chapter explains the potential needs an election official may have during a recount and how to meet these challenges as they arise. The election official will likely consider timelines, staff, training, supplies and materials, locations, and cost when creating internal office policies and procedures for conducting a recount. Equally as important is for the elections office to provide the information to the public about the process before it starts, during the recount and after the resolution. As with the canvass of votes, observers are part of the recount process and information for including observers is available in the chapter. There are sections with possible options for how to hand recount paper ballots, and how to conduct an electronic recount. The chapter concludes with some suggestions for finalizing the recount process.

And the final chapter is Provisional Ballots. This final chapter discusses the federal requirements pertaining to provisional ballots – when provisional ballots must be issued and used, and how the voters must be provided with information about the disposition of his or her ballot, as well as suggestions for issuing, handling, and securing provisional ballots during the election cycle. There are sections about poll worker training, designing the provisional ballot envelope and administering provisional voting at the polls. The chapter also includes details about counting provisional ballots and collecting data for improving the administration of elections in the future.

Each of these chapters contains information that we believe election officials across the country will find very helpful. Where appropriate, examples are provided to explain a given topic. These chapters were crafted by election officials with election officials in mind. They have been reviewed by the original working group members, by EAC staff, by the EAC's Board of Advisors, and by the EAC Standards Board. I submit them to the Commission today for discussion.

We're prepared to answer any questions at this time.

CHAIR BEACH:

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

VICE-CHAIR HILLMAN:

Just a couple of questions, I mean, this is a continuation of some great work.

With these five chapters, how many will we have issued in total?

MR. WEILL:

We have 11 so far. So, this will be 16.

VICE-CHAIR HILLMAN:

This will make 16. And do we have a list of other chapters to be done in some priority order? How do we approach identifying which remaining topics will be researched and worked on next?

MR. WEIL:

We have three other chapters in development right now that were approved by the Commission for moving forward. They are Technology in Elections, Office Administration and Accessibility.

VICE-CHAIR HILLMAN:

Um-hum.

MR. WEIL:

The working groups for each have been conducted here in Washington, in September.

Do you want to speak about the process?

MS. LYNN-DYSON:

Well we -- and anticipate -- we are in the process now of developing the Quick Start Guides for those chapters. We fully expect that by the end of the calendar year this year we will have fleshed out those Quick Start Guides and the drafts of those three chapters. I think our hope, our expectation is that in the first quarter of 2010, we will have those chapters completed and they will begin the vetting and review process. The intention being that they will

be available to election officials well in advance of the 2010 election.

So, I would also add Commissioner Hillman to that, and for the public's benefit, that we are in the process of reviewing and having an independent evaluation done, of all of our educational materials that have been developed over the last five years or so, key among them being this Election Management Guidelines material. And we -- if we are able to stay on schedule, given our OMB clearance process, as we anticipate, that we will have the results from that independent evaluation in the winter, and quickly can begin to consider, if the evaluation shows this, doing what I like to call "second editions" or "revisions" to those, you know, at least 11 Election Management Guideline chapters that we have done, to update them, to revise them, based upon the feedback we get from the field.

VICE-CHAIR HILLMAN:

When you say in the winter, are you talking about early 2010?

MS. LYNN-DYSON:

Correct.

VICE-CHAIR HILLMAN:

So, if I get this correctly, 11 are done, five are these drafts...

MS. LYNN-DYSON:

Right.

VICE-CHAIR HILLMAN:

...and three are in the development stage?

MS. LYNN-DYSON:

That's correct.

VICE-CHAIR HILLMAN:

Okay.

MS. LYNN-DYSON:

That's correct.

VICE-CHAIR HILLMAN:

And then, the next step is to do the assessment/evaluation?

MS. LYNN-DYSON:

That's correct.

VICE-CHAIR HILLMAN:

And then, see where that takes us?

MS. LYNN-DYSON:

Exactly.

VICE-CHAIR HILLMAN:

Okay.

MS. LYNN-DYSON:

Precisely. And I'm, I think as we all are, very anxious, very interested to see how these materials have been used over the last three to four years, in particular, the fully developed chapter versus the Quick Start Guides. What is the field saying about the usefulness of both of those? And I'm hoping, very much, to look at some new outreach modalities, if you will, with these great materials that we've developed; more Website presence, you know, more kind of interaction with stakeholders among themselves, around these materials.

VICE-CHAIR HILLMAN:

And then, if you could just help me have a visual image of, and I'll just pick a couple places in the draft chapters. So, I'm looking at page 21, and that's Chapter 14, Communicating with the Public.

MS. LYNN-DYSON:

Um-hum.

VICE-CHAIR HILLMAN:

And on page 21 it says -- well, actually, on page 20, "Include a screen capture from the Indiana SOS Website." Now, what -- the chapters are available in both hardcopy and online or on a disc?

MS. LYNN-DYSON:

Um-hum.

VICE-CHAIR HILLMAN:

Okay, so in the hardcopy what does a screen capture?

MR. WEIL:

It's just an image of the homepage of the Website.

VICE-CHAIR HILLMAN:

Okay.

MR. WEIL:

It will be a picture of the screen, or in this case, the Indiana Secretary of State's Website.

VICE-CHAIR HILLMAN:

Okay, and then, is there also then a link for the online version, if people want to go to?

MR, WEIL:

There can be.

VICE-CHAIR HILLMAN:

Well, I'm just looking at...

MR. WEIL:

We included, here, for you to be able to see what it would look like.

VICE-CHAIR HILLMAN:

I see.

MR. WEIL:

We didn't want to include all the pictures in this draft, because it would have made this a very big file.

VICE-CHAIR HILLMAN:

Right.

MR. WEIL:

And we wanted to keep it simple.

VICE-CHAIR HILLMAN:

Okay, so links will or won't be in the -- I'm just asking if we do in the past. Have we put links in the electronic versions?

MS. LYNN-DYSON:

In the past we have.

MR. WEIL:

Yeah.

VICE-CHAIR HILLMAN:

Yeah?

MS. LYNN-DYSON:

Yes, yes.

VICE-CHAIR HILLMAN:

Okay. And then, there was one more about -- I'm still trying to catch up with all this stuff -- on page 26, and this is under the Communication section. "Include some tweets from LA County." Now, that could mean any number of things, but I assume we're

talking about technology here. What happened in the tweeting that -- well, what kind of examples are we using in the tweeting here?

MR. WEIL:

I can't remember the exact number, but on Election Day, LA County provided updates to the public via Twitter...

VICE-CHAIR HILLMAN:

I see.

MR. WEIL:

...and I guess Tweet is the verb form of Twitter.

VICE-CHAIR HILLMAN:

I see. Okay, well, hey, learn something new every day. Thank you.

CHAIR BEACH:

Commissioner Davidson?

COMMISSIONER DAVIDSON:

Thank you. I was in LA County at one of the presentations that they were doing, and they used it to stay in contact with their poll workers, is one of the things they did, and to get others out if they needed another place and also information on Election Day, what needed new supplies and things. And I was impressed with that. I think that's a real good step, so I'm glad that we're sharing that kind of information. And, obviously, all these reports are sharing expertise that come from our field, and having the election officials involved through this process is always such a good way to gain that knowledge. As I said, we go to the people that are actually on the ground, working as we collect this information, so it is very good. And I appreciate that.

MS. LYNN-DYSON:

And Commissioner Davidson, if LA County has a picture of you
Twittering, we'd be happy to include it.

COMMISSIONER DAVIDSON:

No, I was sitting in the audience learning, so -- you can always
learn, you know.

So anyway, the kind of thing I wondered about was, you got
a lot of comments it sounds like on these five pieces, from our
committees. And kind of, what was their concerns? Can you --
was there concerns or just things kind of improving it? Or what did
you find? I mean, I think it's very valuable knowing that we're
getting that kind of comments coming in.

MR. WEIL:

Let me first explain the 300 comments. On our Website, it's up to
you, the commenter, to decide if they want to submit separate
comments for each section, for each paragraph, or submit all their
comments at once. So what our Research, Programs and Policy
staff did was take each comment that was submitted to the Website
and assign it to a specific line. So that's 300 unique comments, but
on the Website it had to look like far less than that. But many
commenters included many comments in each comment box. So,
that's how we got the 300 number.

A lot of the concerns were that some sections didn't apply to
their state, or their jurisdiction, which we understand. These
chapters are, obviously, written for a national audience...

COMMISSIONER DAVIDSON:

That's right.

MR. WEIL:

...but 55 state jurisdictions and 7,000 locals.

COMMISSIONER DAVIDSON:

Take what you can.

MR. WEIL:

That's right. So we -- if we had a lot like that, we tried to soften the language a little bit. But obviously, one thing to acknowledge is that some jurisdictions could not do certain things.

Also, a lot of the commenters gave us examples to put in. I think one of the best examples is that Pennsylvania submitted information about how they managed crises on Election Day, so that ended up in the report, because it was submitted by our -- the Board of Advisors.

So...

COMMISSIONER DAVIDSON:

Okay. And then -- I know you were in the audience this morning when we were talking about provisional ballots, and both of you were here, and I reviewed this before, but do you think there's extra things that we could do to help the election people understand and get deeper into provisional ballots and knowing how useful that is? I mean, I think there was a little different caveat that was taken from this morning's meeting that we haven't addressed here. So, how do we go about -- would that be on the list in the future and to be able to review that? Because I think Commissioner Hillman brought that up and I think she has a good point.

MS. LYNN-DYSON:

Absolutely, Commissioner. What we didn't mention this morning, and Executive Director alluded to, is, our division will be coming to

the Commissioners within the next couple of weeks with a document that our division has been working on for some four or five months that represents a compendium of all of the provisional voting statutes, policies and procedures. We have gone through a very complete vetting process with each of the states. We've gotten their feedback. We have worked through the Office of the General Counsel and gotten their advice on it. And we see this document in combination with this chapter, along with the findings from the EMG, as a very good start to the provisional voting guidance process. We would anticipate working through and coming to completion in the next fiscal year.

COMMISSIONER DAVIDSON:

Very good.

MS. LYNN-DYSON:

So, yeah, this is -- this is a multi-step process, and I think we are gathering lots of very good data, very good research, all, we think, culminating in guidance and in some specific material we can provide to the states about what their fellow states are doing around provisional voting practice and policy.

COMMISSIONER DAVIDSON:

Very good, thank you. I don't believe I have any other questions at this time. Thank you both.

And I do appreciate the locals -- the state and local people that come in and actually work on our committees that bring these things to light and help us out in developing this process. They've been -- as far as I can say, I mean, when I'm out in the field and when we take things out, they're all taken immediately, and the

feedback I'm getting is, people really are appreciating it. So, I'm hoping that the results that you get show that as we move forward.

MS. LYNN-DYSON:

And I'm absolutely, just to reiterate, I'm very anxious with Matt and with additional effort on the division team to really take this work to the next level, in terms of outreach, and education, and feedback, and learning, and things like that.

COMMISSIONER DAVIDSON:

Okay, very good, thank you.

CHAIR BEACH:

I have a couple of questions, one for Mr. Weil. For the chapter about Conducting Recounts, how did you take into account the varying state laws? Because states, you know, have different laws, practices and procedures in conducting. How did you take that into account when drafting the Management Guidelines?

MR. WEIL:

Is there a specific part?

CHAIR BEACH:

No, just in general, the process.

MR. WEIL:

These chapters -- again, we got these chapters at the middle part of the process, so I'm speaking to what was done before us.

CHAIR BEACH:

Okay.

MR. WEIL:

The working groups came up with what they felt like were very good recommendations for how to conduct a recount, with the

bipartisan teams, and receiving ballots in a certain way. We understand, obviously -- and throughout the chapter there are disclaimers saying, obviously, you must follow your own state law. What these chapters, we hope, do, is maybe, even if a jurisdiction can't do everything we say, try to bring to light all the possibilities that they could think about doing, and adapting it to their own jurisdiction. So, we give them an example of how, one way to do it might be, hoping that they'll take pieces from it that fit into their jurisdiction, and make their jurisdiction more efficient.

CHAIR BEACH:

Well, a follow-up, actually, to that. In conversations I've had with state and local election officials, particularly, about our Election Management Guidelines and other products, they found that there are certain aspects that they could use that would be helpful, but other parts aren't. So, when they get, you know, a document where they can't just take out certain parts, whether it's, you know, online obviously, or in the paper format, they want to be able to just cut and paste. Is there a way that we could put a Word document, or supply something to them that if they just want to take bits and pieces to incorporate into their own policy, procedures, or manuals that they have in their own offices? Is that something we can do?

MR. WEIL:

We can certainly put up a Word document. These are also -- well these will be, after they're released, available on the Website, as are all other Election Management Guideline chapters and Quick Start Guides. If it's easier for election officials, in a Word format, I'm sure that our Website team could do that, as well.

CHAIR BEACH:

Okay. So, another question I have is, as far as dissemination of these products, how do we go about doing it, at the EAC, as far as -
- aside from our Website? Do we send it just to the state election director's office? Do we send it to a local's office? Do we send it just upon request? How do we go about disseminating the materials?

MS. LYNN-DYSON:

Historically, my colleagues, Brian Hancock and Laiza Otero, sent it to a very comprehensive list of over 5,000 local election officials. So, they drilled quite far down to the jurisdiction level. I would anticipate moving forward that we would use that same kind of approach. And, of course, it's available on the Website, and there are occasions when people ask for additional copies and I know Matt has sent them additional copies.

CHAIR BEACH:

And I know, also I've brought copies of this with me when I've gone out in the field and given presentations. I know we'd had them at the conferences, too. I was just curious on how we went about to get them out.

MS. LYNN-DYSON:

Yes, absolutely, absolutely.

CHAIR BEACH:

And I guess my...

EXECUTIVE DIRECTOR WILKEY:

Madam Chair, just to add, our printing contracts, always, for these types of products, our Quick Starts and our Management

Guidelines, automatically has a provision that what they do is they print and they mail from our list. So, it gets printed, it's right out the door to our, what, 5,000 or so that are on our mailing list. So, everybody -- and we keep adding to that list all the time.

MS. LYNN-DYSON:

Right, right, and as recently this summer we were able to scrub that list. So, we think it's pretty up-to-date.

CHAIR BEACH:

Okay. And I guess my last question is, I know we've said we've gotten participation from the Board of Advisors and the Standards Board and working groups on this. In your estimation, to what extent did you base the content of these chapters on input from the state and local election officials?

MR. WEIL:

The content was derived directly from the working groups.

CHAIR BEACH:

Okay.

MR. WEIL:

That's where the information came from.

MS. LYNN-DYSON:

Yeah.

MR. WEIL:

In other areas, when something could be expanded on with outside research, we did that. We found some extra examples that did not come up at working groups, from the Websites that we pointed out in the examples. And also, we used EAC staff knowledge when including those comments in the final drafts, as well.

MS. LYNN-DYSON:

I think it is important to note, as well, Chair Beach, that this is one of the advantages that I think a federal agency can bring, in having a national perspective -- very obviously critical, we couldn't do this good work without local election officials -- but as a federal agency, we're able to determine what can work across states, and it's just an important perspective that I think we bring -- a lot of time, states will bring ideas to us, and sometimes they can run it at odds with what another state does or things can be done. So...

CHAIR BEACH:

Okay, well, thank you. Is there follow-up?

VICE-CHAIR HILLMAN:

Yes, one follow-up. Is there a Quick Start that goes with each chapter?

MR. WEIL:

Usually. I think we might be behind on some of these chapters. And there also are some Quick Starts that exist without a chapter. One example would be the Serving Voters in Long-term Care Facilities. That came out as one working group in Philadelphia, back in May. There's no chapter that goes with that. That information will be rolled into the Accessibility chapter when that comes out, in the first and second quarters of next year.

VICE-CHAIR HILLMAN:

So, will there be a Quick Start? Or is that just sort of optional, in terms of, is there a Quick Start for each chapter? I understand there may be Quick Starts on important issues that don't have a full chapter, but does every chapter have a Quick Start?

MR. WEIL:

It will.

MS. LYNN-DYSON:

Yes.

VICE-CHAIR HILLMAN:

Okay, thank you.

CHAIR BEACH:

Thank you, Miss Lynn-Dyson and Mr. Weil for your presentation.

And if there are no other questions, we'll move onto the last item of business for today. It's the translation of the NVRA form. Karen Lynn-Dyson will provide an introduction of the Language Accessibility Program. Originally, we had Juliana Milhoffer, our Policy Analyst, who was going to present the options for consideration relating to the translation of the NVRA form, but I believe Ms. Dyson will now be covering that, as well.

MS. LYNN-DYSON:

Yes, thank you.

CHAIR BEACH:

Okay.

MS. LYNN-DYSON:

I turned around, Chair Beach, because the contractor who has been working with us on this is here, so I kind of, as a crutch if I need it...

CHAIR BEACH:

Who is our contractor for this?

MS. LYNN-DYSON:

This is Compass Languages.

CHAIR BEACH:

Thank you.

MS. LYNN-DYSON:

Okay. As the Chair mentioned, my staff person, Juliana Milhoffer, who has primary responsibility for this project, unfortunately had a dental emergency, so she's not able to join us this afternoon, but I will give it my best.

I will cover both testimonies and I talk a little bit about the background of this. And let me just say, at the outset, that this program, similar to the Election Management Guidelines program, is one that I took over in the spring of this year. And my colleague, Laiza Otero, did major work on the Language Accessibility Program, and that project was taken over by Juliana Milhoffer in May of this year.

The Asian language, which is really what we're here to talk about today, the -- translating the National Voter Registration Form into five Asian languages which are covered under the Voting Rights Act, we, the EAC, convened an Asian language working group in 2006. The purpose of this working group was to discuss the different approaches the EAC should consider in providing the National Voter Registration form into the five Asian languages of Chinese, Japanese, Korean, Vietnamese, and Tagalog.

Asian language working group participants, at that time, identified the two ways in which the NVRA form could be laid out; they were monolingual or bilingual. The monolingual Chinese form, for example, would be written entirely in Chinese. By contrast, a bilingual Chinese form, would contain both Chinese and English.

The members of the working group did not reach agreement at that time on whether one approach would be more beneficial than the other.

The subsequent creation of Asian language glossaries provided the EAC with the foundation necessary to move forward with consistent and uniform translations.

In October of 2009, EAC staff undertook a study to assess the benefits and feasibility of translating the NVRA form in the two ways in which the working group had identified; that is, monolingual and bilingual. The findings from that study can be found on our Website.

I'll go into the options at this time, that staff see available to us, in terms of the translation of these forms. Based on the information gathered from the study, here are the three options that I think the Commission has before them regarding the translation. The form, I will note, consists of a two-page application of general instructions and state-specific instructions.

Our options are, one, a monolingual translation; two, a bilingual translation; or three, both a monolingual and bilingual translation.

For the first option, the monolingual translation of the NVRA form. This form would be written entirely in a translated language. An advantage of producing the NVRA form in this monolingual format would be that it would allow all of the information to be on one page. Additionally, a monolingual form is considered, I think, by experts, easier to read, in that it would have larger fonts and expanded text. The monolingual form is also likely to be easier to

complete because all the items would be in one language. Finally, a monolingual layout is likely to be more easily accessible to persons with disabilities.

A disadvantage that might be associated with this option, again, a monolingual option, is the potential that it might be more difficult for election officials to process this form, meaning that they have before them a form that's in a language they don't understand or speak and they have, therefore, to go to some kind of other outside resource to have it translated.

Then, we have the second option, which is a bilingual translation of the NVRA form. This bilingual form would be written both in English and the translated language. Now, an advantage to producing the NVRA form in a bilingual format is that it would allow each section of the form to be easily identifiable. Additionally, election officials might find the bilingual forms easier to process because data fields could be more easily identified. And, finally, individuals filling out the form would be able to view both languages.

A disadvantage that would be associated with this bilingual translation is that the format would likely require altering the layout to accommodate smaller fonts. This altered layout, in turn, might result in the form being less accessible to persons with disabilities than it would be were it a monolingual form, although the EAC would test the bilingual version for accessibility, regardless. In addition, a new layout accommodating two languages might be more confusing for both registrants and election officials.

Finally our third option, that would be basically both, to do a monolingual and a bilingual translation. This option would call for both a monolingual and bilingual translation. And an advantage, we believe, in making the form available in both formats, would be, it could allow flexibility for both the voter registrant and election officials, as well as allow voters to have a choice regarding his or her preferable format.

Staff really sees no disadvantage to providing these both -- both of these monolingual and bilingual options to registrants and to election officials.

The cost associated with translating this form into a monolingual versus a bilingual format are relatively equivalent. However, the third option I presented to you is one that would likely double the overall cost of translation.

We want to note for the Commissioners that any of these options we present to you today will have an ongoing cost for maintaining the form. That is any time a state changes its instructions, the EAC would need to pay for the translation into another language. If the EAC moves forward with translating the form into these five Asian languages, EAC staff fully anticipates that we would have these forms readily available and distributed to everyone prior to the 2010 primary season.

So, I am ready to answer any of the questions you have, and will willingly admit if I don't have a full answer, but I'm happy to get you more detail when I have it.

CHAIR BEACH:

Okay, thank you. I turn to Vice-Chair Hillman, do you have questions?

VICE-CHAIR HILLMAN:

Of the languages covered under the Voting Rights Act, when we complete this set of translations will there be others left for the EAC to consider doing?

MS. LYNN-DYSON:

Commissioner, I believe, yes. Additionally, we expect that with the Census being completed there will be additional languages that we will want to consider translating. And I believe some of those are Russian and Arabic.

VICE-CHAIR HILLMAN:

But pre-Census, knowing what we know today, are there any other languages?

MS. LYNN-DYSON:

Yes, there are.

VICE-CHAIR HILLMAN:

Okay, can...

MS. NEDZAR:

Yes there are.

VICE-CHAIR HILLMAN:

Since I see our Associate...

MS. LYNN-DYSON:

Yes, yes I will admit to you...

VICE-CHAIR HILLMAN:

...General Counsel can you -- do you know off your head which those are?

MS. NEDZAR:

I can't list them off the top of my head, but I'd be happy to get you a list.

VICE-CHAIR HILLMAN:

Are there more than two, three?

MS. NEDZAR:

Yes, there are quite a few.

VICE-CHAIR HILLMAN:

Oh, okay, thank you.

CHAIR BEACH:

That's it?

VICE-CHAIR HILLMAN:

That's it.

CHAIR BEACH:

Commissioner Davidson?

COMMISSIONER DAVIDSON:

Can you tell me, right now, the languages that we have translated into...

MS. LYNN-DYSON:

Yes, we have done a Spanish translation of the form.

COMMISSIONER DAVIDSON:

And how did we do that? Did we do it bilingual or monolingual?

MS. LYNN-DYSON:

It was done -- it was bilingual. I believe -- I'm almost certain it's bilingual, yes.

COMMISSIONER DAVIDSON:

When I look at the pros and cons on which way we should...

VICE-CHAIR HILLMAN:

Commissioner Davidson, I'm sorry, I just want to follow-up on that. Bilingual part of the form and monolingual on the instructions or were the instructions, do you recall? I thought the instructions were monolingual translation. Do we think there's somebody here, who could maybe check the Website while we're having this discussion just to let us know that?

MS. LYNN-DYSON:

I -- yeah, I'm -- my recollection is that the instructions are bilingual. And -- yes, absolutely, we'll check, but I have a distinct recollection of Laiza, who was a Spanish speaker, having translated the form and the instructions. As I recall, that was one of the first things she did when she came to the EAC and worked on this project.

VICE-CHAIR HILLMAN:

No, I remember that. I was just wondering if the state instructions are only in Spanish or if the state instructions are bilingual on the page. That's...

MS. LYNN-DYSON:

I believe they are bilingual.

VICE-CHAIR HILLMAN:

That's okay, somebody has gone to check. I'm sorry Commissioner Davidson I just wanted...

COMMISSIONER DAVIDSON:

That's okay. Obviously, we have all the -- we have the English version, and now we have the Spanish version. At least, the instructions are in Spanish and the form is in Spanish.

MS. LYNN-DYSON:

Correct, correct.

COMMISSIONER DAVIDSON:

The Asian languages that we're looking at currently, we're trying to make a decision on whether to do it the same way that we have in the past with the Spanish version, or if we move in a different direction. And, obviously, it sounds like we have more that we need to consider. I thought the only other one, and I definitely could be wrong, is the American Indian. And some of that is written languages and some it is...

MS. LYNN-DYSON:

Is just merely spoken.

COMMISSIONER DAVIDSON:

...oral.

MS. LYNN-DYSON:

Correct.

COMMISSIONER DAVIDSON:

And so, in doing those, that's even a bigger...

MS. LYNN-DYSON:

Task, yeah.

COMMISSIONER DAVIDSON:

...task that we have in front of us...

MS. LYNN-DYSON:

Right.

COMMISSIONER DAVIDSON:

...because that is -- I know that they've had some working groups on that. But that's a big task for anybody to try to accomplish that one.

MS. LYNN-DYSON:

I would also note with this that we are faced with, I think, graphically, if you will, a different set of challenges in doing these translations into Asian languages. As I understand it, you know, you have in some Asian languages, for instance, text might take up three times the space that an English translation would and, you know, amount of physical space that you're having to accommodate, as opposed to the Spanish translation that we have already done, for example.

MR. BRENNINKMEYER:

If I may add to that.

CHAIR BEACH:

Would you like to come up to the -- could you please state your name for the record?

MR. BRENNINKMEYER:

My name is Leo Brenninkmeyer. I run Compass Languages. The other challenge, when you go to Chinese, say, for example, is the nature of the script. When you, in the Latin alphabet, you reduce the size, you can still distinguish the letters. When you do that in Chinese, because of the nuances of the way it's written, you lose that ability quicker as you reduce the font size. So that is one of the reasons why when we looked at this, I looked at extending the size of the form, so that you'd have more space, or you'd go to monolingual, so you'd have more space that way. I just wanted to add that.

MS. LYNN-DYSON:

Thank you very much.

CHAIR BEACH:

Do you have any other questions?

COMMISSIONER DAVIDSON:

Excuse me, I'm sorry.

CHAIR BEACH:

Oh, no, that's fine.

COMMISSIONER DAVIDSON:

I was just thinking about everything. I don't believe I have any further questions. I was just thinking in my own mind, thanks.

CHAIR BEACH:

Oh, okay, sure. Ms. Lynn-Dyson, you mentioned that there will be costs associated with updating the forms once we have them complete, because of differences in state instructions. Have we done a cost analysis for that on how much it could cost in the future? Or...

MS. LYNN-DYSON:

We have actually -- yes, we have gotten cost -- I will tell you, we have gotten cost estimates for the options that I have presented before the Commission today, as I mentioned in my testimony, the bilingual/monolingual being the most costly. This update, I would note, we did so some research into what has been done previously, requests from states to update the instructions and do translations. They are relatively minimal. We have -- if we could take an average, I would say in an average year we don't get more than maybe three or four states requesting updates to the form and/or translations we would expect, to the form. So, we have not done a

formal cost analysis, but I would say, anecdotally, the cost would be minimal.

CHAIR BEACH:

Even taking into account, us going through the process of the NVRA regulations that we'll be going through, where the form -- federal form could change depending on what...

MS. LYNN-DYSON:

Well, yes. I mean, that, as we all know, greatly remains to be seen, you know. We will have a much better sense of that, I think, in a year from now. It could be vastly different. We just would have to see. But I know from past history, has shown us relatively minimal.

VICE-CHAIR HILLMAN:

The form translated is all monolingual for the Spanish. There's no...

MS. LYNN-DYSON:

It's all?

VICE-CHAIR HILLMAN:

It's monolingual.

MS. LYNN-DYSON:

Okay.

VICE-CHAIR HILLMAN:

There's no bilingual on either of the federal instructions, on the form itself or on the state instructions.

MS. LYNN-DYSON:

Okay, thank you.

CHAIR BEACH:

I have another question. As far as dialects are concerned, what process did you go through, or did we not get there yet, as far as I know with -- it's my understanding with the Chinese language, you have Cantonese and Mandarin. What would you select? Or we're not there yet? And if you do, what process are we going to use to make that determination?

MS. LYNN-DYSON:

I think in that regard it's fantastic that Compass Languages is here, because I think they can address that. And I would just say that I happen to know, this was before my watch, with this project, but that Compass Languages, I am told from EAC staff, did a wonderful job with those kind of nuances within the Spanish language, capturing the differences between Latin-American versus South American Spanish. And I think they stand fully prepared to capture those differences, and I'll let Compass Languages respond to that.

MR. BRENNINKMEYER:

No, I think the challenge with something like Chinese is that the spoken and the written is very different, in that there's a simplified Chinese and there's traditional Chinese, and that's the only way you really write. So, whereas someone can speak Cantonese, they would read either simplified or traditional, regardless of which region they're from. So, in a sense, Chinese is rather simple, pardon the pun, because you'd use simplified Chinese for that. And the other languages we'd need to look at to see where there are significant variations. I doubt there are at this stage. Spanish is, by far, the most complex one, because you have such strong groups which have strong dialectal differences. I don't envision that

in the other languages at all. So, Chinese would be the only one where we would just need to be 100 percent sure that simplified is preferred over traditional.

CHAIR BEACH:

Okay.

COMMISSIONER DAVIDSON:

I have another question if I could, when you're finished.

CHAIR BEACH:

Sure, Commissioner Davidson, yes.

COMMISSIONER DAVIDSON:

My question is, with the expertise that you have in doing translations and working with other organizations, groups, whoever needs translations done, what has been your experience with monolingual or bilingual? I mean, can you give us some -- right now, we have a form that's in monolingual. So, should we -- would you advise us going one way or another?

MR. BRENNINKMEYER:

I think to -- the answer to that question, and I don't want to sound I'm evading the question here, but if I look it purely from the user's perspective, and I also assume the user speaks very little English, and those are assumptions that our research showed us are not necessarily the case; that most people that are filling out the form that we interviewed, actually did speak some English, and they filled out forms in English for other instances, you know, health, loans, whatever else. So, it's a comfort level for the majority of them, in which case, having the monolingual form is more comfortable. What it does, and this is from a processing point of

view, is, the election officials, if they -- if I'm a Chinese speaker and I see a form in monolingual form, I will feel very comfortable filling it out in Chinese with Chinese script. So, my name, my address, you will not be able to verify it if you do not speak Chinese, with my ID. However, if I have a bilingual form, there's a higher tendency that they would also, because of their habit, fill it out in English, because they have filled out other forms in English, and they know how to write their names with the Latin alphabet.

So, you know, it's a long answer to a short question, but I think when you take into account the processing of the form, the election officials do need to make sure that they can process that form when it's not written in the Latin alphabet, to verify the content of the form. Does that make any sense?

VICE-CHAIR HILLMAN:

Yes, can I add a follow on to that? I raised this question before, and I don't know whether we've uncovered anything that would prohibit us from putting on the form a request that the information be provided in English, to get to your point of, if somebody looks at a mono form and they're saying, "Okay, I can fill this out in the same script or the way the language is written" that the form have a request that the answers be provided in English.

MS. LYNN-DYSON:

Well, we actually did talk about that, Commissioner Hillman, and we can, the EAC, add language to the form by adding a request that the form be filled out in English, unless state or federal law provides otherwise. Our hope that in providing such a statement on the form would be that it would alert voters to the fact that they may be able

to submit the form in languages other than in English, where that is permitted.

COMMISSIONER DAVIDSON:

You know...

EXECUTIVE DIRECTOR WILKEY:

Well, we have some more English -- let me, for clarification, Counsel, because you raised the point early on that we have a state or states that now have English only provisions in their regulation?

MS. NEDZAR:

In their regulations, statutes and Constitutions, all three.

EXECUTIVE DIRECTOR WILKEY:

Okay, all right.

VICE-CHAIR HILLMAN:

But this is a different -- this is the flipside. In that case, you would want the respondent to know that the form should be filled out in English. What I hear Ms. Lynn-Dyson saying is, are there places that it would be prohibited to require a person to fill out a form in English. I have not come across one yet...

COMMISSIONER DAVIDSON:

I haven't either.

VICE-CHAIR HILLMAN:

...where a federal form -- where a person has a right to fill out a federal form in something other than English.

COMMISSIONER DAVIDSON:

The post office is a good example of that.

MS. LYNN-DYSON:

I might to defer to Counsel, because I know they did a little bit of research on this, in terms of looking at other federal forms.

MS. NEDZAR:

The one instance where we did find that people were able to fill out a form in a non-English language was in the case of requests for visas, visa applications, which are generally filled out in other countries where English is not the predominant language. That was the only consistency that we found when we did look at the issue.

VICE-CHAIR HILLMAN:

Okay.

COMMISSIONER DAVIDSON:

So, the question I think now falls back to you, and you may want to do more research, is there a problem with us putting on the form, "Please fill out in English?"

MS. NEDZAR:

I don't see an issue with requesting that the form be filled out in English.

VICE-CHAIR HILLMAN:

We're not requiring, we're requesting.

COMMISSIONER DAVIDSON:

Right, right.

VICE-CHAIR HILLMAN:

No, right, I mean, that's -- we're not saying "You must do this." But the request is made to provide the information in English.

CHAIR BEACH:

I have another question. I know the Compass Language report discusses a lot of the issues regarding design, usability and, you know, those were covered and discussed. I have a question with regard to acceptance of the form. Are states and jurisdictions that are not covered under Section 203 of the Voting Rights Act required to accept these news forms, if they're translated into the additional languages? I may have to defer to Counsel for this but...

MS. NEDZAR:

I'm sorry, can you repeat? If the form is filled out in...

CHAIR BEACH:

Are states required to accept the federal form if it's translated into the additional languages?

COMMISSIONER DAVIDSON:

And they're not underneath...

CHAIR BEACH:

And they're not covered under -- the jurisdictions are not covered to offer material in those languages.

MS. NEDZAR:

There is a provision of the NVRA that requires states to accept and use the form. Under that provision, I do think that a state would be required to accept a translated form.

CHAIR BEACH:

And are they required to do the translation if it's not in English?

MS. NEDZAR:

Well, that's a sticky issue, because they're required to accept and use the form. They may have to employ additional resources to do

that if the form is provided in another language, which is why we recommend putting the request to have it in English on the form.

CHAIR BEACH:

So, it would make it easier on them?

MS. NEDZAR:

Yes.

CHAIR BEACH:

Okay, thank you.

VICE-CHAIR HILLMAN:

Can I ask a follow-on to that? Miss Lynn-Dyson, wasn't there also some discussion, I thought staff had a recommendation about how EAC can provide assistance to a jurisdiction that might not have, readily available, somebody to do a translation, if there's a translation issue that a jurisdiction has?

MS. LYNN-DYSON:

Yes, we did, Commissioner Hillman. We explored the possibilities and the options for providing that kind of assistance and Compass Languages gave us some ball park estimates on what it would cost us to do that, how it might be done. And we decided to proceed cautiously, first things first, if you will, to get the form translated. And given what Compass Languages saw in its inquiry, it was determined that there probably isn't going to be a lot of immediate need for that -- for a state coming...

VICE-CHAIR HILLMAN:

Be that as it may, I would hope the Election Assistance Commission would be willing to offer to state and local jurisdictions that if they encounter the random form that they cannot translate,

that the EAC will assist in that endeavor. I mean, Election Assistance Commission will assist in processing the National Voter Registration Act form. And I'm sure -- I mean, I'd probably go to the bank that we won't get more than two dozen of those requests in a year, if that many.

MS. LYNN-DYSON:

I think Compass Languages would probably concur, I might say, three or four a year. Would that be, would you say, Leo, based upon what you heard? And I think as you know Commissioners, and the public should know, that Compass Languages did some field research on this, and went to jurisdictions who had large Asian language and foreign-language speaking populations, and the feeling on the part of LEOs, local election officials, was, in a given year, they might have...

MR. BRENNINKMEYER:

Very, very few.

MS. LYNN-DYSON:

Yeah, I mean...

VICE-CHAIR HILLMAN:

Very, very few.

MS. LYNN-DYSON:

...very few, meaning like three or four.

VICE-CHAIR HILLMAN:

But also...

MS. LYNN-DYSON:

And those are the big jurisdictions.

VICE-CHAIR HILLMAN:

...is it not correct that after we translated the NVRA form in Spanish, and it's all in -- it's only in Spanish, that we did not get any requests for assistance or indication from local jurisdictions that they received the form and they couldn't process it? I mean, as far as I know, we don't have any...

MS. LYNN-DYSON:

No, I honestly -- I unfortunately can't -- that was not my watch, so I just don't know.

COMMISSIONER DAVIDSON:

I have a couple follow-up questions. One, obviously, we don't have to worry about the states that's covered underneath the law, because they have to have people within their office to handle this type of an issue, at the polling places and so on. And so, it's the states that are not covered underneath the bilingual, that would be submitting, and that's why I think our numbers would be so few. But my one concern is how fast could you turn around that translation? And the reason why I ask is, if we have states with a cutoff time and that registration came in on the very last day and that -- I don't want anybody disenfranchised. And I...

MR. BRENNINKMEYER:

Right.

CHAIR BEACH:

For states with same day registration.

COMMISSIONER DAVIDSON:

Yeah, that kind of concerned me. But how fast can you turn these around?

MR. BRENNINKMEYER:

The solution that we looked at was kind of simple in a sense.

There's a -- there's an over-the-phone interpreting.

COMMISSIONER DAVIDSON:

Okay.

MR. BRENNINKMEYER:

And basically an election official would be there and say, "I don't know what you either written down or" -- and they basically have a 1-800 number which they could set up where they could punch in a language code and they'd immediately get a bilingual interpreter on the phone...

COMMISSIONER DAVIDSON:

Excellent.

MR. BRENNINKMEYER:

...who then, in English will help them fill out the form, that form then gets given back to the individual, and they either there and then can sign that they agree with it, or they can obviously take it away if they don't feel comfortable and have someone else verify that it's correct. Having said that, it should be easily identifiable because the critical information, the address, the name, they have the ID form for that anyway.

COMMISSIONER DAVIDSON:

Right.

MR. BRENNINKMEYER:

So, once the interpreter says, this is the name, they can quickly check. It would be pretty much instantaneous, to answer your question.

COMMISSIONER DAVIDSON:

Very good, I have no further questions.

CHAIR BEACH:

Thank you. Do you have questions?

EXECUTIVE DIRECTOR WILKEY:

No, just a comment that in the two largest jurisdictions that have large Asian populations, LA and New York, we had some discussions, at least I have, with both of them and they have very few cases, if any. In fact, New York couldn't recall any where they have forms other than in English, and they do a monolithic form. And, I think because the data elements that we're asking for are so little, in terms of what would need to be translated, we're talking about basically, name, address, date of birth, that's basically it, there's not a whole lot of information that they have to provide, in contrast to other government forms, where you may need a lot more information. So, this hasn't been a problem with them and, of course, they all work closely with the various organizations representing those groups, too, to make sure that those issues are dealt with.

CHAIR BEACH:

Is it fair to say that some of the content that will appear on the form is already translated in our glossaries and the glossaries could be used as a base?

EXECUTIVE DIRECTOR WILKEY:

Oh, absolutely. I would say almost all of it.

MS. LYNN-DYSON:

Absolutely, yes. And the expectation -- yes, it is. And the expectation is that when we do translate the NVRA form it will track directly to the translations contained in our glossaries.

EXECUTIVE DIRECTOR WILKEY:

I think I'm very grateful that we did those first, before we did the form...

MS. LYNN-DYSON:

Right, right.

EXECUTIVE DIRECTOR WILKEY:

...because the election official could basically pick up the glossary or go on our Website and look at the glossary and determine, you know, what they're trying to get.

MS. LYNN-DYSON:

Right.

COMMISSIONER DAVIDSON:

I have one follow-up question, Karen -- Ms. Dyson. Did you do any contacts with states to ask them about the type of form, whether it should be bilingual or monolingual, their choices?

MR. BRENNINKMEYER:

We did, we spoke to various, and there wasn't a unanimous response. The tendency was to prefer monolingual, but it wasn't a slam dunk. It was definitely, you know, 60/40 one way, and 40 percent say bilingual.

VICE-CHAIR HILLMAN:

A follow-up question, Ms. Lynn-Dyson. Considering cost estimates...

MS. LYNN-DYSON:

Yes.

VICE-CHAIR HILLMAN:

...is there a split down the middle on this, where the part of the form that requires somebody to provide information could be provided both mono and bilingual, but the instructions be monolingual? Is...

MS. LYNN-DYSON:

I think you could -- it's my understanding we could certainly do that. I think that -- I will defer to the expert who has done the research on this -- but I think my understanding is, that could create a lot of confusion -- that would create a lot of confusion on the part of the registrant, on the part of the local election official, and I'm not sure the cost benefit would be such that it -- there would be a great deal of cost saving were we not to just go ahead and do either a whole monolingual form or a bilingual form. In other words, I think what you're offering is kind of a mixture. And I think that would be confusing and not of great cost savings...

VICE-CHAIR HILLMAN:

Well...

MS. LYNN-DYSON:

...if I understand.

VICE-CHAIR HILLMAN:

I'm sorry, could you remind me of your name?

MR. BRENNINKMEYER:

Sure, it's Leo Brenninkmeyer.

VICE-CHAIR HILLMAN:

Could you elaborate on what the confusion might be? That is to say, of the 20-something page -- of the 20-something page form, I

think there are two pages that require -- or maybe one page that requires the person to complete. So, if that page were bilingual and the accompanying instructions, which are part of the form, was monolingual, what confusion might ensue? That was the question I asked of Miss Lynn-Dyson and she said it would probably be confusing. And I'm just -- just to appreciate what that might do.

MR. BRENNINKMEYER:

Yeah, I would have to say that's not an option we researched. So, I would be hesitant to provide an answer to that. The only thing that we did hear was that because the people, generally, come in with somebody else who does speak English, they very much appreciate -- and this was directly from the users themselves, this is not from the election officials -- they liked having both languages. In case they weren't clear in one, they could refer back to the other with their person with them. However, that's not to say that if it were only one language that they would clearly be confused. So, it could possibly help. It doesn't mean to say that it would definitely confuse you if you didn't have it that way.

VICE-CHAIR HILLMAN:

Um-hum.

MS. LYNN-DYSON:

And let me make sure I understand Commissioner Hillman, you are talking about them actually looking at the NVRA form and the state instructions, you are asking a question regarding having the form translated in total, into my language, into a different language, and the state instructions staying in English?

VICE-CHAIR HILLMAN:

No, no, not at all.

MS. LYNN-DYSON:

You are arguing to have...

VICE-CHAIR HILLMAN:

I'm not arguing anything.

MS. LYNN-DYSON:

Well, you're asking...

VICE-CHAIR HILLMAN:

I'm just asking.

MS. LYNN-DYSON:

You're asking to have a portion of this form.

VICE-CHAIR HILLMAN:

Could I see the...

MS. NEDZAR:

The two-page application bilingual and the rest monolingual?

VICE-CHAIR HILLMAN:

Yes.

COMMISSIONER DAVIDSON:

I think the instructions is in the language and...

MS. LYNN-DYSON:

Instructions in Chinese...

VICE-CHAIR HILLMAN:

So, we have a form. We have a form. And the one I'm looking at, the first two pages are instructions. The third page is the form.

And then, it goes on to instructions, the state instructions.

MS. LYNN-DYSON:

Oh, okay. Okay.

VICE-CHAIR HILLMAN:

And I'm saying, if all of the instructions were mono and the form itself were bilingual...

MS. LYNN-DYSON:

Gotcha, gotcha.

VICE-CHAIR HILLMAN:

...and that it's this one that says, "Please complete in English" and it has both the Asian language and the English...

MS. LYNN-DYSON:

Okay.

VICE-CHAIR HILLMAN:

...and the rest of the form, all the instructions are monolingual.

MS. LYNN-DYSON:

Okay, forgive me, I was -- I knew you were talking about parts. I guess, I wasn't clear about which part.

VICE-CHAIR HILLMAN:

Yes, so it's really only...

MS. LYNN-DYSON:

And I guess, yes, I know...

VICE-CHAIR HILLMAN:

...maybe two pages, because I guess this is the return part of the form. So, right.

MS. LYNN-DYSON:

Right, yes, I've got you. And I guess to follow on Leo's comment, I guess that is not a permutation we looked at. We did not...

CHAIR BEACH:

Right, that's what I was going to ask. That's not covered in any of the options that was provided?

MS. LYNN-DYSON:

That's correct, it was not.

VICE-CHAIR HILLMAN:

But, we can assume it's a split down the middle somewhere. And I guess, it would just get to whether or not that, in fact, creates confusion. And quite frankly, I don't see how. I mean, if I speak Chinese, and the whole form is in, instructions in Chinese, and that one page that requires me to write in English is in both English and Chinese, then I'm getting it. I get it.

MS. LYNN-DYSON:

Yeah, okay. Yes, forgive me, because I misunderstood. I thought you were saying, actually, this form was part one and part the other. Very good.

COMMISSIONER DAVIDSON:

I -- that is a suggestion I hadn't heard before and that makes sense.

MS. LYNN-DYSON:

That's option four.

COMMISSIONER DAVIDSON:

That's option four and it makes a lot of sense.

MS. LYNN-DYSON:

Let me understand, just for the record, that option being, option four, would be, to have translated monolingually all instructions and to have a form that would be bilingual.

VICE-CHAIR HILLMAN:

Well, the pages are part of the form.

MS. LYNN-DYSON:

Right, yeah.

VICE-CHAIR HILLMAN:

It's just pages, whatever, of the form.

MS. LYNN-DYSON:

Right.

VICE-CHAIR HILLMAN:

If they're pages three and four, or four and five, or whatever the page numbers are that are...

MS. LYNN-DYSON:

Right. I guess probably to clarify, it would be the fillable form.

VICE-CHAIR HILLMAN:

Yes.

MS. LYNN-DYSON:

That would be accurate to say, the fillable portion of the NVRA form would appear bilingual. The instruction portion of the form would be monolingual.

COMMISSIONER DAVIDSON:

Correct.

CHAIR BEACH:

And that's how the Spanish form is currently?

VICE-CHAIR HILLMAN:

No.

MS. LYNN-DYSON:

No.

VICE-CHAIR HILLMAN:

The Spanish is all...

CHAIR BEACH:

It's completely monolingual?

VICE-CHAIR HILLMAN:

Um-hum.

MS. LYNN-DYSON:

Mono, yeah.

VICE-CHAIR HILLMAN:

And I think there was some suggestion that because of the characters in the Spanish language...

MS. LYNN-DYSON:

That's correct.

VICE-CHAIR HILLMAN:

I mean, you can pretty -- even a person who doesn't speak Spanish can sort of identify the corresponding words, too.

MS. LYNN-DYSON:

Right, right.

MS. NEDZAR:

I did want to get back to you on the other languages covered by the Voting Rights Act.

CHAIR BEACH:

Okay.

MS. NEDZAR:

Other than the languages that we're discussing today, there are about another dozen that are covered under NVRA. And as we discussed earlier, there are likely to be, at least one or two more, following the next Census.

CHAIR BEACH:

Thank you. Okay, are there anymore questions or discussion on this?

COMMISSIONER DAVIDSON:

The only thing I would like to say is, as we move forward in doing others we need to think about when we do one state changes, we have to do all of them, every language that we have done, and obviously all the languages we should do.

CHAIR BEACH:

Sure.

COMMISSIONER DAVIDSON:

So, that cost -- we only maybe have three or four states, but it would be nice if they all came in at about the same time, so we could make those changes once a year, and not have to do this more than once a year, and maybe if we try to work with the states to do it at that timeframe, as we move forward.

MS. LYNN-DYSON:

Hear ye, hear ye.

COMMISSIONER DAVIDSON:

Um-hum, so, with that, I think I'm prepared to make a decision.

CHAIR BEACH:

That's what I was going to ask. In light of discussion on option four, do you want to table this to have more time to get a cost estimate? Or are we prepared to make a decision right now?

VICE-CHAIR HILLMAN:

Well, I would like to ask Miss Lynn-Dyson, would you be comfortable in proceeding, without the benefit of doing some more

research with option four? Or do you want time to look into a couple of things?

MS. LYNN-DYSON:

I believe that I could be very comfortable with proceeding with option four. This would -- we have several times now gone back to Compass Languages asking cost estimates, cost benefit, et cetera, and each time within literally 24 hours or less, Compass Languages has been able to come back to us.

COMMISSIONER DAVIDSON:

Can I ask Compass Language a question, though? When you look at the last page of your about -- right underneath block four, the total cost of bilingual form and monolingual instructions, isn't that what we're talking about in option four?

VICE-CHAIR HILLMAN:

The very last page of the second...

COMMISSIONER DAVIDSON:

The very last page, down underneath "Cost", right above "Terms and conditions."

CHAIR BEACH:

"Total cost for bilingual form or monolingual instructions."

MS. LYNN-DYSON:

I want to make sure I have the right total.

MR. BRENNINKMEYER:

Just by way of clarification, the lady who did this has the flu at the moment, so I stepped in at the last minute. So, I am aware of what she's done, but I would need just a few seconds to make sure I don't give you a poor answer on this.

That is exactly option four, as far as I can tell.

COMMISSIONER DAVIDSON:

So, we have -- we know what the cost of option four would be.

CHAIR BEACH:

We have the cost.

VICE-CHAIR HILLMAN:

We're ready? Shall we move?

COMMISSIONER DAVIDSON:

I don't see why not.

VICE-CHAIR HILLMAN:

Okay, I want to give Miss Lynn-Dyson a chance to -- do you need a couple minutes?

MS. LYNN-DYSON:

No.

VICE-CHAIR HILLMAN:

Okay.

MS. LYNN-DYSON:

I actually am quite good. I just had to note, Juliana provided me with three different versions so -- on October 21. I'm good.

VICE-CHAIR HILLMAN:

Okay, so we're not supposed to -- I mean, you know, I know it's nice to write the motions out, Miss Associate General Counsel, but if you could take copious notes and make articulate the motion that we proceed to produce translated NVRA forms having the bilingual form and monolingual instructions for all five languages.

COMMISSIONER DAVIDSON:

I second that motion.

CHAIR BEACH:

Okay, all in favor say aye.

[The motion carried unanimously.]

CHAIR BEACH:

Okay, the motion carries and it's adopted. General Counsel will write that up for us.

MS. NEDZAR:

Um-hum.

CHAIR BEACH:

So, we will be translating the instructions in monolingual and the form will be in bilingual.

MS. LYNN-DYSON:

Very good.

VICE-CHAIR HILLMAN:

And, the only thing I'm not clear about, but this is a minor detail, because it's a mailer, I'm going to guess the mail -- I don't know how the mailer side should be. So, if that can just be a technical address, you all can address it. Yes, that part of it. I mean, I'm not sure how pleased the post office would be but, anyway, I'm sure you all will take care of that in diligent form.

MS. LYNN-DYSON:

These days the post office is pleased with nothing, so bless their heart.

COMMISSIONER DAVIDSON:

Madam Counsel, do we need to have the information saying that we want to add, "Please fill out in English"? Does that have to be a motion? Or can that just be done?

COUNSEL NEDZAR:

Well, in the presentation that we have we do not discuss the request. So, I think that you're right, we probably do need to have a separate motion for that.

COMMISSIONER DAVIDSON:

Well, I'd like to make a separate motion then, to put on the form that we request the request that they fill it out in English.

COUNSEL NEDZAR:

Commissioner Davidson, if I might, I would also recommend that we say, unless state or federal law provides otherwise, and that will provide flexibility for those states that do accept in other languages.

COMMISSIONER DAVIDSON:

I would accept that as a friendly suggestion. I don't know...

VICE-CHAIR HILLMAN:

That, for me, confuses it. Making a simple request to fill out the form in English isn't prohibiting them from doing anything else. If I were looking at that, I would be very confused and I'd have to want to go to my state or local law, and it might take me four or five days before I could get this thing done. So...

COMMISSIONER DAVIDSON:

The simpler the better?

VICE-CHAIR HILLMAN:

Yeah, I think so, yeah.

COMMISSIONER DAVIDSON:

I'll leave my motion as it stands.

VICE-CHAIR HILLMAN:

Second.

CHAIR BEACH:

Okay. All in favor say aye, to request that the -- that there is a request to fill out the form in English say aye.

[The motion carried unanimously.]

CHAIR BEACH:

The motion carries, and it is adopted now to have the request to fill out the form in English notated on the form.

Do we have any closing remarks from Commissioner Davidson or Vice-Chair Hillman?

COMMISSIONER DAVIDSON:

I do have some closing, but you go right ahead.

VICE-CHAIR HILLMAN:

No, go ahead.

COMMISSIONER DAVIDSON:

My closing remarks is, first of all I want to make a clarification on my opening statement when I was discussing recent legislation that had been passed, and I just want to make it clear that it wasn't the EAC taking a position, it was only my intent to point it out, because I thought it was really moving forward with what appeared to be a very bipartisan effort on Congress for the overseas and military families to participate in federal elections. Both are relevant that affect the EAC and our efforts as a clearinghouse and an election administration with our policies and technology and voting and as

we -- and data collection, it could even fit under data collection. So, I just wanted to make sure that it wasn't interpreted I was trying to make a statement for EAC, only myself. So, I appreciate that and I look forward to seeing in our upcoming meetings, in the future, how this might play out with it all going into play with both pieces of legislation. Obviously, the one thing that I think is important is, it was an amendment to the Act and I could give you, if I can find it here a second, I've got enough papers here, it was an amendment that really took care of this. And the amendment to the Servicemembers Civil Relief and that was an amendment to it, 475 was. And so, it meant a difference on how the military spouses could react to their voting. So, I will be anxious to see how that plays out in the future.

Thank you.

VICE-CHAIR HILLMAN:

I do have a question. And I'm wondering if at our December meeting, are we going to be able to discuss the MOVE legislation? What does MOVE stand for? Military and...

CHAIR BEACH:

Overseas Voting Empowerment.

VICE-CHAIR HILLMAN:

Voting Empowerment, okay, so if we will -- are we going to be able to discuss that, do you think in December?

CHAIR BEACH:

Yeah, I believe we are going to be having a session -- or part two of UOCAVA, and part of that would be a discussion on that because I know we've gotten -- I've gotten a lot of questions from Standards

Board members on how that would affect them, with the requirements payments and how they can utilize them. So, I hope to have that discussion, with other issues of UOCAVA. Maybe, we can get an update from the working group.

COMMISSIONER DAVIDSON:

Yes, and I think that's really important. I think that this plays into it and having Bob Carey come and talk about how we move forward and what we're doing in writing procedures as we move forward trying to provide more capability for our military and overseas people to vote and our testing efforts, I think it would be a good time to bring all of that together; our department, Bob Carey.

CHAIR BEACH:

NIST could come in.

COMMISSIONER DAVIDSON:

And then, also I think it would be very helpful to have Matt Abbott talk about the requirements that the states may be in. And I know that's a little confusing the way that's written and we may ask for some, yeah,...

CHAIR BEACH:

Clarification.

COMMISSIONER DAVIDSON:

...we ask for some clarification because it...

CHAIR BEACH:

Yeah, I've gotten questions.

COMMISSIONER DAVIDSON:

...it is confusing to people.

CHAIR BEACH:

I guess the way it could be read is that requirements payments can only be used for efforts, you know, described in the MOVE Act, not for the other election administration activities.

COMMISSIONER DAVIDSON:

Right.

CHAIR BEACH:

So...

COMMISSIONER DAVIDSON:

I think that, hopefully we have some answers...

CHAIR BEACH:

Exactly.

COMMISSIONER DAVIDSON:

...at that time and can move forward, because I think that will really help the states in knowing what has happened at Congress and how we're all working together to provide information.

CHAIR BEACH:

And they're very excited that this money will be available. A lot of them have pilot projects and they're looking at, you know, exploring different options and ways to...

COMMISSIONER DAVIDSON:

Move forward.

CHAIR BEACH:

...enhance.

COMMISSIONER DAVIDSON:

Um-hum, absolutely, and we've been working very closely in that committee with Bob Carey and NIST. So it will be nice to have.

Thank you.

CHAIR BEACH:

I have one last thing. I just want to note that the 2008 Election Day Survey and the 2008 UOCAVA report are both up on our Website.

The tally vote was certified, so, it's now available to the public.

COMMISSIONER DAVIDSON:

Very good.

CHAIR BEACH:

And with that, this meeting is adjourned.

[The public meeting of the EAC adjourned at 2:28 p.m. EDT.]

add/bw