

+ + + + +
HEARING ON ALLEGATIONS OF ELECTION-DAY
IRREGULARITIES IN FLORIDA

+ + + + +
FRIDAY
JANUARY 12, 2001

+ + + + +
TALLAHASSEE, FLORIDA

+ + + + +

The Commission convened at 9:03 a.m., in the Capital Ballroom, Holiday Inn Select, 316 W. Tennessee Street, Tallahassee, Florida, Chairperson Mary Frances Berry, presiding.

PRESENT:

MARY FRANCES BERRY, CHAIRPERSON
CRUZ REYNOSO, VICE CHAIRPERSON
CHRISTOPHER EDLEY, JR., COMMISSIONER
YVONNE Y. LEE, COMMISSIONER
ELSIE M. MEEKS, COMMISSIONER
ABIGAIL THERNSTROM, COMMISSIONER
VICTORIA WILSON, COMMISSIONER

LESLIE R. JIN, STAFF DIRECTOR
EDWARD HAILES, ACTING GENERAL COUNSEL

NOTE: This is an unedited transcript of the full and complete proceedings of the U.S. Commission on Civil Rights in the matter of its "Hearings on Allegations of Election-Day Irregularities in Florida" held January 11-12, 2001. This is not a verified copy of the transcript. According to federal regulations, persons who have presented testimony at a Commission proceeding may ask within 60 days after the close of the proceeding to correct errors in the transcript of their testimony. Such requests shall conform to their testimony as presented at the proceeding.

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

RESPONSIBILITIES AND OBSERVATIONS OF COUNTY SUPERVISORS OF ELECTIONS

Ion Sancho.....	11
Denny Hutchinson.....	21
Linda Howell.....	24
Shirley Knight.....	28

STATE APPOINTED OFFICIALS

Phyllis Hampton.....	113
Robert Crawford.....	116
Charles Hall.....	118

FLORIDA VOTING PRACTICES AND PROCEDURES: REQUIREMENTS AND RESPONSIBILITIES

<u>Panel One</u>	191
------------------------	-----

Robert Butterworth
Allison Bethel

<u>Panel Two</u>	236
------------------------	-----

Katherine Harris
L. Clayton Roberts

PUBLIC FORUM

Congresswoman Corrine Brown..... 311
Susan Caplowe..... 325
Gail Marie Perry..... 330
Mary Stone..... 334
Rev. Richard Harris..... 335
Armando Garcia for Glen Russ..... 338
Moya Burgess..... 348
Capt. Chester Davis..... 365
Alvin Peters..... 369
Brenda Holt..... 376
Anita Davis..... 380

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

(9:03 a.m.)

CHAIRPERSON BERRY: This hearing of the United States Commission on Civil Rights concerning allegations of election day irregularities in Florida will now come to order.

Will people please turn off their cell phones or put them on vibrate or something so that we can hear.

May I please have all the court reporters, clerks, interpreters and signers come forward. Court reporter, clerk, interpreter and signer, would you come forward and raise your right hand.

(Whereupon, the court reporters were sworn.)

CHAIRPERSON BERRY: Thank you very much. Before returning to your place, could the sign interpreter ask if anyone is in need of sign interpretation?

(Whereupon, the sign interpreter complies.)

SIGN INTERPRETER: Madam Chair, I see no one.

Responsibilities and Observations of County

Supervisors of Elections

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON BERRY: Thank you.

2 This first panel, we will hear from
3 supervisors of elections from counties in and around
4 the Tallahassee region. I am asking General Counsel
5 Edward Hailes to call the witnesses forward.

6 ACTING GENERAL COUNSEL HAILES: Will the
7 honorable Linda Howell; former supervisor of
8 elections, Denny Hutchinson; honorable Shirley Knight
9 and honorable Leon Sancho please come forward.

10 CHAIRPERSON BERRY: Thank you.

11 Could you please raise your right hands
12 while I give you the oath.

13 Whereupon,

14 LINDA HOWELL

15 DENNY HUTCHINSON

16 SHIRLEY KNIGHT

17 ION SANCHO

18 appeared as a witness herein, and having been first
19 duly sworn, were examined and testified as follows:

20 CHAIRPERSON BERRY: Thank you very much.

21 Please be seated.

22 Counsel, would you please proceed with
23 questions you would like to address to the witnesses
24 on this panel.

25 ACTING GENERAL COUNSEL HAILES: Yes. And

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 I will note for the record, Madam Chair, that we have
2 agreed to accept the sworn testimony of the honorable
3 Carol Finch Griffin at a later point.

4 CHAIRPERSON BERRY: Thank you very much.
5 Without objection.

6 ACTING GENERAL COUNSEL HAILES: At this
7 time -- and I should also note that the honorable
8 Shirley Knight just assumed office on January the 1st,
9 2001. We asked her to come forward as the custodian
10 of records for her county, to appear and present those
11 documents at this time and not to provide sworn
12 testimony. The former supervisor of elections for
13 Gadsden County, Denny Hutchinson, is here to provide
14 sworn testimony.

15 CHAIRPERSON BERRY: Do you have documents
16 that you're going to have numbered as exhibits?

17 ACTING GENERAL COUNSEL HAILES: Yes. And
18 at this time, I would ask each of our witnesses to
19 tell us for the record whether you have produced the
20 documents that we requested pursuant to the subpoena,
21 beginning with Mr. Sancho.

22 WITNESS SANCHO: Yes, where those
23 documents exist, we have brought them.

24 ACTING GENERAL COUNSEL HAILES: Okay.
25 And, Ms. Knight?

1 WITNESS KNIGHT: Yes, I have.

2 ACTING GENERAL COUNSEL HAILES: And Ms.
3 Howell.

4 WITNESS HOWELL: Yes, where there are
5 documents.

6 ACTING GENERAL COUNSEL HAILES: Yes. And
7 we will review the documents after this hearing and if
8 we --

9 CHAIRPERSON BERRY: Counsel, could you in
10 summary form characterize the documents for the
11 record.

12 ACTING GENERAL COUNSEL HAILES: Yes.
13 Well, I would like the witnesses to characterize the
14 documents that they have produced at this time.

15 CHAIRPERSON BERRY: All right.

16 ACTING GENERAL COUNSEL HAILES: Mr.
17 Sancho.

18 WITNESS SANCHO: The documents that we've
19 produced essentially are the practices and procedures
20 relating to how individuals are trained in allowing
21 people to vote at the poll-worker level. They also
22 have to go to policies and procedures relative to the
23 status of individuals who can vote, who are not
24 allowed to vote. We brought our voter registration
25 roles as an example to show what the procedure is at

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 the polling sites for workers in determining who is
2 eligible and who is not eligible.

3 In addition to that, I brought several
4 other kinds of documents that would go to issues
5 broader than the subpoena, but issues that I heard
6 discussed yesterday, for example, and it was not data
7 presented to answer some of the questions that the
8 Commission had asked of some of the panel members. I
9 have some documents, I think one that I brought, that
10 I will explain later on.

11 ACTING GENERAL COUNSEL HAILES: Okay. Ms.
12 Knight.

13 WITNESS KNIGHT: The documents I brought
14 are mainly documents that are listed in the Florida
15 statutes or the office procedures, security
16 procedures, mainly documents that are outlined. I
17 have maybe one document written -- handwritten that
18 was presented at the polling place, but other than
19 that, that's all I have.

20 I also produced diskettes of the
21 registered voters, which the law requires someone to
22 sign an acquisition to receive that type of document.

23 ACTING GENERAL COUNSEL HAILES: Yes. And
24 we have discussed that and we'll take care of that.

25 Ms. Howell.

1 WITNESS HOWELL: What I have are -- I
2 don't have a lot of the things -- documents that were
3 requested, but I have what we have. Our poll-workers
4 manual and how they were instructed. The phone log of
5 what happened on election day and how we handled that..
6 The other thing that I dealt with was our deletions
7 and how we documented how we removed a person. Mainly
8 ours was -- we just -- our procedures are in there,
9 how we prepared for an election.

10 ACTING GENERAL COUNSEL HAILES: Mr.
11 Hutchinson, I believe you did bring documents with you
12 that we would like you to describe at this time.

13 WITNESS HUTCHINSON: I brought a few
14 documents. I was served with this subpoena, I think,
15 on December 28th and I gathered what other documents I
16 had as hastily and as completely as possible.

17 ACTING GENERAL COUNSEL HAILES: Thank you
18 very much.

19 WITNESS HUTCHINSON: And I realize that
20 the requested documentation is incomplete. I'm not
21 longer in custody of these records, and all the years
22 in office, everything has been preserved and I'm sure
23 that upon request of the new election supervisor, that
24 they may be received by you.

25 ACTING GENERAL COUNSEL HAILES: Okay.

1 Thank you very much.

2 CHAIRPERSON BERRY: Now, Counsel, does
3 this mean that there is a gap in the documents that
4 are available from this county or has that gap been
5 remedied by the documents that Ms. Knight is producing
6 or do we have a problem with the production of
7 documents in this county?

8 WITNESS KNIGHT: I brought the documents
9 that are in the office that we found. I have one
10 employee that has been there for 13 years and she
11 helped me gather the information, and what information
12 I have is what information we found.

13 ACTING GENERAL COUNSEL HAILES: So we
14 believe we have covered the gaps. We'll only know
15 that after we review all of the documents. I would
16 ask the county supervisors to agree to -- after we
17 examine the documents, if we find there are gaps, we
18 can ask you to produce those documents that would fill
19 the gaps.

20 CHAIRPERSON BERRY: Where they are
21 available.

22 ACTING GENERAL COUNSEL HAILES: Where they
23 are available. Thank you very much.

24 At this time, I will ask each of the
25 witnesses, with the exception of Ms. Knight, to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 briefly -- and because this is an important panel --
2 they all are, but in particular we know that there's a
3 great deal of responsibility and authority at the
4 county level to take up to 10 minutes, Madam Chair, to
5 discuss their responsibilities under the statute and
6 observations they made on election day. Then we'll
7 have specific questions both from me and the
8 Commissioners.

9 CHAIRPERSON BERRY: Fine.

10 ACTING GENERAL COUNSEL HAILES: Mr.
11 Sancho.

12 WITNESS SANCHO: Thank you.

13 First of all, I wish to thank this
14 Commission for coming to Florida in its efforts to
15 find out just what happened here during the November
16 general election. I hope that my participation on
17 this panel will provide you with some of the
18 information you seek.

19 The 12 years that I have served as Leon
20 County's supervisor of elections has provided me with
21 a basis to analyze Florida's November 7th election
22 from the inside out, and I have reached several
23 conclusions as I have studied the conduct of that
24 election.

25 First, there is no one underlying factor,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 which if it had been corrected would have prevented
2 Florida from being in the nation's spotlight on
3 November 7th. The sheer closeness of this election
4 with some 500 votes separating the two presidential
5 candidates out of the approximately six million votes
6 cast has called attention to problems in the areas of
7 voting technology, state and local voter education,
8 state and local education election administration,
9 adequate financial resources at the state and local
10 level, election day training for poll workers, poorly
11 written and in some cases contradictory election laws,
12 voter registration procedures and forms and procedures
13 which directly resulted in the disenfranchisement of
14 thousands of Floridians.

15 Yet despite this litany of failure, I
16 would dare say that Florida's elections are no worse
17 than many conducted in other states. Our failures
18 provide the state of Florida with the challenge and to
19 opportunity to craft an election system that truly
20 meets the needs of our citizenry in the 21st century.

21 Let me briefly describe some of the
22 problems that I've mentioned. There was a failure for
23 voting systems in Florida, but it went far beyond
24 punch cards and chads that we saw highlighted by the
25 media. Voters who cast their ballots in the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 presidential race and then had those ballots tabulated
2 at some central or regional location lost their votes
3 at a rate four to five times higher than voters who
4 voted in counties that used precinct-based counting
5 technology. Why? Because precinct-based voting
6 systems allows the voters to correct any over-vote
7 errors they may have made.

8 I've provided with you a large sheet here
9 which analyzes on a county-by-county basis the kind of
10 technology and the number of blank or spoiled ballots
11 that each county had on the November 7th election. I
12 would like to point to the group that said optical
13 central count. There are some 15 counties in the
14 state of Florida that use this type of counting
15 system.

16 And as an average, 5.68 percent of all the
17 voters in those jurisdictions did not or could not
18 vote in the presidential race in the state of Florida.

19 This is the highest percentage of lost or -- I call
20 it lost, but it's blank or spoiled ballots -- in the
21 state, even higher than the punch card jurisdictions
22 which we've heard so much about.

23 That is because these jurisdictions lack
24 the technology to allow a voter to correct any error
25 that they may have made. It also goes to the heart of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 voter education, and I also think weakness in
2 administration in these counties.

3 Many of these counties use a type of
4 system that is driven by the vendor. The vendor
5 designed the ballots for these counties as opposed to
6 the supervisor of elections from independently
7 designing the ballot styles. These counties in which
8 the vendors designed the ballot styles, I think have
9 significant design flaws. Flaws which, in fact, led
10 to the disenfranchisement of thousands of voters. And
11 that is something that has to be analyzed separate
12 from the punch card failure which we've heard so much
13 about.

14 Secondly, if you look at the 20, we heard
15 much yesterday about individuals choosing not to vote
16 in this election. If you look at the optical count
17 precinct counties, and there are 26 of them. They are
18 in the center of the page. If you look at those
19 jurisdictions, some 2 million-plus voters cast ballots
20 on November 7th. Less than one percent, .83 percent
21 of those voters in those jurisdictions either chose
22 not to vote in the presidential race or had their --

23 (Witness Sancho's cellular telephone
24 rings.)

25 WITNESS SANCHO: Excuse me. That should

1 have been turned off.

2 Less than one percent of these voters
3 failed to vote, and this is, I think, a random
4 selection of counties from around the state. As we
5 were approaching this election, I talked to --

6 (Witness Sancho's cellular telephone
7 rings.)

8 WITNESS SANCHO: I can't seem to turn it
9 off.

10 VICE CHAIRPERSON REYNOSO: Stomp on it.

11 (Laughter.)

12 WITNESS SANCHO: That will be the next
13 option.

14 (Laughter.)

15 WITNESS SANCHO: And as I talked to
16 supervisors from around the state, supervisors were
17 telling me that this was a close election in their
18 jurisdictions. Everyone could see it coming, this was
19 going to be a one-in-a-lifetime election. We saw that
20 coming in Leon County. I think this technology, this
21 precinct-based optical scan technology is the only one
22 that accurately reflected the will of the voters in
23 the state of Florida.

24 Again, less than one percent of the voters
25 in these jurisdictions did not vote or could not vote.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 But if you look -- again, comparing that with the
2 central count systems that were optical and the punch
3 card systems which were central-count based, you had
4 significantly higher percentages. There's no
5 difference in the population of those counties and
6 these 26 other counties which come from all across the
7 state, from small jurisdictions, medium jurisdictions
8 and even large jurisdictions.

9 And all the jurisdictions in the state of
10 Florida should have mirrored the percentage in these
11 26 counties, yet they do not. It is because of, in my
12 opinion, failure in voter technology, failure in
13 training the citizens to vote in those technologies
14 and failure to administer the process properly in
15 those jurisdictions which led to the
16 disenfranchisement and in some cases -- if you look at
17 the disenfranchisement which did occur in the punch
18 card jurisdictions, right off the bat I can see
19 somewhere in the neighborhood of 90,000 people, in my
20 opinion, were disenfranchised in the punch card
21 jurisdictions because of these failures.

22 CHAIRPERSON BERRY: What percent?

23 WITNESS SANCHO: As a percentage of the
24 vote, I don't know how high it is.

25 CHAIRPERSON BERRY: No, I mean -- what did

1 you just say?

2 WITNESS SANCHO: Ninety thousand.

3 CHAIRPERSON BERRY: Oh, you said 90,000.

4 WITNESS SANCHO: If you'll look at, for
5 example, under the punch card jurisdiction so Duval,
6 where you have 26,909 blank or spoiled ballots, that
7 is largely over-voted ballots.

8 CHAIRPERSON BERRY: Okay, thank you.

9 WITNESS SANCHO: You add that total with
10 Broward, Miami/Dade, Palm Beach and you get this total
11 that I'm talking about. It is -- if these counties
12 had been able to vote properly there, would not have
13 been a close election in the state of Florida. I
14 don't know how the election would have gone, but the
15 election would not have been close under any
16 circumstances. I think that some analysis that I've
17 seen by some newspapers, like the Miami Herald, also
18 point that out.

19 Voter education could have greatly reduced
20 the number of errors made by voters on election day.
21 On November 7th, that was the day the piper came to
22 collect his due, because Florida, as a state, spends
23 not one dollar on radio and TV ads informing voters
24 how to vote. This in a state that in the past has
25 spent over \$35 million in one year telling Floridians

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 how to play the lottery.

2 (Laughter.)

3 WITNESS SANCHO: Efforts to educate voters
4 are left totally to the counties, with some supervisor
5 of elections doing great jobs if they can get funding
6 from their county commissions, but with the great
7 majority of supervisor of elections doing the minimum
8 required under the law, buying one newspaper ad the
9 Sunday before the election, which is all that Florida
10 law requires that a supervisor of election do to
11 educate the voters as to the voting process on
12 election day.

13 Administrative deficiencies can undermine
14 any voting system on the market today. There is no
15 substitute for knowing what to do and when to do it.
16 These deficiencies become compounded when state and
17 local governments fail to provide the resources
18 necessary to do an adequate job. I can tell you that
19 when I went to my county commission after becoming a
20 newly elected supervisor of elections and asking them
21 for dollars to try to educate the voters on how to
22 vote properly, I was told that the prior supervisor of
23 elections didn't do that, and so, we know you'll do a
24 great job and we're not giving you any money to do it.
25 We know you'll do it anyway. These lack of resources

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 not only affect voter education but they affect the
2 hiring and training of election-day workers, as well
3 as providing polling locations which must be
4 convenient and accessible to our population if we want
5 voters to vote.

6 Florida's election laws are also confusing
7 and in some cases just plain wrong. There are
8 statutes in Florida election law which cannot be
9 applied to the optical scan voting system because some
10 of these laws were written specifically with the punch
11 card technology in mind and simply cannot be complied
12 with. The Secretary of State's office and staff knows
13 that. They simply ignore the law as well because, in
14 fact, the law cannot be applied.

15 We use a voter registration application
16 form that routinely prevents an average of three
17 percent of all people to complete it properly. This
18 is because the questions were designed in that form to
19 fit a mailing form and, in fact, there are too many
20 questions that must be placed on that form under
21 Florida law, and the questions goes horizontally as
22 well as vertically. Questions 2, 3, and 5 are
23 routinely skipped by about three percent of our entire
24 population.

25 Under Florida law, if you do not answer

1 question 2, 3 and 5, you have not registered to vote
2 and, in fact, you may go to the polls on election day
3 and look for your name on the roles and it is not
4 there. We have -- a supervisor of elections even kept
5 data on this. We have talked to the Secretary of
6 State's office about this. The attitude there is,
7 well, it needs to be this way so it can be a cheap
8 mail-in form. Well disenfranchising three percent of
9 Florida's electorate I think outweighs the cost of a
10 cheap mail-in form.

11 We also have three percent of the people
12 who register at the Department of Highway Safety and
13 Motor Vehicle who fail to have those forms sent to the
14 supervisor of elections office. These are people who
15 in good faith have registered to vote but we received
16 no record of this. Some might say a 97 percent
17 success rate is great, except that the three percent
18 failure rate are individuals who show up at the polls
19 on election day and have to be turned away. They are
20 not registered to vote under our law.

21 There is no shortage of targets to aim at
22 in Florida. We have a situation in which voter
23 registration is totally deregulated. I would like to
24 show you some 214 voter registration forms which were
25 turned into my office on January 3rd, almost 90 days

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 after the book-closing date. These voter registration
2 forms were collected by student groups which were
3 extensively trying to register voters for the November
4 7th general election. Some of these people probably
5 registered to vote properly in September and in
6 October. I don't know how many of them went to the
7 polls and were turned away, but there's no regulation
8 in the state of Florida that requires that if you
9 register a voter that there's any obligation to turn
10 that form in to the supervisor of elections by book-
11 closing date. Again, I think that's a problem that
12 must be corrected.

13 There is no shortage of targets to aim at
14 in Florida. The real challenge is identifying reforms
15 and implementing them so we can restore faith in our
16 elections process. I wish this Commission good luck
17 and God speed in the endeavor you are conducting
18 today.

19 ACTING GENERAL COUNSEL HAILES: Thank you
20 very much.

21 Mr. Hutchinson, will you proceed?

22 WITNESS HUTCHINSON: First, I think I
23 would like to just amen Mr. Sancho. He did a super
24 job.

25 Madam Chair and members of the Commission,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I welcome the opportunity to come here today and
2 assist you in ensuring the rights of all voters. My
3 name is Denny Hutchinson and I'm a life-long resident
4 of Gadsden County. I was elected as supervisor of
5 elections in 1980 and have worked diligently in this
6 job for the past 20 years. I've registered thousands
7 of voters and prepared for and conducted countless
8 county-wide and city and state-wide elections, working
9 hard to ensure the rights of all citizens to register,
10 candidates to run and voters to cast their votes and
11 have them counted with integrity.

12 During this period, Gadsden County has had
13 no contested or protested elections, no challenge
14 voters and very few poll watchers. Our voter turnout
15 has always been near or better than state-wide and
16 national averages. In 1996, we were recognized by the
17 Secretary of State with having the highest turnout in
18 primary elections. At all times we must ensure the
19 rights of all people to register, seek election and
20 have their choices counted, keeping in mind that all
21 the many complex election laws must be administered
22 honestly, fairly and impartially.

23 In future elections there are some things
24 which I believe should be improved upon to prevent
25 some of the problems which occurred during this past

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 general election, which were many. Among them, but
2 not all inclusive, I think that you need to simplify
3 and standardize the Florida ballot. I think a voting
4 system needs to be provided which will prevent over-
5 voting. I go back to the days of the old lever
6 machines and they wouldn't let you over-vote in the
7 precincts.

8 I think maybe you should provide for a
9 provisional voting system of balloting for those that
10 you're not sure of on election day as to the legality
11 of their registration. I think that absentee ballot
12 laws and policies need to be changed, administered
13 evenly and fairly. A very important item -- and I
14 think that the supervisor of elections office is going
15 to holler, especially the small counties that are
16 treated like stepchildren. We're not provided
17 adequate funding and personnel for all election
18 related matters.

19 And I think we -- or those that are
20 supervisors and the people that are responsible could
21 do a better job of educating the public. I feel like
22 maybe that was a shortcoming in our county. This was
23 an unprecedented hard election cycle, especially the
24 general election. It strained all of Florida's
25 resources to the limit.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 I appreciate this opportunity you've given
2 me to come here. In addition -- I added this as a
3 second thought. I think all the supervisors of
4 elections that I've known for 20 years are diligent,
5 hard working people, honest people and they work hard
6 to ensure that all people have their rights to vote.
7 I don't think there's enough credit nearly given to
8 election-day poll workers who are called upon two or
9 three times every two years or so to go and do a hard
10 day's work for little pay. We train them as best we
11 can with what resources we have.

12 Thank you very much.

13 ACTING GENERAL COUNSEL HAILES: Thank you,
14 Mr. Hutchinson.

15 Ms. Howell.

16 WITNESS HOWELL: Thank you for the
17 opportunity to be here. This is the first time I've
18 ever had to testify anywhere. I'm Linda Howell and
19 I'm the supervisor of Madison County and my statement
20 is only going to be brief. I told Ion that I would
21 let him answer all my questions.

22 (Laughter.)

23 WITNESS HOWELL: For the past 29 years, I
24 have been part of the elections office, 21 as deputy
25 supervisor and the past 8 as supervisor. In Florida,

1 the supervisor of elections is an elected official
2 except for Miami/Dade, and the authority for the
3 proper conduct of the elections in our county rests
4 solely on me. My voters evaluate my performance every
5 four years. I have a grave responsibility and duty to
6 every citizen because I am employed by them, and this
7 responsibility is taken seriously by me and I believe
8 it's taken seriously by the other 66 supervisors in
9 the state.

10 Being the supervisor of a small county
11 means that I am a hands-on supervisor. Since my staff
12 consists of one full-time person, I perform any and
13 all tasks required in order to complete the job. And
14 in closing, I've always -- it's always been the policy
15 of our office to assist and make registering and
16 voting easy and pleasant and this policy will continue
17 in the future.

18 I agree with Ion, there were many mistakes
19 and we can't point a finger at just one person. The
20 state did not give us as good guidance as they should
21 have. In the past, I remember that when we were
22 preparing a ballot, our ballot had to be certified by
23 the Division, and now we're on our own to prepare a
24 ballot. Ion said that some vendors prepared them.
25 That is an area that needs to be corrected.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 But the thing that was the most
2 distressing for me was the area of the felons and how
3 they are disenfranchised. There needs to be something
4 done with the law with regard to a person being able
5 to get their civil rights restored. It's a very
6 different thing in Florida to have that done. Some
7 people -- it's been 20 years and they still haven't
8 gotten their civil rights. Sometimes that is because
9 -- they don't even know they are supposed to do
10 something. You have to apply to have your civil
11 rights restored. If I applied today, it would take me
12 from six months to a year to get them restored. So
13 that is an area that has been very distressful for us
14 in our county.

15 And regarding the application, it is a
16 confusing application. Many times -- one of the areas
17 is the birthday. It's a required item, and it's stuck
18 up in such a place that people just forget to do it.
19 Now what we do on that particular case is that if we
20 receive an application and one item is -- and we're a
21 small county, you have to remember that.

22 If there's one item that is missing, what
23 we do is, we complete the -- transfer that information
24 over to a new application, leaving off the items that
25 were not included and we highlight that and we send it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 back. Send that new application back to the voter,
2 keeping the one that they have originally submitted to
3 us. So when we received that new one back with all of
4 the required information, then we attached both of
5 those together. So in a smaller county you're able to
6 do things that you would not be able to do in a larger
7 county.

8 And mentioning the financial part, that is
9 a strapping thing in a county of our size, because we
10 just don't have the finances to be able to change or
11 to do what we want to.

12 Education is a problem. Like I once said,
13 yes, I would like to send a sample ballot to every
14 person in my county, but the cost prohibits me from
15 doing that.

16 And the thing that I believe caused so
17 much problem and so much over and under-voting this
18 year was the number of candidates that we had on our
19 ballot for president. We had 10 candidates, plus a
20 write-in area. We had never had that before. We use
21 Data Vote, which is a punch card, and on ours, our
22 precinct ballots are not prescored, you have to use a
23 hole punch and punch a hole in your ballot. Now our
24 absentees would be prescored. But the thing about
25 that is, they had never seen that many -- and we had -

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 - all of our presidential candidates were on the front
2 of our first card and our poll workers were instructed
3 to remind them, you only make one punch on that
4 because otherwise you're going to over-vote.

5 There are many problems. I do think that
6 we need more guidance from the Division of Elections
7 and there needs to be something done about the felons
8 in our county and in our state.

9 ACTING GENERAL COUNSEL HAILES: Thank you
10 very much, Ms. Howell.

11 Ms. Knight, if you care to make comments
12 at this time, please do.

13 WITNESS KNIGHT: What I would like to say
14 is, Gadsden County is a county that people love and
15 they love to participate in their voting, but there is
16 a great need for voter education, voter awareness in
17 the community. There are things that can be done if
18 monies are there. You just have to get out there and
19 get into the community and get the people aware and
20 make them aware of what they are doing.

21 There also is a need for increased polling
22 places in Gadsden County because some people have to
23 drive miles and miles to vote. So there's a need --
24 there's a great need in Gadsden County. But we also
25 have to remember we have to keep the integrity of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 voting in the system. That is a must.

2 The people there are wanting different
3 things and they have a need for different things. So
4 I think advertised rates -- advertising and education
5 is needed in that county, because we had a large -- a
6 high number of over-voted ballots and under-voted
7 ballots also. I think over-voted ballots, a lot of
8 that came from not being educated. The ballot was --
9 it was a long complicated ballot. It was a front and
10 back side.

11 And if you'll look at our ballots that
12 were presented to the voters, some of the voters, they
13 would vote for their candidate as president, but they
14 would also vote for all the other candidates. Some
15 would vote for their candidate of their choice the
16 first time and in the next column they would also vote
17 for a presidential candidate. So the ballot needs to
18 be simplified and there needs to be a uniform ballot
19 all over the state. I think that will also help with
20 the high number of over-voted ballots.

21 A precinct counter is definitely in need,
22 because like Jon said, it will also prevent over-voted
23 and under-voted ballots, because at the precinct level
24 the voter will be able to -- it was -- I think the
25 machine was kicking the ballot back out to them and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 they would get a chance to get another ballot to
2 correct that error. So that will also stop the high
3 number of over-voted ballots. And that's the main
4 thing I saw in the county, that we had just a
5 tremendous high number of over-voted ballots, which I
6 think disenfranchised voters of their opportunity to
7 vote on the president.

8 That was my observations during the
9 election time. So if we can get more money for
10 advertising, for voter education, more training of
11 poll workers, I think the county would be better off.

12 ACTING GENERAL COUNSEL HAILES: Thank you
13 very much, Ms. Knight.

14 EXAMINATION

15 BY ACTING GENERAL COUNSEL HAILES:

16 Q Ms. Knight and -- Mr. Hutchinson, feel
17 free to add to her testimony. According to the list
18 that Mr. Sancho produced, it appears the Gadsden
19 County had the highest spoilage rate among all the
20 counties throughout the state. Is that your
21 understanding?

22 A (Witness Knight), Yes.

23 A (Witness Hutchinson) Yes.

24 Q And can you tell us the racial
25 demographics of Gadsden County?

1 A (Witness Knight) As far as voter
2 registration?

3 Q Yes, but just generally. It's our
4 understanding that Gadsden County may be the only
5 county in the entire state that has a majority African
6 American population.

7 A (Witness Knight) It is. I think the
8 ratio is 60/40.

9 Q Okay. And you do have the optical -- the
10 central machinery?

11 A (Witness Knight) Yes.

12 Q It's my understanding that the secretary
13 of state is required under Florida law to provide
14 education and assist -- technical assistance to the --
15 at the county level for voter education. Did you
16 receive that type of assistance -- I guess I should
17 direct my question to Mr. Hutchinson -- in Gadsden --
18 in Gadsden County?

19 A WITNESS HOWELL: I don't -- I don't know
20 if the Secretary of State necessarily is the one that
21 provides local voter education. A lot of it is bound
22 to fall back on the local elected officials. I do
23 think there's a shortcoming in that. You do the very
24 best you can with what resources you have. I agree
25 that a complicated ballot and a long ballot greatly

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 contributed to the problems that we had with the over-
2 voting in the county. I really do.

3 Q Okay. Well, I just wanted to read title
4 IX of the election code, chapter 97. Specifically
5 Section 97.012, which says the secretary of state is
6 the chief election officer of the state and it is his
7 or her responsibility to -- and I'll just go down to
8 number 3 which says -- number 4, provide technical
9 assistance to the supervisors of elections on voter
10 education and election personnel training services.

11 Are you familiar with that provision?

12 A (Witness Hutchinson) Oh, yes.

13 Q And did you receive that type of technical
14 assistance in your country?

15 A (Witness Hutchinson) We received kind of
16 what we asked for, you know, but I -- the problem that
17 I -- the only problem I have with that is, from county
18 to county you've got some many different voting
19 systems. You know, they might can provide that
20 technical assistance for this county over here and
21 then you've got to turn around to another county and
22 provide a different type of assistance, and you've
23 got, I don't know, 10, 12 or 14 different voting
24 systems in the state of Florida.

25 Q -- that same section also provides that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 it's the responsibility of the Secretary of State to
2 obtain and maintain uniformity in the application,
3 operation and interpretation of the election laws and
4 to provide uniform standards for the proper and
5 equitable implementation of the registration laws.

6 Mr. Sancho and Ms. Howell, did you receive
7 assistance leading up to the election from the
8 Secretary of State?

9 A (Witness Howell) Now our association had
10 an educational get out to -- what was it Get Out to
11 Vote 2000 -- Do Something -- Vote 2000. And at that
12 time, is this not true that we asked that they come in
13 with us so that we would have more money to implement
14 our program, because we were having to raise the money
15 to be able to do this. We did calendars, we did
16 buttons --

17 A (Witness Sancho) Billboards.

18 A (Witness Howell) -- billboards. Now this
19 was our association that did this.

20 Q I was going to ask, you asked for
21 assistance. Did you receive assistance from the
22 Secretary of State?

23 A (Witness Howell) I did not get any, but I
24 did not ask -- we as an association, we asked for
25 some, but not individually.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Q Okay. Did the association receive the
2 assistance that you requested?

3 A (Witness Sancho) The Secretary of State's
4 office asked for in their budget to the Florida
5 legislature \$100,000 for a media budget and the
6 Governor zero funded that and refused to fund it in
7 his budget. So there was no budget in the state of
8 Florida for voter education which relates to media.
9 There was no budget.

10 Q And when did the association ask for this
11 assistance?

12 A (Witness Sancho) The association
13 developed this Do Something - Vote 2000 Program
14 understanding the past history of how Florida has not
15 really been a partner in this, so we essentially, as
16 the Association of Supervisors of Elections, went out
17 and raised our own money from private corporations in
18 the attempt to set up some sort of a voter education
19 and voter turnout fund. And essentially that's how
20 the process has worked in Florida.

21 I myself personally raised money from
22 teachers, lawyers and other individuals of Leon County
23 so that Leon County could spend a radio and television
24 advertising budget that was totally separate from what
25 the county had given me because the county did not

1 provide much in that area as well. And again, as
2 supervisor of elections, you're sort of left on your
3 own to do this, without county resources or state
4 resources, and there are no federal resources
5 available at all.

6 Q That was my understanding that the
7 association did meet and you did specifically request
8 assistance.

9 A (Witness Sancho) That is correct.

10 Q And when did the association meet and when
11 was the request made?

12 A (Witness Sancho) Last year.

13 A (Witness Howell) Last year, right.

14 Q Okay. 2000 or --

15 A (Witness Howell) No.

16 A (Witness Sancho) It was actually in 1999

17 --

18 A (Witness Howell) Is when it began.

19 A (Witness Sancho) -- is when the program
20 began.

21 A (Witness Howell) Right. It was called
22 the Get out -- we formed the Get Out to Vote
23 Foundation.

24 A (Witness Sancho) We set up a private
25 foundation so that we could collect monies from

1 private benefactors in order to try to meet some of
2 the needs that we saw coming down the road.

3 Q Okay. And as county supervisors, you're
4 required to submit reports to the Secretary of State
5 regarding registration at certain points of the year?

6 A (Witness Howell) Correct.

7 A (Witness Sancho) We are required to
8 submit our rolls to the Secretary of State's office on
9 a regular basis.

10 Q Okay. And Mr. Sancho, you mentioned in
11 your testimony that everyone knew this would be a
12 closely contested election. When you say everyone,
13 are you referring to specific state officials?

14 A (Witness Sancho) It didn't take a rocket
15 scientist to look at the polls and the amount of
16 advertising when the candidates were simply pouring
17 into Florida, an unprecedented number of radio and
18 television ads in the presidential race were focused
19 in Florida, as obviously both campaigns targeted major
20 resources, early on, in this state. And that was
21 driving the interest in the state of Florida, which is
22 one of the reasons why Florida had almost a 20 point
23 margin higher voting in this state than the national
24 average. We could see it coming.

25 Q Ms. Howell.

1 A (Witness Howell) I did not see that in my
2 county.

3 Q Okay.

4 A (Witness Howell) I was fairly surprised
5 at what happened in my county because --

6 Q What happened in your county?

7 A (Witness Howell) I only had 23 votes
8 difference between the two candidates and that had
9 never happened before. So I was fairly surprised at
10 that, because there did not seem -- on one side -- and
11 I don't want to say -- you know, one side, there
12 didn't seem to be any interest. Like, say, for
13 instance, there was no signs. You know, you would
14 think well if there's really a lot of interest here,
15 there's going to be signs by that party. There was no
16 signs until the last week. So our voter turnout did
17 not change that much from years past, because in '92,
18 we had 80 percent voter turnout, whereas in this
19 election, we only had 64 percent.

20 Q Okay. Ms. Howell, will you describe
21 generally the racial demographics of your county?

22 A (Witness Howell) Right at 50/50.

23 Q Okay.

24 COMMISSIONER EDLEY: I'm sorry, that's
25 50/50 black/white? No Hispanic population?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 WITNESS HOWELL: Very few Hispanic or any
2 other race. I think I figured it was around 52 -- I
3 went back just looking at my voter registration.
4 There was only 52 Hispanics registered in our county
5 that actually says they are, you know.

6 COMMISSIONER EDLEY: Right.

7 WITNESS HOWELL: See sometimes they do not
8 give that.

9 CHAIRPERSON BERRY: Would Commissioners be
10 order and not ask questions when you're not
11 recognized.

12 COMMISSIONER EDLEY: I apologize. *

13 CHAIRPERSON BERRY: Thank you. Otherwise
14 everybody -- we'll have a free for all going on up
15 here.

16 Go ahead, counsel.

17 ACTING GENERAL COUNSEL HAILES: Yes.
18 Thank you very much, Madam Chair.

19 BY ACTING GENERAL COUNSEL HAILES:

20 Q I want to change the subject just briefly,
21 Ms. Howell, and ask you to not defer to Mr. Sancho and
22 answer this question yourself, because it's somewhat
23 personal as I understand it from your interview and
24 discussions with one of our staff attorneys. You're
25 familiar with the Choice Point firm, the DBT firm

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 contracted by the Secretary of State for list
2 maintenance purposes?

3 A (Witness Howell) Yes, sir.

4 Q I understand you had reason to question
5 the list cleaning process. Can you describe what your
6 concerns were.

7 A (Witness Howell) That is correct.
8 Originally when we received the first list -- this was
9 back in '98 after the central voter file had been
10 established. That was where we had to send our
11 registration to the -- the state, the Department of
12 State. The first list, there was no indication as to
13 where that information came from, and so, the first
14 list was so inaccurate that you were almost afraid to
15 do anything with it. What I did was, I went to my
16 clerk's office and tried to verify that information,
17 and if I felt comfortable enough that the clerk's
18 office was saying yes, this is a convicted felon, then
19 I would send a letter to that voter and say this is
20 the information that I have received on you, that
21 you're a convicted felon. This is the Social Security
22 number or whatever information and I'm going to give
23 you 30 days in which to respond before I do anything.
24 And so, I did remove some people on that particular
25 list. But as it has progressed, the last list, which

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 was in June of 2000, only had two names on there. So
2 I did not have to deal with that. And so, I did not
3 use DBT. You could contract with there, you know, to
4 have it -- so you could pull up that information and I
5 did not do that.

6 Q Okay. Were there any other reasons why
7 you had -- why you questioned the list? Did you
8 receive a letter?

9 A (Witness Howell) Well because you found
10 so many -- and I'm not an investigator.

11 Q Okay.

12 A (Witness Howell) I found that there were
13 misdemeanors, there were adjudication withheld, people
14 that had received their clemency - civil rights back
15 through clemency and that some had even been pardoned
16 as far back as 1967. There was one person on there.
17 So there was a variety of reasons. And the other
18 thing that I did was, I sent all of this to clemency,
19 you know, of all those people and asking them have any
20 of these people received their civil rights. Well
21 what happens on that is, they only have those that
22 received their civil rights. They don't know if
23 they've been convicted of a felony. The only way they
24 would have any records would be if you have had your
25 civil rights restored. So you're missing a great --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 there seems to me to be no link between FDLE, which is
2 our Florida Department of Law Enforcement and clemency
3 and the Department of Corrections. You know, it's
4 like there's no connection there that the information
5 is shared. So I think that would be a much -- It
6 would be a benefit to everyone if that information was
7 somehow shared.

8 Q Do you --

9 A (Witness Howell) So you see supervisors
10 are in a precarious position here. We have a law that
11 says that a felon cannot be on your roles, and if I
12 remove that person, you know, from information that
13 I've received and I've done it improperly, then I'm
14 violating a person's right to vote. So where is the
15 middle ground here, you know?

16 Q Well do you know of any person who had
17 been identified by the private firm as a felon who, in
18 fact, was not?

19 A (Witness Howell) Like I said originally,
20 I don't know -- and I can't remember where the
21 information came from. You know, whether it was FDLE
22 or whether it was DBT. I did not use DBT. But if
23 that information was -- like on one list it was just -
24 - Division of Election is where we got it.

25 I had one person at the first primary, and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 I had sent her...

2 (Telephone interruption.)

3 CHAIRPERSON BERRY: We're listening.

4 WITNESS HOWELL: I had sent her a letter
5 and she came in on that day and said that she had
6 never been -- and I had not heard from her in all this
7 time. So she came in on election day and I did get in
8 touch with the clerk's office and also called FDLE and
9 was able to get her reinstated because she was not a
10 convicted felon.

11 BY ACTING GENERAL COUNSEL HAILES:

12 Q Did you ever receive a letter, yourself,
13 from the company?

14 A (Witness Howell) Yes, I did.

15 Q Will you describe...

16 A (Witness Howell) In fact, I have it with
17 me.

18 Q Would you submit that for the record,
19 please?

20 A (Witness Howell) I did -- yes. I did not
21 bring a copy of it.

22 In my office, I received a letter from
23 FDLE that said that I was a convicted felon.

24 (Laughter.)

25 CHAIRPERSON BERRY: What was that? Did I

1 hear you right?

2 WITNESS HOWELL: Yes, ma'am.

3 CHAIRPERSON BERRY: Did I hear you right?
4 What did you say?

5 WITNESS HOWELL: I received a letter
6 saying that I was a convicted felon at my office.

7 CHAIRPERSON BERRY: You did?

8 WITNESS HOWELL: Yes, ma'am. And I am not
9 a convicted felon. What had happened was, when you
10 decide that this person might be a convicted felon,
11 you're going to send them the letter. What you do is,
12 then you send them a voter verification form along
13 with your letter, and that is to be sent to FDLE,
14 which will verify whether or not this person has
15 actually been convicted of a felon, and then they will
16 send that person back yes, you are a felon, no you are
17 not. Then they will send them a card to have
18 themselves fingerprinted so that they can determine if
19 this -- you're the same person.

20 And so what had happened was, I had sent
21 the letter to one of my voters and he sent in the
22 verification form. Instead of picking up his name,
23 they picked up my name and sent me the information.
24 Now the thing that really upset me was the fact that -
25 - are they -- how -- they were not taking their job

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 seriously. The law said that they had to verify this,
2 but they were not taking it seriously. And, you know,
3 that could destroy a person's life. You get that on
4 your record, how do you get it off? My name was never
5 on any list that came from the Division or from FDLE.

6 They were very apologetic. But I think they should
7 take their job more serious, because you're hurting
8 people for the rest of their lives.

9 ACTING GENERAL COUNSEL HAILES: Thank you
10 very much, Ms. Howell. And at this time, I will end
11 my questions.

12 CHAIRPERSON BERRY: Thank you and thank
13 the panel.

14 Does any Commissioner have any questions
15 for the panel? Let's do Elsie and then Commissioner
16 Thernstrom.

17 COMMISSIONER MEEKS: The voter
18 registration card that people register to vote, it
19 goes to the county clerk's office, right?

20 WITNESS HOWELL: Are you asking me?

21 COMMISSIONER MEEKS: Anyone.

22 WITNESS SANCHO: It goes to the supervisor
23 of elections.

24 WITNESS HOWELL: Supervisor of elections.

25 COMMISSIONER MEEKS: Oh, okay.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 WITNESS HOWELL: The actual voter
2 application comes to our office.

3 COMMISSIONER MEEKS: Okay. And so y'all -
4 - or did of you see a huge increase, or a big
5 increase, or an increase in the number of new voter
6 registration?

7 WITNESS SANCHO: We did in Leon County.

8 WITNESS HOWELL: I did not. Not that big.
9 Probably 100 to 150 in between each election..

10 COMMISSIONER MEEKS: So then you knew that
11 there was going to be -- I mean, you probably -- there
12 was an indication that there was going to be a big
13 turnout on voters voting day?

14 (No response.)

15 COMMISSIONER MEEKS: Mr. Hutchinson, you
16 can answer that if you would like.

17 WITNESS HUTCHINSON: I don't know that
18 that in itself was an indication that you was going to
19 have a bigger turnout in and of itself. We had --
20 from the time of the National Voter Registration Act
21 until probably this past general election there was an
22 increase -- 1992 and 1993 --, from 18,000 to about
23 26,000 in our county. As a percentage of voter
24 turnout, we had had higher in past elections. The net
25 result probably was 2,000 or 2,500 more people turned

1 out for these primaries and this general election than
2 we had had in past -- you know, number wise, not
3 necessarily percentage wise.

4 COMMISSIONER MEEKS: But as it relates to
5 new voter registration, was there something different
6 about this election? Was there an increase from
7 previous years, I guess, in the voter registration?

8 WITNESS SANCHO: In Leon County there was
9 and there are a number of factors for that. Not only
10 the presidential election, but the Governor's One
11 Florida initiative plan, which is an affirmative
12 rights program, led to a civil rights march on
13 Tallahassee, which is in Leon County. And so from
14 March through the November election there was a steady
15 -- a very steady increase in new voter registrations
16 in Leon County. And on election day, for the first
17 time in the history of Leon County, we topped 100,000
18 voters voting on election day. The percentage was not
19 as high as 1992. 1992 is the modern record for
20 election turnouts in the state of Florida, but 1992
21 was a very unusual election year with the emergence of
22 a third-party candidate for the first time, Ross
23 Perot. Percentage-wise, '92 probably tops most of our
24 databases as the record. But in Leon County, while we
25 did not break the percentage record in terms of actual

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 voters voting, we did break our record. We had a
2 tremendous number of new voters voting. We also had a
3 tremendous number of voters who attempted to register
4 to vote, but for the failure to complete the forms
5 properly could not vote.

6 This list of records are all of the
7 individuals that attempted to register to vote in Leon
8 County just prior to book closing. This is just from
9 September '91 through October -- excuse me, of 2000
10 through October of 2000. And all of these people are
11 individuals who did not complete the form properly
12 largely because they failed to fill in the birthdate,
13 which is again question number 5, hanging there on the
14 corner of the application form.

15 So not only did we have an unprecedented
16 number of new registrations, we had unprecedented
17 numbers of voters who attempted to register to vote
18 but, in fact, failed to do so because of this form.

19 COMMISSIONER MEEKS: So your county did
20 have a high number of new voters?

21 WITNESS SANCHO: Yes. Yes, we did.

22 COMMISSIONER MEEKS: Okay. But --

23 WITNESS SANCHO: But we have three
24 universities who are major educational institutions
25 within our counties, probably something not present in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 a lot of other counties.

2 COMMISSIONER MEEKS: Okay. But then your
3 county had a fairly low percentage of spoiled ballots?

4 WITNESS SANCHO: That's correct.

5 COMMISSIONER MEEKS: Why would you --
6 would you, I guess, say that voter registration -- or
7 education was key in that, or what was the key factor?

8 WITNESS SANCHO: Well several factors.
9 First, we use an optical scan voting system, which I
10 think is the simplest voting system in use in the
11 United States of America. We pioneered the use of the
12 optical scan precinct voting system in the state of
13 Florida in 1992. We were the second jurisdiction in
14 the state -- excuse me, in the nation to use this
15 system. So our office has, I would say, the most
16 expertise in this voting system and how to train
17 voters in voting in this system than probably any
18 county in the United States. We purposely selected
19 this system because, in fact, it was such an easy -- a
20 voter-easy system. Unlike some of the other ballot
21 designs which can be confusing, this is very simple.
22 It can be done on a very simple layout and can be done
23 in a not confusing manner.

24 We are, for example, one of the few
25 jurisdictions in the state of Florida that does send

1 out a sample ballot to every voting household in our
2 county before every election. Not many counties do
3 that. It's expensive. But when we went to the new
4 system in 1992, I imposed upon the county commission
5 that unless you want to have a disaster occur on
6 election date, you better provide me with some
7 resources and the sample ballot was one of those key
8 resources.

9 We also do something that probably not
10 many other counties do. To every voter on our files
11 who we determine has never voted in Leon County
12 before, we send out a specific brochure on how to vote
13 on that Accuvote voting system. If you are a newly
14 registered voter in our jurisdiction, we will send you
15 a pamphlet on how to vote properly on the ballot, and
16 that is in addition to the sample ballot.

17 COMMISSIONER MEEKS: Just one more
18 question.

19 COMMISSIONER THERNSTROM: Well, I think I
20 was next. I had been recognized as next.

21 CHAIRPERSON BERRY: I'm going to recognize
22 you when Commissioner Meeks is finished.' '

23 COMMISSIONER THERNSTROM: Oh, I thought we
24 were moving on to another commissioner.

25 CHAIRPERSON BERRY: No, she has another

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 question.

2 COMMISSIONER THERNSTROM: I'm sorry.

3 COMMISSIONER MEEKS: So would you say that
4 your county then had resources that other counties did
5 not have?

6 WITNESS SANCHO: Yes. I have made a
7 consistent effort since I've been elected supervisor
8 of elections to make it a priority to push for voter
9 education dollars. In my discussion with other
10 supervisor of elections, I'm aware that they do not
11 receive the same funding that I do for my county
12 commissioners.

13 CHAIRPERSON BERRY: Okay, Commissioner
14 Thernstrom.

15 COMMISSIONER THERNSTROM: Thank you so
16 much.

17 Mr. Sancho, I actually have a question
18 also for you. Mr. Hutchinson, as you will recall,
19 noted how seriously that the county supervisors took
20 their job and this is my question for you. If I
21 understood your testimony correctly, you argued that
22 it was not demography, the racial, ethnic, socio-
23 economic status of the population, but the particular
24 machine, the methods of tabulation, plus voter
25 education, administrative inefficiencies and so forth

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 that resulted in the high number of spoiled ballots.
2 In other words, it was not a problem of racism as we
3 heard charged frequently yesterday, and I have heard
4 this morning indeed no hint of racial considerations
5 driving the counting of ballots in these counties. I
6 wonder if you would comment on that.

7 WITNESS SANCHO: Well I think there -- I
8 would approach it from this way. If there's no intent
9 of racial discrimination, but the effect of the lack
10 of resources devoted to one's county has the -- has
11 the effect of having a larger portion of a population
12 impact than another population, I would say there's no
13 intent to discriminate racially. There's no racial
14 discrimination intended. The effect however of not
15 spending dollars to educate voters may have an impact
16 on population groups which are not as experienced in
17 voting on the system. To use, for example -- Gadsden
18 County as an example, Gadsden County went to a new
19 voting system in 1996, Denny?

20 WITNESS HUTCHINSON: 1994, I think.

21 WITNESS SANCHO: 1994?

22 WITNESS HUTCHINSON: Yes.

23 WITNESS SANCHO: But many of the voters
24 that voted -- and I'm sure '94, Mr. Hutchinson, did
25 have voter education programs.

1 WITNESS HUTCHINSON: Yes.

2 WITNESS SANCHO: But again, many of the
3 voters that voted in the year 2000 in Gadsden County
4 had never voted at all. So in the year 2000, many of
5 these voters coming out to vote in this election did
6 not have any education on this new voting system, to
7 them, it was brand new. Which is why you have to
8 continue the monies and the voter education for many
9 years after you introduce the new system. It's not
10 enough, as we found out, for example, when we
11 introduced our system in 1992 to do a 100,000-piece
12 mailing, and that is why we continue to do these
13 updates in voter education as if people had no
14 experience with the system. Because when you don't do
15 that -- in our jurisdiction, it would impact seriously
16 on the students who would be the most inexperienced
17 voting on the system. So I don't think there was any
18 conscious targeting or racial discrimination on the
19 part of supervisors. I think some of the effects of
20 not having the kinds of monies necessary to do ongoing
21 voter education programs has the effect of in fact
22 impacting on minorities and young people and senior
23 citizens because this was an election that brought out
24 voters that voted maybe only one time in the last 10
25 years. If you changed to a new voting system, or the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 fact that they're not experienced in voting in that
2 new voting system, you're going to have a higher
3 percentage of problems with that kind of population.

4 COMMISSIONER THERNSTROM: And is voter
5 education, do you think, the sole responsibility of
6 the state or is there an important role for non-
7 governmental organizations to play?

8 WITNESS SANCHO: Well to me, the only
9 effective -- if you're going to be effective in media,
10 you have to be as savvy as marketers of products are.

11 Posters on the wall don't cut it. You've got to be
12 able to put dollars into radio and television where
13 the majority of the younger population, for example,
14 particularly radio, get their information and the
15 state has missed the ball totally. And again, the
16 counties don't wish to pursue that kind of education -
17 - voter education programs because it's costly.

18 COMMISSIONER THERNSTROM: Well I was
19 thinking voter advocacy groups, the NAACP and so
20 forth. Whether you thought they also should have --
21 might have played a greater role in voter education?

22 WITNESS SANCHO: In the state of Florida,
23 I'm aware that the NAACP spent \$7 million in
24 advertising on voter participation, turn out to vote,
25 motivational. But I don't think it is the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 responsibility of advocacy groups to attempt to inform
2 the voters on how to vote properly in the process.
3 That is strictly, in my opinion, a role in which the
4 state and the counties must merge as the predominate
5 leaders.

6 COMMISSIONER THERNSTROM: Thank you very
7 much.

8 CHAIRPERSON BERRY: Commissioner Lee.

9 COMMISSIONER LEE: Thank you, Madam Chair.

10 According to the 1999 annual report
11 submitted by the Florida Department of State Division
12 of Elections, it mentions on a daily basis the staff
13 and the director's office provides election related
14 assistance to 67 county supervisors and their staff.
15 I would like to find out what kind of assistance they
16 provided you. And also, they were supposed to provide
17 voter education assistance to the public, and I just
18 heard from all of you that they are not providing and
19 --

20 WITNESS SANCHO: They provide pamphlets
21 which you may request. They provide posters which
22 they distribute to the counties. That is essentially
23 the extent of public education.

24 COMMISSIONER LEE: Now also, since every
25 county submits all the voter registration forms to the

1 state, I understand, right?

2 WITNESS SANCHO: Well we received them
3 from the state. They don't go back to the state.

4 COMMISSIONER LEE: Okay. But the state
5 would know that there's a record number of voter
6 registration requests, so they anticipated there was
7 going to be a huge number of first-time voters, right?

8 WITNESS SANCHO: One can make that
9 conclusion.

10 COMMISSIONER LEE: Did the state, you
11 know, provide any alert to any of you that, you know,
12 you're going to be anticipating, you know, a high
13 number of first-time voters? Did they offer any
14 assistance at all in terms of resources?

15 WITNESS SANCHO: Not that I'm aware of.
16 But I would like to point out that you have sort of a
17 unique situation sort of converging on the year 2000.
18 First is, a new secretary of state was elected in the
19 year 1998. One that campaigned not on a basis that
20 elections was going to be the focus of the secretary
21 of state's office. The Secretary of State's office
22 manages many major departments much larger than the
23 Division of Elections. International trade,
24 corporations, all of the art, museums, libraries,
25 cultural affairs, comes within the Secretary of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 State's office. The current Secretary of State
2 campaigned on largely that platform of providing
3 international trade relationships, cultural affairs,
4 not reforming the elections process. So that new
5 secretary of state basically cleaned out the
6 institutional memory to a large degree of the Division
7 of Elections. We had a new director. The individuals
8 that had served, at least in my memory, for secretary
9 of states as the divisional elections director or the
10 assistant division, those people left. The Secretary
11 of State -- so the Division of Elections had
12 inexperienced individuals themselves in the Division
13 of Elections positions, and I think the lack of
14 prioritization and the inexperience combined to make
15 the office less effective for our -- for our request
16 for assistance. That's what we have -- as a
17 supervisor of election, that's what I would tell you.

18 We don't depend on that. We didn't depend on that
19 office this year because simply they were too new. We
20 knew more about the process in some cases than they
21 did.

22 WITNESS KNIGHT: Also, I would like to
23 add, the state are aware of the voter -- high voter
24 number of registration, because on a monthly basis
25 each supervisor have to submit the total number of new

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 registration at different agencies. So they are aware
2 of -- on a monthly basis, and they keep tallies of how
3 many new voters -- how many duplicate voters are
4 registered each month.

5 CHAIRPERSON BERRY: Let's go down to this
6 end. Commissioner Wilson.

7 COMMISSIONER WILSON: Thank you, Madam
8 Chair.

9 First of all, I would like to commend you
10 for the work that you did in terms of trying to raise
11 money outside of the system and going on your own. In
12 the past, has the secretary of state been helpful to
13 you?

14 WITNESS SANCHO: Secretary of State Jim
15 Smith contacted the Florida Association of
16 Broadcasters, and I believe that was in 1992, and they
17 did free 30-second television spots that were
18 distributed to the Supervisor of Elections Office, so
19 the supervisors could put 30-second television spots
20 on the television to provide information and
21 motivational information to the voters on voting.
22 That was in 1992. We used some of those same spots in
23 1994, but no secretary of state after that has
24 provided any resources like that to the Florida
25 Association of Supervisor of Elections or elections in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 general.

2 COMMISSIONER WILSON: Now when you -- you
3 were talking about -- I'm sorry, I have a number of
4 questions. You were talking about the form that
5 people had not filled in properly, which was they
6 hadn't answered questions 2, 3 and 5. Five you said
7 was the birthdate.

8 WITNESS SANCHO: Yes.

9 COMMISSIONER WILSON: Do you -- first of
10 all, do you design those questions?

11 WITNESS SANCHO: The form is designed by
12 the Division of Elections and the Secretary of State's
13 Office. It is a state-wide form and has been since
14 January 1, 1995, when we changed from a county system
15 of voter registration forms to a state-wide system,
16 and that was required by the National Voter
17 Registration Act, which went into effect January 1,
18 1995.

19 COMMISSIONER WILSON: Now what are
20 questions 2 and 3?

21 WITNESS SANCHO: Questions 2 and 3 go to
22 your loss of civil rights, question 2 specifically,
23 have you been convicted of a felony and not have your
24 civil rights restored. And question 3 is the question
25 of have you been adjudicated mentally incapacitated.

1 So questions 2 and 3 go to specific questions under
2 Florida law that individuals must answer in the
3 affirmative or you may not vote.

4 COMMISSIONER WILSON: Does it say anywhere
5 on the application or on the return envelope, as for
6 instance, it does with the Bureau of Motor Vehicles?
7 Did you do this, did you do this, did you do this?

8 WITNESS HOWELL: One --

9 WITNESS SANCHO: It -- go ahead.

10 WITNESS HOWELL: One thing that they do
11 have on the application. The required items are --
12 the number is marked in red, you know. So it would
13 indicate -- it says and up. In your instructions it
14 would say important attention, you know, that these
15 items must be completed.

16 COMMISSIONER WILSON: They must be -- does
17 it say if you do not complete them you will not be
18 registered?

19 CHAIRPERSON BERRY: Mr. Hutchinson was
20 trying to say something.

21 COMMISSIONER WILSON: Oh, I'm sorry.

22 CHAIRPERSON BERRY: Were you trying to say
23 something, Mr. Hutchinson?

24 WITNESS HUTCHINSON: Talking about the
25 voter registration application, there's no item -- I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 don't think it's been mentioned as a required item or
2 the last four digits of the Social Security number. I
3 never have -- we do that as a matter that we -- you
4 know, we're told that it has to be complete to do
5 that, but I have seen the value of that. It's a
6 required item on there. Without that item, it's an
7 incomplete form. I don't know the worthiness of that
8 at this point in time.

9 COMMISSIONER WILSON: Where it says
10 attention, items 1, 2, 3, 5, 6, 8 and 12 and 20 must
11 be answered in order for this to be a valid
12 registration.

13 Now when you talked about a budget for
14 educating the public, how much money were you talking
15 about -- roughly, that you were asking for? I mean,
16 individually. Your counties are different. Other
17 association -- no, well, the association or if
18 counties wanted to go to -- as a supervisor, you were
19 going to the next level of government and you wanted
20 money, how much money would you be asking for?

21 WITNESS SANCHO: That would depend on what
22 your design of your voter education program is. We,
23 in Leon County, probably spend \$60,000 on election
24 cycle. To do the mail-outs, the sample ballots for
25 every election, which again, describe for the voters

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 and show the voters a picture of what the ballot will
2 look right. And we also include updates or changes in
3 the law. For example, a law which went into effect
4 for the election cycle in the year 2000 was a law that
5 said that you had to present -- I actually -- let me
6 get this precisely, because this is one of those, I
7 think, inane aspect of Florida election law. Our
8 offices and our staff at the polls were required to
9 ask that voters produce picture identification;
10 however, the voters were not required to produce
11 picture identification to vote. There's a disconnect
12 in the law. We are required to ask it. If you don't
13 have it, then you sign an affidavit and vote anyway.
14 We're required to ask it, but you don't need it to
15 vote.

16 COMMISSIONER WILSON: Okay. I don't
17 really understand that but I'll go along with it.

18 (Laughter.)

19 WITNESS HOWELL: I probably would not have
20 asked for more than \$5,000. I do not mail sample
21 ballots. I'm a very small county and money is very
22 short, and, you know, elections would not be high --
23 you can get roads, or trucks or cars but you can't
24 get...

25 COMMISSIONER WILSON: That's true. But

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 looking at the figures from Leon County, it seems to
2 work when the ballots are sent out.

3 WITNESS HOWELL: That's true. I know it
4 does. We did it back probably one time and it does
5 make a difference and I would like very much to do
6 that.

7 COMMISSIONER WILSON: Did you perform a
8 recount in your --

9 WITNESS HOWELL: Yes, I did, the day after
10 the election, on the 8th. Yes, every card was run
11 through the computer.

12 COMMISSIONER WILSON: And how long did
13 that take?

14 WITNESS HOWELL: Maybe two hours.

15 COMMISSIONER WILSON: Did you find any
16 abnormalities in the ballots?

17 WITNESS HOWELL: Not in the precinct
18 ballots, no. They were -- the count was the same on
19 that, but when you have the prescored, we found three
20 more.

21 COMMISSIONER WILSON: All right. My last
22 question is, are your polling -- the workers who work
23 in the polls, were they aware -- yesterday we heard
24 about the stipulation that actually the Vice Chair
25 raised about how in California, where if there is some

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 kind of problem that can't be resolved because the
2 phones are busy or whatever, the person could go ahead
3 and vote and the ballot would be put aside.

4 WITNESS HOWELL: We do not have
5 provisional voting, no.

6 COMMISSIONER WILSON: Do you in Leon
7 County?

8 WITNESS SANCHO: No, provisional balloting
9 is not legal in Florida. In order for -- an
10 individual must be persistent and this is what we've
11 seen. If you're persistent enough to keep calling our
12 office or actually in Leon County where we're really
13 sort of one of those communities that developed after
14 World War II, where you have a central hub. So you
15 can come into the courthouse. You're not too distant
16 from anywhere because the courthouse is really the
17 center of the county. If you come in, and are
18 persistent enough on election day, we will resolve
19 your problem and you will be able to vote. If you're
20 not, you probably will not get your vote counted,
21 because again, on election day, regardless of how many
22 new telephone lines -- and we installed 12 new lines
23 for the election and put on a number of new staff.
24 You're going to get problems, particularly in our kind
25 of a jurisdiction, from students who didn't understand

1 the law and now are trying to find out where they're
2 supposed to vote. They registered to vote on campus,
3 but they're not supposed to vote there. You're
4 supposed to vote where you reside, where your precinct
5 places you. And so, if you went to where you
6 registered to vote, you can't vote there. You'll be
7 directed to another location.

8 COMMISSIONER WILSON: Okay. Well, I was
9 confused because I thought we had established
10 yesterday that they did have this in Florida.

11 WITNESS SANCHO: There is no provision --

12 COMMISSIONER WILSON: Didn't they say
13 affidavit --

14 COMMISSIONER EDLEY: Affidavit ballots?

15 COMMISSIONER WILSON: Yes.

16 COMMISSIONER EDLEY: I mean, let's go
17 through this again.

18 CHAIRPERSON BERRY: The -- I will point to
19 -- we're looking at Section 101.111 of the Florida
20 Statute and it says -- has an oath for persons
21 entering a challenge and the oath of the challenged
22 voter. Then it says any inspector or clerk of
23 election may administer the oath and if a challenged
24 person refuses to make and sign the affidavit, the
25 clerk or inspector shall refuse to allow him or her to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 vote.

2 WITNESS SANCHO: That's only for a
3 challenged voter.

4 WITNESS HOWELL: And I will tell you that
5 in the 12 years that I've been supervisor of elections
6 in Leon County, we've never had a challenged voter.

7 CHAIRPERSON BERRY: What do you mean by a
8 challenged voter?

9 WITNESS HOWELL: Twenty-nine years for me.
10 I've never had one.

11 WITNESS SANCHO: You go to your precinct
12 to vote on election day. You're preparing to vote and
13 someone in the room says you're not an eligible voter
14 in this precinct, you're a felon, or you're not who
15 you claim you are. Well that person is challenging
16 your right to vote in that precinct at that time and
17 you can say you're crazy, I am who I say I am. Well
18 that is the challenge, and then you go through this
19 procedure and you may vote under that scenario if you
20 are personally challenged at the precinct by another
21 individual at the precinct on election day.

22 CHAIRPERSON BERRY: {But...being challenged
23 by you or someone who is operating the elections is
24 not the same as being challenged by an individual.

25 WITNESS SANCHO: Right.

1 CHAIRPERSON BERRY: Because the effect is
2 exactly the same.

3 WITNESS SANCHO: Right. But I'm unaware
4 of --

5 CHAIRPERSON BERRY: In other states they
6 have procedures -- the same procedure is used to let
7 people file ballots when they're challenged by
8 officials, as well as, you know, anybody else who
9 challenges them. You're saying this division, which
10 doesn't seem to say so. That isn't what it says.
11 That you interpreted -- or it's been interpreted in
12 Florida and it means --

13 WITNESS SANCHO: Right.

14 WITNESS SANCHO: -- only if some
15 individual, not
16 an election official, challenges you.

17 WITNESS SANCHO: Right. That is correct.

18 CHAIRPERSON BERRY: Does it say that in
19 the statute?

20 VICE CHAIRPERSON REYNOSO: It says elector
21 or watch and that has been interpreted to not include
22 officials, I take it?

23 WITNESS SANCHO: Right. A poll watcher is
24 an individual who has at least two weeks prior to the
25 election been submitted by a candidate or a party to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 watch the polls on behalf of that candidate or party.

2 It is part of the political process to get out the
3 vote, and they can challenge voters, but it is not
4 anyone connected with the voting process as a staff
5 worker or poll worker or an election worker.

6 COMMISSIONER THERNSTROM: So if you arrive
7 --

8 CHAIRPERSON BERRY: Please Commissioners
9 be in order.

10 COMMISSIONER THERNSTROM: I'm terribly
11 sorry.

12 CHAIRPERSON BERRY: Commissioner, the Vice
13 Chair was speaking.

14 COMMISSIONER THERNSTROM: I'm sorry.

15 CHAIRPERSON BERRY: Commissioner Wilson
16 had the floor before that --

17 COMMISSIONER WILSON: I finished.

18 CHAIRPERSON BERRY: -- and the Vice Chair
19 was next.

20 COMMISSIONER THERNSTROM: Okay, I'm sorry.
21 I apologize.

22 VICE CHAIRPERSON REYNOSO: ...I don't have a
23 question on this. Why don't you go forward.

24 COMMISSIONER THERNSTROM: I don't
25 understand. I'm still a little confused on this. So

1 if -- you go to the polls, you're not on the rolls,
2 you're just not there?

3 WITNESS SANCHO: Yes.

4 COMMISSIONER THERNSTROM: There is no
5 process of getting an affidavit and having that ballot
6 put aside to adjudicate your right to vote later?

7 WITNESS SANCHO: There is none.

8 COMMISSIONER THERNSTROM: Okay. That's
9 all. Thank you very much.

10 CHAIRPERSON BERRY: Did you want to
11 comment on that, Ms. Howell?

12 WITNESS HOWELL: Yes. What -- that
13 challenged me --

14 Is this what you're saying?

15 MR. REEVES: If I may, I'm the attorney
16 for the supervisor. This is dealing with --

17 CHAIRPERSON BERRY: What's your name, sir?

18 MR. REEVES: I'm sorry. I'm George
19 Reeves, the county attorney for Madison County.

20 The way we've interpreted that is, the
21 supervisor is talking about people not on the rolls.
22 They show up and their names are not on the rolls.
23 That's talking about someone on the rolls that gets
24 challenged.

25 CHAIRPERSON BERRY: Although it doesn't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 say though.

2 MR. REEVES: Right.

3 CHAIRPERSON BERRY: It's not in the
4 statute.

5 MR. BERRY: Right. But that's the way
6 it's been --

7 WITNESS HOWELL: Interpreted.

8 CHAIRPERSON BERRY: Proceed, Vice Chair.

9 VICE CHAIRPERSON REYNOSO.: Thank you very
10 much. First of all, I want to repeat a comment by
11 several of the Commissioners. I have found that this
12 panel the most instructive because you're telling us
13 how it actually works. We can read a statute -- and
14 frankly, I read this statute to read the way the
15 California statute does, which basically allows
16 anybody to vote when that person feels that he or she
17 should be a registered voter. Then that ballot is set
18 aside, and if there's a challenge, it's a, I guess
19 what you folks call a provisional vote or ballot.
20 It's set aside and then it's counted later if it's
21 needed if it's a close race. So, for example,
22 yesterday we had testimony by a gentleman who had been
23 dropped from the list because he allegedly was a
24 felon, in fact, he was not. And so he -- the folk
25 were able to get to a supervisor and the supervisor

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 said you're listed as a felon. Ironically the names
2 weren't quite the same, but nonetheless he had been
3 dropped. Finally the gentleman testified before us
4 that he said well, do I need to find an attorney. At
5 that point the supervisor excused himself for a minute
6 and came back and said that's all right, you can vote.
7 Apparently a great deal of discretion at some level
8 in the process.

9 Could you explain -- first of all, explain
10 that process. You said, Mr. Sancho, that if you're
11 persistent -- how does the process work? How does
12 that supervisor say one minute you're listed as a
13 felon and you can't vote and the next minute say,
14 okay, you can vote?

15 WITNESS SANCHO: The polling -- the
16 workers at the polling place are given a precinct
17 register, a county-wide register, and in Leon County
18 you have special numbers set aside that the public
19 doesn't have access to so that we can communicate
20 telephonically with the election-day workers. An
21 individual, like in this situation, would come in and
22 present themselves to the precinct,, they wouldn't be
23 on the rolls. They would be sent to see the clerk,
24 who is basically the CEO of the operation. That
25 individual then would look in their county-wide

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 register to see if that individual is eligible
2 anywhere to vote in Leon County . Failing to find
3 your name there -- and if you have been dropped as a
4 felon, your name wouldn't be there -- then that clerk
5 would then call -- be instructed -- this is the way
6 the procedure is supposed to work. They call the
7 elections office and present the facts to a
8 troubleshooter that we have in our office, who then
9 would try to research the records in our office. And
10 that's where this would have to be resolved because
11 the list would be there. And so when you say
12 supervisor, do you mean supervisor of the precinct,
13 supervisor of --

14 VICE CHAIRPERSON REYNOSO: He wasn't quite
15 sure, but he was on the phone, though. He wasn't --
16 it wasn't being resolved in that office. They were
17 calling somebody on the phone.

18 WITNESS SANCHO: Right. Again, the
19 precinct would have to call the supervisor of
20 elections office.

21 VICE CHAIRPERSON REYNOSO: Is that the
22 state office?

23 WITNESS SANCHO: No.

24 WITNESS HOWELL: Our office.

25 WITNESS SANCHO: Our county --

1 VICE CHAIRPERSON REYNOSO: Oh, the county
2 office. Okay, I've got you.

3 WITNESS SANCHO: Our county office where
4 we maintain those records --

5 VICE CHAIRPERSON REYNOSO: Okay.

6 WITNESS SANCHO: -- and would have to then
7 have a troubleshooter go through the records and make
8 a determination. If the troubleshooter can't make a
9 determination, then they would have to ask permission
10 to their supervisor, who in our jurisdiction is the
11 assistant supervisor of elections who is in charge of
12 election day problems of all the election day problem
13 workers, and it may differ in other counties.

14 VICE CHAIRPERSON REYNOSO: So in this case
15 it may have been a troubleshooter or a supervisor?
16 The voter, of course, didn't know.

17 WITNESS SANCHO: Right. And again, the
18 person may have not been able to resolve the problem
19 but then presented it to their direct supervisor, who
20 made the decision to tell the person that they're
21 given authorization to vote. Then the clerk would
22 then write down on the precinct register that they
23 were instructed by -- and write down the name of the
24 individual in our office that gave them the
25 authorization to allow the person to vote and then the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 person would be required to just fill out a form, what
2 we call the rule pages, which are any sort of trouble
3 or problem and then fill those out and then vote.

4 VICE CHAIRPERSON REYNOSO: Now, I received

5 --

6 WITNESS SANCHO: And if you're not
7 persistent then -- say if you stopped at first step,
8 then you've list your right to vote.

9 VICE CHAIRPERSON REYNOSO: I received a
10 communication from an individual who told me that she
11 had been a poll worker for many decades and that when
12 California changed the law to permit provisional
13 voting, that most of these types of problems that she
14 had experienced before were solved. In hearing the
15 testimony yesterday and reading tons of newspaper
16 accounts, it struck me that so many of the problems
17 that came up in terms of protecting the individual's
18 right to vote, that a provision for a provisional vote
19 would be helpful. I just wonder what the reaction
20 each of you has to that suggestion in that piece of
21 correspondence I received.

22 WITNESS HOWELL: I believe that was one of
23 the suggestions that was from our association's
24 president, to have provisional voting. Now the way
25 that we handle it -- of course, with a smaller office,

1 either you're going to get the supervisor or you're
2 going to get the supervisor's deputy, you know. And
3 most of the time, I would be able -- we would be able
4 to research it and tell that individual why we had
5 removed them or where they needed to go to vote. Most
6 of the things that we found was that people had moved
7 and went back to their former voting place. And see,
8 when they come up, they are asked what is your name
9 and what's your residence address, and then you're
10 checking that. If it's different than what you have,
11 then you would have to go to the clerk and the clerk
12 would call the office and then we would give them the
13 okay. Now in that case, we have them fill out a voter
14 application right then to back up what the clerk has
15 done. And they would take that application to the
16 precinct that the clerk is sending them to.

17 VICE CHAIRPERSON REYNOSO: One of the
18 pieces of news accounts told of a young woman who went
19 to vote, mentioned to the poll worker that she had
20 moved in the last few weeks. They said, oh, well, in
21 that case, you can't vote here. You must go to the
22 precinct where you're living now. And she tried to
23 find that precinct and could not. The question I have
24 was one, was she advised correctly by the poll worker?
25 Two, how in the world would the new -- would the new

1 precinct know that she was a voter if she never
2 registered there?

3 WITNESS HOWELL: That's what I said. We
4 would send the application to the -- where you're
5 sending them. And see, on the bottom of the
6 application, if you will see, it shows where they are
7 registered. You know, it would give that former
8 address down there.

9 VICE CHAIRPERSON REYNOSO: Right..

10 WITNESS HOWELL: And that's the way. And
11 then that second clerk would not have to call you,
12 because they have a map there to denote well, this is
13 where I live, and they could have them show them on
14 the map.

15 VICE CHAIRPERSON REYNOSO: I confess that
16 I'm confused.

17 WITNESS HOWELL: Okay.

18 WITNESS SANCHO: All right, we provide --
19 it works very similarly in Leon County as it does in
20 Madison. Again, this -- we're a very mobil society
21 with many students in our jurisdiction. So
22 individuals will show up at a precinct, where they're
23 not eligible to vote under Florida law. Florida has
24 many single-member districts.

25 WITNESS HOWELL: Right.

1 WITNESS SANCHO: Under Florida law, if an
2 ineligible voter from one district votes in the wrong
3 district and the margin of error can be shown to be
4 those individuals that illegally voted, there's a new
5 election ordered. So it's very important that you may
6 only vote in the jurisdiction that you are legally
7 allowed to vote in by your new residence, your new
8 precinct. So we send a street index -- that's also at
9 every precinct. And so if you go in there, you are
10 asked by a poll worker, do you still reside at the
11 same address and they say no, I've moved, you are
12 sent to see the clerk, who would look up your new
13 address, tell you that you live on Hamtrack Street,
14 that puts you in precinct number 6. Here is -- as has
15 been stated to you, go to the map and show the person
16 where precinct 6 's polling place is, because we also
17 provide a list of every polling location in the county
18 to every precinct with not only just the name of where
19 Precinct 6 -- but how to get there if you've never
20 been there.

21 VICE CHAIRPERSON REYNOSO: Would Precinct
22 6 have your name on the roll?

23 WITNESS SANCHO: No, Precinct 6 would not,
24 but it would be added to the Precinct 6 registration
25 by simply filling out two things. The application

1 form that she's talking about, which is the NVRA form,
2 which serves as an address change form as well.

3 VICE CHAIRPERSON REYNOSO: Okay. So the
4 only thing that apparently was done wrong, at least
5 according to that news report was that apparently that
6 voter was not given the address of the new -- of the
7 precinct to which she was supposed to go. So she was
8 wandering all over the place.

9 WITNESS SANCHO: That person should have
10 been given the number of the polling place, the exact
11 location and directions on how to get there.

12 WITNESS HOWELL: That's right.

13 VICE CHAIRPERSON REYNOSO: Okay. So that
14 was -- it was that failure -- okay, I understand now.

15 Okay, now, poll workers, we've heard them referred to
16 as volunteers, but Mr. Hutchinson mentioned today that
17 they get paid very little. So are they volunteers or
18 are they employees that get paid very little?

19 WITNESS HOWELL: They get paid.

20 WITNESS SANCHO: The latter.

21 VICE CHAIRPERSON REYNOSO: Okay.

22 WITNESS SANCHO: I watched the hearings
23 yesterday and I heard them described as volunteers,
24 and probably 90 percent of Florida's public would call
25 them volunteers, they're not volunteers. They are

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 paid very little and they are required to work under
2 Florida law the entire day.

3 VICE CHAIRPERSON REYNOSO: Do you have the
4 same problems that we've had in California in finding
5 poll workers or are you doing all right?

6 WITNESS SANCHO: That's a national
7 problem.

8 WITNESS HOWELL: Right.

9 VICE CHAIRPERSON REYNOSO: Okay. In
10 California some counties have experimented with
11 getting high school students, 17 and 18-year olds, and
12 they tell me that it has worked quite well. Of
13 course, they only have one or two per polling place.
14 You still need the experienced poll worker.

15 WITNESS SANCHO: Hawaii has pioneered
16 that.

17 VICE CHAIRPERSON REYNOSO: Okay, sample
18 ballot. I take it from what you've testified that
19 that's a local option as to whether or not to send
20 sample ballots. In California it's required. Would
21 you not find it helpful to have it be required by
22 state law so, then the local board of supervisors
23 simply has to give you the money to do it and not
24 balance that versus potholes?

25 WITNESS HOWELL: It would be helpful,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 because if you have a law to back you up, then the
2 board can't say much about that.

3 VICE CHAIRPERSON REYNOSO: Sorry to take
4 so long, but I have one other question on felons or
5 dropping anybody from the roles. Is there a
6 requirement in Florida that when a person is dropped
7 from the voting roles that that person be notified?

8 WITNESS HOWELL: Yes.

9 WITNESS HUTCHINSON: Yes.

10 VICE CHAIRPERSON REYNOSO: Okay. Then
11 apparently something must have gone wrong with respect
12 to the testimony we had yesterday, because that person
13 who was accused of being an ex-felon and was not,
14 apparently never got a notification that he was being
15 dropped.

16 WITNESS SANCHO: Or he didn't receive his
17 notification. He may have moved. We find, for
18 example, the situation with regard to all of these
19 individuals that don't fill out questions 2, 3 and 5.
20 Under the law, we're required to send these
21 individuals a notice stating that you've attempted to
22 register and it didn't work. Well, we send letters out
23 to these people. A lot of these letters come back and
24 undeliverable. They may not have gotten the letter or
25 it may have been sent to the proper felon.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 VICE CHAIRPERSON REYNOSO: Again, thank
2 you very much. It has been really great.

3 CHAIRPERSON BERRY: Commissioner Edley and
4 then Commissioner Wilson.

5 COMMISSIONER EDLEY: Let me start with
6 you, Mr. Sancho, if I may. What -- you said you had
7 12 new phone lines installed?

8 WITNESS SANCHO: Yes, just for election
9 day.

10 VICE CHAIRPERSON REYNOSO: Why 12 rather
11 than 2?

12 WITNESS SANCHO: Because we know -- our
13 experience in conducting elections tells us that we
14 are going to receive a flood of calls on election day
15 from a series of -- for a series of complaints, i.e.,
16 the problems of individuals that have moved. That's
17 probably the number one problem that we have as a
18 supervisor of elections office, people who have moved.

19 COMMISSIONER EDLEY: Why not 20? How do
20 you make this decision? How did you make this
21 decision?

22 WITNESS SANCHO: We added all of the
23 additional lines that we could to the phone capacity
24 that we had in our office.

25 COMMISSIONER EDLEY: And which precincts -

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 - in which precincts did you add phone lines?

2 WITNESS SANCHO: Well all precincts have a
3 separate phone line that goes directly to our office
4 to a series of lines which connect directly to our
5 staff that are not available to the public. Our
6 regular public line -- so there's generally not a
7 backup.

8 COMMISSIONER EDLEY: Look, I don't want to
9 hide the ball here. Let me explain what I'm getting
10 at and maybe you can just help me directly. I think
11 what we're interested in is exploring the widespread
12 reports of precinct workers unable to reach the
13 central office on the telephone in order to do this
14 troubleshooting. Delays of not just minutes but hours
15 in getting an open phone line in order to help a
16 voter. When you combine that with what you've
17 described as the unavailability in Florida of any kind
18 of affidavit or provisional balloting, the result
19 obviously is to deny people who believed that they
20 have registered or that they have been improperly
21 denied a vote to deny them an opportunity to
22 participate. So the question --

23 WITNESS SANCHO: You're absolutely
24 correct.

25 COMMISSIONER EDLEY: So, I'm trying --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 just using your county as an example, I'm trying to
2 figure out how you decide which precincts are going to
3 have this phone capacity, how you decide how much full
4 capacity to build at the central office.

5 WITNESS SANCHO: Where you run into your
6 loggerhead is not the precinct. They only need one
7 line.

8 WITNESS HOWELL: That's right.

9 WITNESS SANCHO: . Where you run into the
10 problems in how many lines can you add to your
11 supervisory of elections office, which is, in terms of
12 the county, how many lines can they provide? What is
13 their trunk system? We purchased a new phone system
14 in 1997. We generally only have five lines open in
15 our office. We increased that by 12 to 17 lines back
16 that was all of the capacity that the telephone lines
17 in the county courthouse could provide to our
18 instrument.

19 COMMISSIONER EDLEY: But if we collected
20 some of these noisy cell phones in the audience here
21 and gave them to the -- I mean, there are other
22 technologies, right? So I guess there's -- I
23 recognize that it might be difficult for --

24 WITNESS SANCHO: Well let me give you the
25 experience of Hillsborough County, who I visited.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 It's a wonderful county who added 40 lines. There are
2 going to be times when I don't care if you add 40
3 lines or 100 times, it's not enough. Which is one of
4 the reasons why in our legislative meeting in Tampa on
5 December 12th, the supervisor of elections legislative
6 committee has made a recommendation to the Florida --
7 that we will present to the legislature this spring.
8 So let's go to provisional ballot because we recognize
9 that under certain elections, I don't care if you add
10 50 lines, you're not going to deal -- you're not going
11 to be able to deal with all you need to. And the
12 other aspect of that is, do you have 50 trained
13 individuals who know intimately all of that
14 intricacies of the Florida election law that would be
15 able to answer the person's problem.

16 COMMISSIONER EDLEY: To do the
17 troubleshooting.

18 WITNESS HOWELL: Right.

19 WITNESS SANCHO: To do the
20 troubleshooting. There is simply -- in our office, we
21 had no physical place to put the people that answer
22 the telephones. We pulled out computer lines and
23 installed telephone lines where there had been
24 computers in order to try to deal with this. So I
25 think that we need to go to a provisional balloting

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 situation because we are now simply not going to be
2 able to answer all of the calls. In this kind of an
3 election, it was an impossibility.

4 COMMISSIONER EDLEY: Well there's a little
5 bit of a disconnect here. Press me, if I may, because
6 you seem perfectly capable of defending yourself. You
7 said that there was this surge in the registrations
8 and you had the feeling, given the investment in the
9 campaigns and so forth, that this was going to be a
10 big one, right?

11 WITNESS SANCHO: Right.

12 COMMISSIONER EDLEY: So you're at the
13 beginning of at hurricane season and you hear the
14 predictions and you know that there are going to be
15 storms to deal with.

16 WITNESS SANCHO: Right. So in Leon
17 County, we hired more workers, put on more telephone
18 lines than ever before in order to try to deal with
19 this. We hired them and put in the lines to capacity.

20 We couldn't have put any more trouble shooters in our
21 office. In fact, our office in the Leon County
22 Courthouse was -- had expanded far beyond our third
23 floor office. We were on the first floor, we were on
24 the second floor, we were on the third floor, we were
25 borrowing space from any agency that we could in order

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 to put additional workers in order to deal with the
2 problem.

3 COMMISSIONER EDLEY: Let me ask -- again,
4 if you think about your colleagues in the larger
5 counties, and that's really what I want to focus on
6 rather than the smaller counties. Can you give us
7 just your impressions of whether all of the
8 supervisors in the larger counties engaged in as much
9 forward planning and anticipation of the need for
10 surge capacity that you did, or do you feel that you
11 were an outlier in terms of this kind of contingency
12 planning?

13 WITNESS SANCHO: Well, I don't -- I think
14 all of us tried to add as much staff as we had
15 resources to add, and you had certain things which you
16 simply could not plan for. For example, the butterfly
17 ballot in Palm Beach County caused such an additional
18 problem that I don't care if they had 500 lines, they
19 would not have been able to deal with it. This is
20 where sort of the unintended consequences came in.
21 You know, you've planned for what you think is going
22 to happen. They didn't understand the impact that the
23 ballot layout would have on the population of --
24 elderly population particularly, which caused this
25 disaster to occur and flooded their lines and locked

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 them down. That's not the first time that's happened.
2 It's happened in other elections. You know, I'm
3 aware of the experiment that was conducted, for
4 example, in internet voting in the March primary in
5 Alaska. In fact, if you've had a McIntosh computer,
6 you couldn't make the call and so their trouble lines
7 were flooded by all the Mac users, which completely
8 shut down their entire system. It shut down their
9 entire system, which made their experiment a failure,
10 but they didn't -- because of one glitch. One glitch
11 that you cannot anticipate will overwhelm your best
12 laid plans. We didn't have that kind of glitch in
13 Leon County and we survived the onslaught. But if you
14 had a problem in a county like Palm Beach County or
15 Broward to that extent, because they had a problem
16 too, if you're going to have something out of the
17 ordinary, which you can't plan for or didn't
18 anticipate, then you're in trouble.

19 COMMISSIONER EDLEY: Okay. You did a
20 recount?

21 WITNESS SANCHO: Yes.

22 COMMISSIONER EDLEY: How mechanically did
23 you conduct your recount?

24 WITNESS SANCHO: We -- using the optical
25 scan system that we used, we did not refeed all the

1 ballots.

2 COMMISSIONER EDLEY: You did not?

3 WITNESS SANCHO: No, we did not.

4 COMMISSIONER EDLEY: You just interrogated
5 the memory?

6 WITNESS SANCHO: Essentially, that's
7 correct. We used what we call Step A Recount
8 Provision in the law.

9 COMMISSIONER EDLEY: So in a sense, you
10 can't then tell us or anyone what the error rate was
11 from the optical scanning equipment?

12 WITNESS SANCHO: Well yes, we can because
13 we went through all the ballots to look for the under-
14 votes and we found that we had an error rate of
15 47/10,000ths of one percent.

16 COMMISSIONER EDLEY: I'm sorry, when you
17 say you went through the ballots, do you mean --

18 WITNESS SANCHO: We went through 103,418
19 ballots.

20 COMMISSIONER EDLEY: By hand?

21 WITNESS SANCHO: We refeed them through the
22 machine.

23 COMMISSIONER EDLEY: Oh, you did refeed
24 them through the machine?

25 WITNESS SANCHO: Yes. In order to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 identify the under-votes that our machines had
2 indicated on November 7th, we refeed our ballots and we
3 determined that we had an error rate of 47/10,000ths
4 of a percent.

5 COMMISSIONER EDLEY: Okay. So this was
6 after the recount?

7 WITNESS SANCHO: Yes. This was actually
8 done fairly recently. Most of it was done on December
9 9th pursuant to the Florida Supreme Court decision to
10 count the under-votes. We started refeeding all the
11 ballots. We were stopped short about a thousand
12 ballots from the end. We continued that about two
13 weeks ago to determine for ourselves what in fact was
14 the accurate under-vote count.

15 COMMISSIONER EDLEY: And was -- what kind
16 of a difference were you getting when you did the
17 manual refeed as opposed to when you simply
18 interrogated the memory?

19 WITNESS SANCHO: Again, we found that out
20 of the 103,418 ballots, we found an additional five
21 miscellaneous marks, which changed our vote total by
22 one.

23 COMMISSIONER EDLEY: Interesting. And Mr.
24 Hutchinson, you used the optical equipment?

25 WITNESS HUTCHINSON: Central.

1 COMMISSIONER EDLEY: Central.

2 WITNESS HUTCHINSON: But yes, it's
3 optical.

4 COMMISSIONER EDLEY: Right. Now did you
5 have to do a recount in your county?

6 WITNESS HUTCHINSON: We did recount.

7 COMMISSIONER EDLEY: You did do the
8 recount, and how mechanically was that done?

9 WITNESS HUTCHINSON: Every ballot was refeed
10 and the overs were sorted at that point in time and
11 then there was a determination made as to further
12 intent on the over-votes.

13 COMMISSIONER EDLEY: Okay, let me --

14 WITNESS HUTCHINSON: I don't know that
15 there was under-votes.

16 WITNESS KNIGHT: The under-votes were sent
17 through the scanner on January 4 and the tally shows
18 122, but we came up with 121.

19 WITNESS HOWELL: I have something I'd like
20 to say. There are -- the recount --

21 COMMISSIONER EDLEY: Now you used punch
22 cards?

23 WITNESS HOWELL: Yes, I did, and we ran
24 everything through. That was what I could not
25 understand. I was talking to some other counties, you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 know, around me and like with Leon and some other
2 counties that had the precinct count, they were saying
3 to me all they had to do was look at the printout, you
4 know, and just compare those.

5 I don't think that that -- I think that
6 the law should be specific when you're having a
7 recount, that everybody's is going -- you know, you're
8 going to run it back through, that we're all going to
9 do the same thing, not just go back and look at your
10 printouts, you know. I think that each ballot should
11 have to go back through.

12 COMMISSIONER EDLEY: Mr. Sancho, what's
13 your reaction to that, a recount meaning refeed, not
14 simply check the tape or look at --

15 WITNESS SANCHO: It is part and parcel of
16 the ambiguity under Florida election law. Under
17 Florida election law, what we did was perfectly legal.

18 WITNESS HOWELL: That's correct.

19 WITNESS SANCHO: And we received no
20 guidance from the Secretary of State's office as to
21 what type of a recount to do. So each county would
22 look at the Florida election law, determine, using the
23 technology that they had as to what kind of a recount
24 they needed to conduct in order to comply with the
25 recount.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 COMMISSIONER EDLEY: Okay. I'm actually
2 looking -- we haven't had any discussion really of --
3 to get a feel for under what circumstances or what the
4 reasoning is of these county commissions in the making
5 of their budgetary decisions. And I don't know
6 whether really this is the -- these are the right
7 witnesses to pose those questions.

8 CHAIRPERSON BERRY: They are not.

9 COMMISSIONER EDLEY: They are not. That's
10 okay.

11 CHAIRPERSON BERRY: We will ask the county
12 commissioners, I just told the counsel that --- you're
13 exactly right, Commissioner Edley.

14 COMMISSIONER EDLEY: Fine, then I'm done.

15 CHAIRPERSON BERRY: At our next hearing,
16 we will have the county commissioners.

17 COMMISSIONER EDLEY: Thank you.

18 CHAIRPERSON BERRY: Thank you very much.
19 We just have a little time and I have a few questions
20 myself. I must say that I find this a very
21 interesting panel, but I am not as satisfied with the
22 discussion as my colleagues and I'm thinking it will
23 become clear why I'm not satisfied as I ask the
24 questions.

25 First of all, there was a comment made

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 that problems in Florida are no worse than they are
2 anywhere else in the country. What is your evidence
3 for that conclusion? Do you have a report on problems
4 in other parts of the country?

5 WITNESS SANCHO: Yes, I do.

6 CHAIRPERSON BERRY: And the report states
7 -- because we had a witness yesterday who was an
8 internationally known expert on problems of
9 discrimination and allegations of discrimination and
10 that -- and on voting problems and that expert
11 informed us that while there is a category of problems
12 that exist elsewhere in the country, that all of the
13 litany of problems that exist in Florida, most of
14 which we did not discuss on this panel, are not
15 problems that there is substantial evidence --
16 problems like voting machines and problems like dead
17 people on the rolls and problems like IDs and that
18 whole list of things.

19 Yes, you find places around the country
20 where those exist, but you don't find problems of
21 substantiated or sworn and unsubstantiated allegations
22 of discrimination in the process and the enormity that
23 came here, everywhere in the country during the last
24 election.

25 So let us distinguish -- I assume that you

1 were not making that statement, you were simply
2 talking about the array of administrative problems and
3 the like that have occurred and financing problems and
4 the like with the elections; is that the distinction?

5 WITNESS SANCHO: Well, more specifically.
6 For example, in the last records that I have for New
7 York City's election, which is 1998, for example,
8 eight percent of their 6221 lever machines failed in
9 their last general election.

10 CHAIRPERSON BERRY: Right, Mr. Sancho.
11 That is precisely my point. My point is that if
12 you're talking about equipment and, if you're talking
13 about, you know, administrative problems and financing
14 problems and issues and dead people on the rolls and
15 all sorts of issues like that, you may find them all
16 over the country.

17 But the problems I want to focus on is the
18 disparity that is alleged, which are really -- and the
19 allegations about abuses, which are the subject
20 matters that this Commission is engaged in trying to
21 explore with you. First of all, I would like to ask a
22 technical question. Are any of you aware of how much
23 money the state government spent on the contract to
24 establish with DBT this convicted felon removal list
25 process that has been described so eloquently? Was

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 this an expensive contract or was this --

2 WITNESS SANCHO: The initial contract, as
3 I understand it, was for \$2 million a year. I believe
4 it has been recently renegotiated and it may be as
5 high as \$4 million a year.

6 CHAIRPERSON BERRY: All right. So it's not
7 cheap.

8 WITNESS HOWELL: No.

9 CHAIRPERSON BERRY: Okay. The other thing
10 is in the counties, in the precincts in the county,
11 within the county, let's get down inside the counties
12 -- in the precincts within the counties, as I
13 understand the testimony and the testimony we had
14 yesterday, many of these problems with registration
15 and people not being on the list and things of that
16 kind occurred in the counties that were majority
17 people of color or African-American. Is that an
18 inaccurate conclusion for me to reach, or not?

19 WITNESS SANCHO: I've not been able to do
20 an analysis of every county other than what the data
21 that has been in the media, which has allowed me to
22 collect. If you're looking at the problems -- I've
23 looked at generally some of the problems -- and Duval
24 County, for example, was discussed yesterday by this
25 panel, and the impact that apparently caused a large

1 number of over-votes in Duval County. From what I've
2 been able to determine in Duval County, you had a
3 couple of factors going on. First, you had a new
4 supervisor of elections that may have caused some of
5 the problem. You had a situation where information
6 may have been transmitted to the political workers
7 that was inaccurate. The vote on every page
8 information that was supposedly distributed by
9 political operatives in that county.

10 CHAIRPERSON BERRY: If I may, in the
11 interest of time, interrupt you, Mr. Sancho. I'm
12 assuming that all of those problems occurred. That's
13 not my question. My question is do we have any
14 information that would lead us to believe that
15 disproportionately problems of that type in counties
16 where you have large minority populations concentrated
17 in different precincts, that they might have had more
18 difficulties with equipment, and trying to get through
19 on the phone or people who were not -- said they
20 weren't registered or people who were convicted felons
21 and do you have any information concerning your own
22 county, any of you, that would lead you to believe
23 that this is either true or false, or neither or you
24 have no such information. That's all I'm asking

25 WITNESS HOWELL: I don't think that in our

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 county we found that to be true. And we have some
2 that are predominantly, I mean almost completely, and
3 we had no more problems there than we did any other
4 place.

5 CHAIRPERSON BERRY: Okay. Well, you are
6 under oath and you can swear therefore and that's what
7 you're doing that no such disparities and no such
8 problems were concentrated in any particular area in
9 any of your counties, is that what you're saying?

10 WITNESS HOWELL: And let me say this
11 though, unless someone makes you aware of something,
12 you don't know.

13 CHAIRPERSON BERRY: Right.

14 WITNESS HOWELL: And I was not made aware
15 of it.

16 CHAIRPERSON BERRY: Right. So all I'm
17 asking you is if you don't know, that's fine --

18 WITNESS HOWELL: That's right.

19 CHAIRPERSON BERRY: But if you say you do
20 know -- it's like we went to a hearing once and a
21 prosecutor told us that he knew there were no
22 complaints about discrimination in any of the
23 prosecutions in his county. And we asked him what was
24 the evidence, well he didn't have any and he didn't
25 know. He should have just said he didn't know.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 So all I'm asking you is if you don't
2 know, just say you don't know, but don't tell me that
3 you do know when in fact you don't, because there are
4 other ways for us to try to gather the evidence.

5 So is the answer you don't know?

6 WITNESS SANCHO: I would say in Leon
7 County's case, through the general election, we
8 actually had a higher percentage of African-American
9 voter turnout than the majority population.

10 CHAIRPERSON BERRY: Okay, all right. Do
11 you know, Ms. Knight or Mr. Hutchinson, or is the
12 answer you don't know?

13 WITNESS KNIGHT: I wasn't there during the
14 election time, so Mr. Hutchinson --

15 WITNESS HUTCHINSON: I was there, I don't
16 believe that there was disparity between one end of
17 the county and the other end of the county, you know,
18 between the turnout or the -- you know, any disparity
19 between precincts.

20 CHAIRPERSON BERRY: Yeah. I'm talking
21 about troubles that people had.

22 WITNESS HUTCHINSON: I think the trouble
23 was enough to go around for everybody.

24 CHAIRPERSON BERRY: And this is your
25 belief or you have information that will prove that?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 WITNESS HUTCHINSON: I don't have any hard
2 facts, you know.

3 CHAIRPERSON BERRY: Right, that's your
4 belief.

5 WITNESS HUTCHINSON: Right.

6 CHAIRPERSON BERRY: Okay. Now the other
7 thing is, Mr. Sancho, you described earlier in answer
8 to another question a series of problems and you said
9 that if resources were an issue and it meant that
10 these problems occurred in part because of that and
11 that it had an impact on people who were concentrated
12 in one area or the other -- to paraphrase what you
13 said -- that that, of course, would not be intentional
14 and therefore, it might -- you did not understand that
15 to support discrimination or something like that.

16 WITNESS SANCHO: No, no, actually I'm
17 trying to describe the distinction between intentional
18 discrimination and the effect of an action that could
19 be discriminatory, but was accomplished without any
20 intent at all. But if you have the effect of
21 discriminating, it still in my opinion would be
22 discriminatory.

23 CHAIRPERSON BERRY: Yeah. Did you know
24 that under the law, under the Voting Rights Act, if
25 you engage in actions that have the effect of

1 discriminating against people --

2 WITNESS SANCHO: Indeed I do know that.

3 CHAIRPERSON BERRY: -- and disadvantaging
4 them, that it is illegal, you're not supposed to do
5 that.

6 WITNESS SANCHO: Yes, that is correct.

7 CHAIRPERSON BERRY: It doesn't matter
8 whether you had intent to do it or not.

9 So let's get to resources.. Do you know
10 why the Governor zero funded -- you said this request
11 was made and the Governor zeroed it out of his budget
12 -- somebody said that, I don't remember who said it.

13 WITNESS SANCHO: I did.

14 CHAIRPERSON BERRY: Tell us again what it
15 was that was zeroed out and do you know why?

16 WITNESS SANCHO: The \$100,000 that was
17 requested by the Secretary of State's budget for
18 advertising.

19 CHAIRPERSON BERRY: Okay. Do you know why
20 it was zeroed out?

21 WITNESS SANCHO: No, I cannot tell you why
22 it was zeroed to.

23 CHAIRPERSON BERRY: Okay. Are you aware
24 of whether the Secretary of State or the Governor or
25 somebody in the legislature requested any additional

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 appropriation for help and assistance to the counties
2 during the last election cycle because of the expected
3 heavy registration, the known heavy registration,
4 because you send reports in every month -- and the
5 turnout.

6 WITNESS SANCHO: I'm not aware.

7 CHAIRPERSON BERRY: You're not aware of
8 that. Did -- and I heard you say that the association
9 requested some money, there was a discussion about
10 that, for help with education, which was not
11 forthcoming. Did any of you as individuals, either
12 meet with, talk with, discuss with, the head of the
13 Division of Elections or the Secretary of State, a
14 request that you somehow be helped with some
15 additional funds for either education of voters or for
16 advertising or for expected problems on turnout or any
17 of these issues? Did any of you as individuals make
18 such a request?

19 WITNESS HOWELL: I did not.

20 WITNESS SANCHO: I did not.

21 CHAIRPERSON BERRY: Did, you, sir; did
22 you, ma'am? You weren't -- you couldn't have, because
23 you weren't in office.

24 WITNESS HUTCHINSON: I did not.

25 CHAIRPERSON BERRY: Is there any reason

1 why you did not? I think I heard you express a need,
2 in your case, Ms. Howell, you thought if you had some
3 money for sample ballots, that might be interesting.

4 In your case, Mr. Sancho, you had a number
5 of needs that you described. I don't remember any
6 particular ones you described, Mr. Hutchinson, but I'm
7 sure there was something, maybe not.

8 Is there any reason why none of you either
9 sat down with the Division of Elections or got in
10 touch with the Secretary of State or the Governor and
11 said hey, you know, you really need to do something
12 about my county, because I've got this big problem, a
13 hurricane is coming to hit me, and boy, I'm in
14 trouble?

15 WITNESS SANCHO: In our case, I knew that
16 the -- I was aware of what the Governor had done to
17 the Secretary of State's budget and knew there was no
18 resources, and the Secretary of State's office has not
19 ever provided resources since 1992 for that. So we
20 made provisions locally through (1) getting the money
21 appropriated through the county commission for the
22 sample ballots and I made provisions privately through
23 private fundraising to provide for an advertising
24 budget to accomplish what I needed to do. And so I
25 think I'm probably in the enviable position of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 probably having one of the larger budgets of that type
2 in the state and we utilize it and I think looking at
3 our error rate, it was effective.

4 CHAIRPERSON BERRY: Okay. Is there any
5 reason why you didn't ask from your small county --
6 small is beautiful.

7 WITNESS HOWELL: Because I knew that it
8 would be futile.

9 CHAIRPERSON BERRY: Okay.

10 WITNESS HOWELL: You know, there's no need
11 asking for something that you know you're not going to
12 receive.

13 CHAIRPERSON BERRY: I see, you already
14 knew that.

15 WITNESS HOWELL: Because if they gave it
16 to me, they're going to have to give it to everybody
17 else.

18 CHAIRPERSON BERRY: I see, okay. Is that
19 your answer too, Mr. Hutchinson?

20 WITNESS HUTCHINSON: I think there's an
21 assumption made that you're pretty much operating on
22 your own on an individual county basis.

23 CHAIRPERSON BERRY: Okay.

24 WITNESS HUTCHINSON: You've got a lot of
25 responsibility yourself that are upon you.

1 CHAIRPERSON BERRY: Why didn't you -- why
2 aren't you able to get more funding from your county
3 commissioners for your offices or for your functions?

4 COMMISSIONER EDLEY: So, Madam Chair, what
5 you really meant is that you wanted to ask the
6 questions about the county resources, not that I
7 shouldn't, but that you wanted --

8 CHAIRPERSON BERRY: No, no.

9 COMMISSIONER EDLEY: No, that's all right,
10 that's okay.

11 CHAIRPERSON BERRY: We need to ask --

12 COMMISSIONER EDLEY: You do a much better
13 job than I would have done.

14 CHAIRPERSON BERRY: We need to ask the
15 county commissioners why they don't give them the
16 resources, but I wanted to ask them why they think
17 they don't, so that when we ask them, we can find out
18 what they think.

19 COMMISSIONER EDLEY: I see.

20 CHAIRPERSON BERRY: You may ask it if you
21 like.

22 COMMISSIONER EDLEY: No, that's all right,
23 you're doing a great job.

24 CHAIRPERSON BERRY: Go right ahead.

25 COMMISSIONER EDLEY: You're doing a great

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 job.

2 WITNESS HOWELL: Mine is because of
3 revenue, you know, don't have the resources.

4 CHAIRPERSON BERRY: Don't have the
5 resources. Is that yours too, Mr. Sancho? Don't have
6 the resources.

7 WITNESS HUTCHINSON: I think there's
8 pretty much an understanding that we're -- as far as
9 our county governments go that we're not the big boys
10 on the block or big ladies or whatever, and we're
11 subjected to the lower financial end of that thing.

12 CHAIRPERSON BERRY: Is that your answer
13 too? What's your answer as to why your commissioners
14 -- are you saying your county commissioners don't
15 believe that the functions that you engage in are high
16 enough a priority?

17 WITNESS HUTCHINSON: I believe that. You
18 know, I'm not laying blame but I just don't believe
19 that our priority comes along with law enforcement and
20 with the clerk's duties. I never have felt like that.
21 We certainly are not paid the same money.

22 WITNESS HOWELL: That's what I was going
23 to say.

24 CHAIRPERSON BERRY: You're not paid the
25 same money.

1 WITNESS HOWELL: No.

2 WITNESS HUTCHINSON: No.

3 CHAIRPERSON BERRY: Oh, okay, all right.

4 Is that true in your case too, Mr. Sancho?

5 WITNESS SANCHO: Yes. There are five
6 constitutional officers in the state of Florida, the
7 sheriff is paid the highest, the next three
8 constitutional officers which are the tax collector,
9 the property appraiser and the clerk of courts are
10 paid at the next level and the supervisor of elections
11 is paid at the lowest level.

12 WITNESS KNIGHT: And I would like to add,
13 the Commissioners have already come to me and said
14 that they will provide funding for new systems or
15 whatever we need.

16 CHAIRPERSON BERRY: Oh, so maybe out of
17 this disaster, something good has been blown into the
18 -- yes?

19 WITNESS SANCHO: And I would like to say
20 that one of the reasons that I am the beneficiary of
21 additional resources is that in 1986, Leon County
22 conducted a disastrous local election in which
23 possibly as many as 5000 people were disenfranchised.

24 And when I was elected in 1988, it was with the
25 understanding to reform that system. And so I am sort

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 of in the unique position of capitalizing on a flawed
2 election to in fact get resources that are probably
3 not otherwise available in counties that have not
4 suffered through this kind of a horrible experience.

5 CHAIRPERSON BERRY: My last question
6 relates to the front end nature of the problems that
7 you've described, even though you've described them in
8 terms of -- and the questions have been about what
9 happened on election day and what happened -- it seems
10 clear to me that most of your problems were on the
11 front end, that is before the election; that if you
12 had solved all the problems before the election took
13 place, you wouldn't have had the problems on election
14 day. And most of what happened would not have
15 happened. It's sort of like once when I was handling
16 federal education programs and I was trying to figure
17 out why there was such a low number of students who
18 applied for student aid one year. And I figured did
19 all the students get rich all of a sudden and they
20 don't need any money to go to college, or their
21 parents are millionaires now, or what's going on here.

22 Turns out that somebody had decided not to send the
23 forms out by the date that they were supposed to,
24 because the new person didn't know what they were
25 supposed to be doing, so the forms didn't get out. So

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 nobody applied. So we had a much lower budget for
2 student aid that year.

3 Just describe -- there must be a lesson to
4 heed out there. But there's something wrong with the
5 system, so when you have people coming on election day
6 where you need to make phone calls or have laptop
7 computers to get to the county office the way you
8 described it, or they come and talk to you or whatever
9 they do in your system, if the registration process
10 had been handled in the right way in the first place,
11 you wouldn't have all these people coming with
12 questions like that. If the contract for cleansing
13 the felons or whatever had been done the way it was
14 supposed to have been done, you wouldn't be sitting
15 there on election day dealing with that.

16 So all of that back end of problems that
17 happened on election day happened because somebody
18 didn't do what they were supposed to do all the way up
19 to election day. So the question for us is who didn't
20 and why didn't they do it and why -- and therefore, it
21 was likely to have, anybody could have predicted it, a
22 disproportionate impact on folks in precincts where
23 there were new voters, in precincts where there were -
24 - was a heavier turnout and that's the kind of
25 testimony that we've gotten.

1 So the question is if you knew -- I'm sure
2 there's a lot of blame -- if you knew the hurricane
3 was coming, was there anything else you could have
4 done to get ready for it before that, that you haven't
5 described to us or have you described everything that
6 was possible for you to do and we have to go ask the
7 next level now? Is there anything else you could have
8 done?

9 WITNESS SANCHO: Well, I -- we've not
10 talked about our association's success in lobbying the
11 Florida legislature, because we don't have much
12 success lobbying the Florida legislature.

13 WITNESS HOWELL: That is right.

14 WITNESS SANCHO: Because many of the
15 problems that you've talked about, the felony list,
16 the contract with DBT and ChoicePoint, the voter
17 registration -- all of those are legislative creations
18 which in many respects the Supervisors of Elections
19 Association has lobbied against --

20 WITNESS HOWELL: That's correct.

21 WITNESS SANCHO: -- or we've had no input
22 at all. And in fact, it is -- our election process is
23 the creature of the Florida legislature.

24 WITNESS HOWELL: That's right.

25 WITNESS SANCHO: And we are not very

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 effective in getting the Florida legislature to
2 address these problems. And it's not just been one
3 year or two years or three years, the entire -- my
4 entire career as a supervisor of elections, we have
5 asked for additional resources or priorities or
6 programs from the Florida legislature and for one
7 reason or another, many partisan, these resources are
8 not forthcoming.

9 And essentially, the largest battles in
10 the Florida legislature largely revolve around
11 campaign financing. And election legislation that
12 emerge out of the House and the Senate are generally
13 lumped in with campaign financing bills which don't go
14 anywhere in the session, and ultimately die.

15 CHAIRPERSON BERRY: Okay, so somebody has
16 -- you know, we all make speeches about how voting is,
17 you know, the highest duty of citizenship and we all
18 believe it's the keystone and the ark of our democracy
19 -- we make those speeches all the time, politicians do
20 it all the time, public officials.

21 WITNESS SANCHO: But where is it in the
22 state budget?

23 CHAIRPERSON BERRY: Right. So that's
24 really the question, you've asked it and answered it.

25 Thank you very much. I want to thank the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 panel very much. There are some sign-out procedures
2 which you should engage in and we are on schedule.

3 (Witnesses excused.)

4 CHAIRPERSON BERRY: We have about three
5 minutes, I guess it is, or four, until the next panel.
6 So we may stand up and sit back down.

7 (Brief pause.)

8 CHAIRPERSON BERRY: Would the sign
9 interpreter ask if there is anyone in need of
10 interpretation?

11 (Whereupon the sign interpreter complies.)

12 THE INTERPRETER: Madam Chair, I see no
13 one.

14 **State Appointed Officials**

15 CHAIRPERSON BERRY: Thank you very much.

16 Our second panel will consist of state
17 appointed officials. We would like to call forth
18 first Colonel Charles C. Hall, Ms. -- could you come
19 over and stand at the table and remain standing,
20 please -- Ms. Phyllis Hampton and the Honorable Robert
21 Crawford, please. Would you please take places at the
22 table, anywhere at the table. . . Just spread yourselves
23 out there, there are three of you, so however you want
24 to do it. And then stand up first, because I'm going
25 to give you the oath and then we'll go on from there.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Please raise your right hands.

2 Whereupon,

3 CHARLES C. HALL

4 PHYLLIS HAMPTON

5 ROBERT CRAWFORD

6 appeared as witnesses herein, and having been first
7 duly sworn, were examined and testified as follows:

8 CHAIRPERSON BERRY: Thank you very much.

9 You may be seated.

10 Counsel Audrey Wiggins, please, you may
11 address your questions to the witnesses.

12 MS. WIGGINS: Thank you, Madam Chair.

13 EXAMINATION

14 BY MS. WIGGINS:

15 Q Good morning. Could each of you state
16 your name and occupation for the record, starting with
17 the lady?

18 A (Witness Hampton) Phyllis Hampton, I'm
19 General Counsel for the Florida Elections Commission.

20 Q Thank you.

21 A (Witness Crawford) I'm Bob Crawford,
22 Commissioner of agriculture for the State of Florida.

23 A (Witness Hall) I'm Curt Hall, Director of
24 the Florida Highway Patrol.

25 Q Thank you, sir.

1 Attorney Hampton, did you bring to this
2 hearing documents that were requested pursuant to a
3 subpoena?

4 A (Witness Hampton) Yes, I did.

5 Q And do you attest that these documents
6 fully and accurately comply with the Commission's
7 subpoena?

8 A (Witness Hampton) I do.

9 MS. WIGGINS: Madam Chair, I now ask that
10 the documents that she brought be received into the
11 record and that the records clerk mark the number of
12 the documents consecutively.

13 CHAIRPERSON BERRY: Without objection, so
14 ordered.

15 BY MS. WIGGINS:

16 Q Commissioner Crawford, did you bring to
17 this hearing documents that were requested pursuant to
18 a subpoena?

19 A (Witness Crawford) Yes, I did.

20 Q And do you attest that these documents
21 fully and accurately comply with the Commission's
22 subpoena?

23 A Yes, I do.

24 MS. WIGGINS: Madam Chairperson, I now ask
25 that these documents be received into the record and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that the records clerk number the documents
2 consecutively.

3 CHAIRPERSON BERRY: Without objection, so
4 ordered.

5 BY MS. WIGGINS:

6 Q Colonel Hall, did you bring to this
7 hearing documents that were requested pursuant to a
8 subpoena?

9 A (Witness Hall) Yes, I did.

10 Q And do you attest that those documents
11 fully and accurately comply with the Commission's
12 subpoena?

13 A (Witness Hall) Yes, I do.

14 MS. WIGGINS: Madam Chair, I now ask that
15 these documents be received into the record and that
16 the records clerk number these documents
17 consecutively.

18 CHAIRPERSON BERRY: Without objection, so
19 ordered.

20 MS. WIGGINS: You may now each present a
21 brief opening statement, no more than five minutes and
22 your entire statement, will be received into the
23 record.

24 We'll start with Ms. Hampton.

25 WITNESS HAMPTON: Thank you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 I just briefly wanted to tell you a little
2 bit about the Florida Elections Commission. It was
3 created by the Florida legislature in 1974 to enforce
4 the state's campaign finance laws which are found in
5 Chapter 106 Florida Statutes. The Commission's
6 jurisdiction includes state, county, municipal,
7 judicial and special district elections.

8 The Commission itself is comprised of nine
9 members, eight are appointed by the Governor from
10 lists of names provided by the legislative leadership.

11 The ninth member, the Chair, is appointed solely by
12 the Governor. All appointments require Senate
13 confirmation.

14 The Commission was originally housed with
15 the Department of State and was dependent on the
16 Division of Elections for all support and staffing.
17 In 1997, the Commission was made an independent agency
18 and administratively located in the Department of
19 Legal Affairs which has no control over the Commission
20 in the performance of its duties.

21 No more than five members of the
22 Commission may be from one political party. Members
23 do not receive a salary for their services. The
24 Commission meets four to five times a year in
25 typically a two-day meeting in various municipalities

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 in Florida. The Commission can investigate and
2 determine violations only after receiving a sworn
3 complaint or by information reported to it by the
4 Division of Elections.

5 The Commission's jurisdiction is civil
6 only and was expanded to cover Chapter 104 Florida
7 Statutes in July 1998. There are over 60 separate
8 violations in Chapter 104 and 100 separate violations
9 in Chapter 106. The Commission also cooperates with
10 state and local law enforcement agencies and the 20
11 state attorneys in handling criminal violations of
12 the Election Code.

13 There are 13 Commission staff members,
14 three attorneys, seven investigators and a business
15 manager and two administrative assistants. The
16 Commission also has a clerk position which currently
17 is vacant.

18 The Commission handles appeal of automatic
19 fines for candidates and committees at state, county,
20 municipal, judicial and special district for the late
21 filing of their campaign reports. The Commission can
22 levy a fine, up to \$1000, per count, upon finding that a
23 person willfully violated Chapter 104 or Chapter 106
24 Florida Statutes. Willfully is statutorily defined in
25 Section 106.37 as committing an act while knowing or

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 showing reckless disregard for whether the act is
2 prohibited or required. Reckless disregard is shown
3 if a person wholly disregards the law without making
4 any reasonable effort to determine whether the act
5 constitutes a violation.

6 MS. WIGGINS: Thank you. Commissioner
7 Crawford.

8 WITNESS CRAWFORD: Thank you very much.
9 I'll make mine very short. First, welcome to
10 Tallahassee. I wish the weather was better but as
11 Commissioner of agriculture, I hope you enjoy the food
12 while you're here. We're in our peak growing season
13 right now, we have the best fruits and vegetables of
14 any place in the world. So I hope you have a chance
15 to partake of that.

16 I am glad to see the body in existence and
17 here. I think it gives the public confidence that we
18 do have the framework of government to make sure if
19 there's a problem that it gets rectified and I know as
20 a government official of this state that if anybody
21 was denied their civil rights during this election
22 we'd like to know about it, and we wish you well on
23 that mission.

24 I became very involved in this election by
25 happenstance I guess as a member of the Florida

1 cabinet. And in a role that's normally very
2 ministerial, as a member of the Election Canvassing
3 Commission. Obviously a microscope has been put on
4 the Florida election and I think by and large that
5 what we see is the result of simply a razor thin
6 election for the most important job in the world
7 probably and where there are 25 electoral votes at
8 stake, which could determine the election. So we've
9 had the microscope on us and we didn't come out
10 perfect but I think maybe no election is perfect. But
11 I think we got the job done and we did it right and I
12 think the work of this Commission, while it's focused
13 more specifically on civil rights, will also play a
14 part in moving forward the momentum of election
15 improvements, not only in Florida, but in this
16 country. And that I think can be a very positive
17 thing.

18 I think we do need uniform standards of
19 voting, we need uniform standards of technology, not
20 just in Florida, but in all states. I have a map that
21 I thought was interesting when I saw it. You may have
22 already seen this, but this gives a breakdown on all
23 the states and how the different states -- what
24 systems they use. And as you can see, everybody uses
25 something different and within each state there's no

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 uniformity. I think it tells that we need uniformity
2 and I believe that while our elections aren't perfect,
3 we need to try to be as perfect as possible and if we
4 can put a man on the moon, we can have an election
5 system that if you can win by one vote nationally, the
6 next morning, we should know who the winner is. And I
7 hope we get to that point very quickly.

8 Thank you.

9 MS. WIGGINS: Thank you. Is that map
10 something we can keep?

11 WITNESS CRAWFORD: Yes.

12 MS. WIGGINS: Thank you. Colonel Hall.

13 WITNESS HALL: Good morning. I appreciate
14 the opportunity to be here this morning and represent
15 the men and women of the Florida Highway Patrol.

16 Since November 7, the election, our agency
17 has received a good amount of negative publicity as a
18 result of a total misrepresentation and
19 misunderstanding of what one of our sergeants and
20 three of his assigned troopers were doing on election
21 day in southern Leon County.

22 No one in their wildest imagination would
23 have ever thought that the FHP would be accused of
24 intimidating, discouraging, interfering with or
25 preventing anyone from exercising their constitutional

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 right to vote. And that's exactly why I'm pleased to
2 be here today and afforded this opportunity.
3 Hopefully in the next few minutes, I can give you a
4 short thumbnail sketch of what actually happened on
5 that morning of November 7.

6 Since Florida's statewide motor vehicle
7 inspection law was repealed in the early '80s,
8 defective equipment on Florida highways requires
9 closer enforcement by our troopers. In fact, during
10 1999, troopers issued close to 130,000 notices for
11 correction and over 20,000 citations for faulty
12 equipment violations. We found the most effective way
13 to inspect equipment on a large number of motor
14 vehicles in a very short period of time is to conduct
15 what we call driver's license/faulty equipment
16 checkpoints. Motorists who approach one of these
17 checkpoints can expect to have their license,
18 registration, insurance papers, tires, brake lights
19 and other safety equipment examined. And those with
20 vehicles in good working order and have all their
21 required paperwork normally will be delayed for less
22 than a minute. And that's exactly what our sergeant
23 and the three troopers were doing on that morning. In
24 fact, this particular checkpoint operation was set up
25 on Oak Ridge Road in southern Leon County between

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 10:00 a.m. and 11:30 a.m. and was a 31st such
2 operation that was conducted in the local eight-county
3 Tallahassee-based troop during the 30 days prior to
4 the election. And it was one of over 200 that was
5 conducted throughout Florida last year.

6 During this particular checkpoint
7 operation approximately 150 vehicles were stopped and
8 checked. As a result, a total of 18 enforcement
9 contacts, including traffic citations, written
10 warnings and notices of faulty equipment were issued
11 to 16 different individuals, six of whom were
12 minority. It's also important to note that over --
13 that location of this checkpoint is over two miles and
14 on a different roadway from the nearest polling
15 facility.

16 We initially received notice from the
17 Florida Attorney General's office on that afternoon
18 that a complaint had been received accusing troopers
19 of hindering members of the minority community from
20 arriving at polling facilities on election day. I
21 immediately implemented a supervisory inquiry to
22 determine the facts of the matter. And in addition, a
23 more detailed investigation was conducted, taking
24 sworn statements from all the troopers as well as a
25 number of individuals that we could locate that had

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 been through that checkpoint.

2 The initial inquiry as well as the
3 comprehensive investigation both concluded that while
4 some policy violations did occur, it also established
5 that no member of the community was unreasonably
6 delayed or prohibited from visiting their voting
7 precinct as a result of that checkpoint. The policy
8 violations discovered during this investigation were
9 minor in nature. The sergeant in charge of the
10 operation had selected a location to hold the
11 checkpoint that was not on that monthly preapproved
12 list and notice of the checkpoint was not given to the
13 news media, as is required by our policy. As a result
14 of the inquiry, the sergeant was counseled and
15 instructed not to conduct these type checkpoints
16 unless they've been preapproved as per policy.

17 The bottom line is this, that these two
18 separate reports both told me that in no uncertain
19 terms, that our troopers did nothing wrong.

20 Let me also add that our investigators
21 concluded that troopers did not visit any polling
22 places except to exercise their own right to vote.
23 And no parking tickets were written in the parking
24 lots of any voting precincts while the drivers of the
25 vehicles were inside the precinct voting.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 A (Witness Hampton) No.

2 Q Does the Florida Elections Commission have
3 the authority to investigate complaints of improper
4 purging of the voting rolls?

5 A (Witness Hampton) I don't think so. If
6 we had a sworn complaint that an official was misusing
7 their official capacity and deliberately doing this,
8 then that might pull the Elections Commission into
9 that.

10 Q Okay.

11 A (Witness Hampton) But only with a sworn
12 complaint. We can't on our own go out and
13 investigate.

14 Q Okay. So you're saying only if a voter or
15 a Floridian came to the Commission and through some
16 means filed a sworn complaint with the Commission,
17 would you have authority to investigate.

18 A Right. And they -- it couldn't be vague
19 allegations, they'd have to give specific facts that
20 would lead us to believe that there, you know, could
21 be probable cause that a law had been violated.

22 Q Does the Florida Elections Commission have
23 authority to investigate complaints of the
24 infringement of Floridians' rights and/or ability to
25 vote under the color of law?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 A (Witness Hampton) Yes, there is one
2 section that deals with that in Chapter 104.

3 Q And did you receive any such complaint?

4 A (Witness Hampton) No, we have received no
5 sworn complaints regarding this last election.

6 Q Were you surprised by that at all?

7 A (Witness Hampton) I don't think I really
8 thought of it in those terms.

9 Q Okay. What, if anything, did the Florida
10 Elections Commission do to advertise the fact that it
11 has the authority to investigate under Section 104 of
12 the Election Code?

13 A (Witness Hampton) First you must realize
14 I was not employed by the Florida Elections Commission
15 in 1998, I was working in the Governor's office when
16 this law became effective. I do know though from
17 staff members at the Commission that the Executive
18 Director Barbara Lithicum did go to one of the
19 supervisor of elections' conferences and was one of
20 the speakers and talked about the responsibilities of
21 the Florida Elections Commission, including the new
22 responsibilities under Chapter 104.

23 I know that the Chairman of the
24 Commission, Dr. Susan McManus, also attended one of
25 the supervisors' meetings and also talked about the

1 These unsubstantiated accusations were
2 reported by the news media and oftentimes quoted high
3 ranking political officials. I personally consider
4 them extremely insulting to the men and women of the
5 Florida Highway Patrol who put their lives on the
6 line every day to serve, protect and defend the
7 Constitution of both the United States as well as the
8 State of Florida.

9 Let me close by saying that we have
10 provided all requested documentation regarding this
11 matter and have tried to be helpful to the Commission
12 in its efforts. We thank you again for inviting us
13 here today and allowing us this important opportunity.

14 Thank you.

15 CHAIRPERSON BERRY: Thank you very much.

16 MS. WIGGINS: Thank you, Colonel.

17 I'm going to start with you, Attorney
18 Hampton.

19 BY MS. WIGGINS:

20 Q You state in your opening statement that
21 originally, the Florida Elections Commission was under
22 the control of the Department of State, is that
23 correct?

24 A (Witness Hampton) It was housed in the
25 Department of State and the staff members were

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 employees of the Department of State.

2 Q But the Secretary of State's office has no
3 control over the Florida Elections Commission at this
4 point, is that true?

5 A (Witness Hampton) No, no control.

6 Q Okay. You also stated in your opening
7 statement that the Florida Elections Commission has
8 control to investigate violations under Section 106 of
9 the Election Code and Section 104 of the Election
10 Code, is that right?

11 A (Witness Hampton) It has authority to
12 investigate, but only upon a sworn complaint that's
13 legally sufficient or information furnished by the
14 Division of Elections and generally, that's when
15 candidates have not filed their reports or they've
16 been habitually late in filing their reports.

17 Q Okay. Section 104, however, covers
18 election code violations and penalties, is that right?

19 A (Witness Hampton) Election code what?

20 Q Violations and penalties.

21 A (Witness Hampton) Yes.

22 Q Okay.... Do you perceive that the Florida
23 Elections Commission has authority to investigate
24 complaints of racial disparities in the distribution
25 and maintenance of voting equipment?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 responsibilities of the Commission, including the new
2 responsibilities under Chapter 104. And she also
3 attended a meeting of municipal clerks who, of course,
4 have election-related duties in the municipalities in
5 Florida. And then, of course, after 1998, soon after,
6 we started our website which is available on the
7 Internet, which information about filing complaints.
8 It gives some of the typical complaints in Chapter 104
9 and in Chapter 106 and I have included in the
10 information that we filed with you a breakdown of the
11 information on our website, showing what we have
12 there.

13 Q Thank you. And if you know, when did the
14 website come up?

15 A (Witness Hampton) It's been within the
16 last year, I don't know the exact date.

17 Q Is the -- I'm just trying to make sure I
18 understand the structure of the Elections Commission.
19 You're under the Attorney General's province for
20 budget purposes only; is that right?

21 A (Witness Hampton) Right. We're housed in
22 the Attorney General's office, the Department of Legal
23 Affairs, for administrative purposes. They assist us
24 when we're hiring people with some of the advertising,
25 screening the applications. They submit our budget

1 but they have no direct control over the Commission.
2 It was made totally independent in 1997 by the Florida
3 legislature.

4 Q Did the Attorney General supplement your
5 funding or provide any other assistance to you so that
6 you could advertise to the general public about your
7 new authority or the Elections Commission's new
8 authority to investigate under Section 104?

9 A (Witness Hampton) No, but I don't think
10 we requested that assistance:

11 Q Okay. Did the Secretary of State as chief
12 elections officer supplement your funding or provide
13 any other assistance to the Florida Elections
14 Commission to advertise?

15 A (Witness Hampton) Not that I'm aware of.

16 Q Did either of those offices provide any
17 other assistance, financially or otherwise, to help
18 staff the broader investigative authority of the
19 Elections Commission?

20 A (Witness Hampton) No, but I don't think
21 either have the statutory authority to be able to do
22 that.

23 Q Okay. How large is your staff right now?

24 A (Witness Hampton) Thirteen.

25 Q Thirteen.

1 A (Witness Hampton) Uh-huh.

2 Q Did Director McManus meet with the NAACP
3 or disability groups such as Latino voters regarding
4 the duties of the Elections Commission?

5 A (Witness Hampton) All right, now McManus
6 is the Chairman of the Commission and then we have an
7 Executive Director, Barbara Lithicum.

8 Q Right -- okay.

9 A (Witness Hampton) And I don't know what
10 either of those two did regarding those activities.

11 Q Okay. Thank you, Attorney Hampton. Did
12 you meet with either of those groups?

13 A (Witness Hampton) No. But again, I was
14 not employed by the Commission at that time in 1998.

15 Q And when did you become employed by the
16 Florida Elections Commission?

17 A (Witness Hampton) In March 1999.

18 Q Okay. And you have not been directed to
19 do so since your employment, to meet with those types
20 of groups?

21 A (Witness Hampton) No.

22 Q Okay. Commissioner Crawford.

23 A (Witness Crawford) Yes.

24 Q You replaced Governor John Ellis Bush on
25 the Elections Canvassing Commission, is that correct?

1 A (Witness Crawford) That is correct.

2 Q And was that limited just to the November
3 7, 2000 election?

4 A (Witness Crawford) That's correct.

5 Q How did you come to be designated to the
6 Elections Canvassing Commission?

7 A (Witness Crawford) The Governor chose to
8 recuse himself and under the statute, the Director of
9 the Division of Elections then chooses a remaining
10 member of the cabinet to replace the Governor, and
11 Clay Roberts chose me.

12 Q Did you receive a phone call from Mr.
13 Roberts?

14 A (Witness Crawford) He actually came by my
15 office and asked if I would be interested, and if I
16 would, then they would consider making that
17 appointment. So it was a visit.

18 Q Okay. Did you speak at all to the
19 Governor about your replacement of him on the
20 Elections Canvassing Commission?

21 A (Witness Crawford) No, I did not.

22 Q And what did you perceive your duties to
23 be as a member of the Elections Canvassing Commission?

24 A (Witness Crawford) Well, when I was
25 asked, I didn't really know. I guess if I would have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 known, maybe I would have said no.

2 (Laughter.)

3 A (Witness Crawford) My unlucky day. But
4 after reviewing the statute, because I had not served
5 on it before, it was very limited, very ministerial on
6 its face and that's what it was. Because of the high
7 interest in it publicly, I was kind of in the
8 spotlight because of that.

9 Q All right.

10 A (Witness Crawford) It was very much
11 looking at the four corners of the documents after
12 compiled by the Secretary of State and there are some
13 words in the statute that go to making sure that the
14 results are true and accurate, but there has been
15 cases held, and somewhere it says we can't go beyond
16 the certified results from the county. So it's pretty
17 limited in what we actually have before us.

18 Q And how were those duties explained to
19 you? Was this just based upon your own research of
20 the Code or did someone sit down to explain it to you?

21 A (Witness Crawford) After I realized that
22 this was going to be pretty tense and pretty important
23 -- normally I think it occurs with nobody even -- most
24 elections, nobody even knows the canvassing commission
25 even met and certified the results, it's very

1 ministerial. I hired an outside counsel, who was an
2 election law expert, a former deputy attorney general,
3 and sat down with him to go over the statutes and make
4 sure that I understood exactly what my
5 responsibilities were and understanding all the laws
6 that would apply such as the sunshine. And that's the
7 way I came to understand exactly what the role was.

8 Q Were you aware of any of the allegations
9 of voting disparities in communities of color at the
10 time the election was certified?

11 A (Witness Crawford) No, I was not.

12 Q And were you aware of any allegations of
13 inaccessibility to the polling places by Floridians
14 with disabilities at the time the election was
15 certified?

16 A (Witness Crawford) No, I was not.

17 Q Were you aware of any allegations that
18 language or any other special needs assistance was not
19 provided at the polling places at the time the
20 election was certified?

21 A (Witness Crawford) No, I was not.

22 Q Did you ever become aware of these types
23 of allegations

24 A (Witness Crawford) I got sued, so I guess
25 that kind of brought it to my attention.

1 (Laughter.)

2 A (Witness Crawford) I think I've been
3 dropped from the suit, but --

4 Q When was that, Commissioner Crawford, if
5 you remember?

6 A (Witness Crawford) A couple of weeks ago,
7 I think an allegation of the Disabilities Act, I think
8 the Elections Canvassing Commission was brought into
9 this. I think maybe I've been dismissed from that
10 since then, but that's the first I had heard of it.

11 Q Okay. Did you learn of them on the news
12 media or any other --

13 A (Witness Crawford) Not those specific
14 complaints. Obviously we were all paying very close
15 attention to any allegation. Most of what we were
16 hearing was the concern in Palm Beach of the butterfly
17 ballot.

18 Q Based upon your own research of the Code
19 and the advice you were given by your counsel, did you
20 perceive that you were obligated to certify the
21 election as a member of the Elections Canvassing
22 Commission just if all the numbers from the county
23 canvassing boards seemed to match the numbers placed
24 before you for certification?

25 A (Witness Crawford) That was pretty much

1 the responsibly. It's kind of the four corners of the
2 document and obviously if something on its face was
3 inaccurate; for instance if they had 68 counties total
4 and we only have 67 counties in the state, then that
5 would obviously be not a true and accurate count.

6 Q Right.

7 A (Witness Crawford) So that is correct.

8 Q Along that vein, Section 102.131 of the
9 Election Code states that if there is any irregularity
10 or falsity surrounding the election, a Commissioner --
11 an Elections Canvassing Commissioner could refuse to
12 sign the certification. Did you -- were you aware of
13 that at the time of the certification?

14 A (Witness Crawford) I think our
15 interpretation of that was fairly narrow, that it had
16 to -- that the document had to appear -- could not be
17 irregular.

18 Q Uh-huh.

19 A (Witness Crawford) And there's not a lot
20 of case law as to defining exactly what irregular
21 means. But then it said we could not go beyond the
22 county certified results in looking at what is
23 irregular. So it would have to be a mathematical
24 irregularity. Like I said if the Secretary of State
25 sent me a document that was just signed and had no

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 numbers on it, that would be irregular. If it had 50
2 counties instead of 67, that would be irregular. So
3 the document that we received appeared to be regular
4 and seemed to be true and accurate based on the four
5 corners of the document, so I felt that I had the
6 obligation to sign it.

7 Q As we talked about earlier, the Elections
8 Canvassing Commission for the state of Florida usually
9 consists of the Governor, the Secretary of State and
10 the Director of the Division of Elections. Other than
11 the request that you replace the Governor on the
12 Elections Canvassing Commission, did you have any
13 conversations with the Division Director of Elections
14 Clay Roberts or his staff regarding your position on
15 the Elections Canvassing Commission?

16 A (Witness Crawford) No, I did not. The
17 only -- I guess when staff brought the document to my
18 office, and it was basically here's the document and I
19 said we're going to -- with my attorney, we were going
20 to review it and we reviewed it for a period of time
21 and then turned it back over to them. That was the
22 first certification.

23 Q Okay. Did you have any conversations with
24 the Secretary of State or her staff regarding your
25 position on the Elections Canvassing Commission?

1 A (Witness Crawford) No, the only time I
2 actually saw her or had any communications with her
3 was right before the first press conference that we
4 had to answer questions from the press, which was the
5 first week after the election. And on the way to the
6 press conference, we stopped by her office and
7 security met us there and we were all instructed to
8 walk together with security and that's when I saw her
9 just as we were walking. There was no discussion
10 about our responsibilities.

11 Q And you stated earlier that you didn't
12 have any conversations with the Governor at all
13 regarding your position on the Elections Canvassing
14 Commission?

15 A (Witness Crawford) That's correct.

16 Q Okay, thank you, Commissioner.

17 Colonel Hall.

18 A (Witness Hall) Yes, ma'am.

19 Q We are aware of the investigation of the
20 Oak Ridge Road checkpoint that took place on November
21 7, 2000. The Florida Highway Patrol has its own
22 policy dictating the parameters through which a
23 checkpoint can be conducted, is that right?

24 A (Witness Hall) That's correct.

25 Q I believe that's Florida Highway Patrol

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Policy Number 17.07, is that right?

2 A (Witness Hall) That's correct.

3 Q As you referenced in your opening
4 statement, the Oak Ridge Road checkpoint did not
5 completely comply with that policy, is that right?

6 A (Witness Hall) That's correct, inasmuch as
7 it wasn't on the approved list. It had been on
8 before, you can't put every road in the county on an
9 approved list, we recognize that.

10 Q Right.

11 A (Witness Hall) So monthly they put
12 together a listing of the roads, that the district
13 commander has authorized and the supervisors are to
14 use that. And through the Public Information Office
15 ensure that that gets to the media so that it can be
16 published if they choose to do that.

17 In this case, they elected to conduct the
18 checkpoint on a road other than one that was on that
19 list and through a mixup in the office, the list
20 itself had not been given to the media.

21 Q Okay. Under that same policy number,
22 17.07.04(c)(4), the Florida Highway Patrol officers
23 conducting a driver's license checkpoint, requests
24 both the driver's license and the vehicle registration
25 from each driver, is that right?

1 A (Witness Hall) That's correct.

2 Q Now some of your staff was present at
3 yesterday's hearing, so you may be aware that we
4 received testimony from a citizen who says she was
5 detained at the Oak Ridge Road checkpoint and that she
6 was not (sic) asked for her driver's license, but not
7 her registration. Does that surprise you at all?

8 A (Witness Hall) Not really. I can see
9 where somebody would be asked for a driver's license
10 and maybe the cars were backing up or whatever the
11 reason was and only the driver's license was checked
12 and the person was allowed to go.

13 Q To what penalty is a Florida Highway
14 Patrol officer exposed when he doesn't follow the
15 policy -- when he or she does not follow the policies
16 explicitly?

17 A (Witness Hall) Well it depends on the
18 severity, the end result of that policy violation.. We
19 have a range of penalties that we can use from
20 counseling up to dismissal.

21 Q Okay. And other than the sergeant to whom
22 you referred in your opening statement, was any other
23 Florida Highway Patrol officer reprimanded for his or
24 her role in the checkpoint on Oak Ridge Road?

25 A (Witness Hall) I believe that the district

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 commander at the time was counseled as a result of it
2 not getting to the media.

3 Q Uh-huh.

4 A (Witness Hall) As it was supposed to. But
5 I want to reiterate too that neither of those
6 violations or the resultant penalty had anything to do
7 with the legitimacy of the checkpoint and the way it
8 was carried out.

9 Q In your opening statement, Colonel Hall, I
10 believe you stated that you received notification from
11 the Attorney General's office that there had been
12 complaints about the ckeckpoint at Oak Ridge Road, am
13 I --

14 A (Witness Hall) There had been a complaint.

15 Q There had been a complaint. And how did
16 you or your staff memorialize that conversation with
17 the Attorney General's office?

18 A (Witness Hall) I don't know that it was
19 other than being made a part of the investigation as
20 how we came about that. But there was no
21 correspondence written that I'm aware of or anything
22 done other than the fact that we immediately began
23 looking into it.

24 Q And other than that receipt of a
25 notification from the Attorney General's office, did

1 you or your staff have any communications with the
2 Attorney General's office in preparation for the
3 election?

4 A (Witness Hall) In preparation for the
5 election?

6 Q Right.

7 A (Witness Hall) No, ma'am.

8 Q The expected high voter turnout.

9 A (Witness Hall) Oh, absolutely not.

10 Q Did you or your staff have any
11 communications with the Office of the Governor in
12 preparation for the November 7, 2000 election?

13 A (Witness Hall) No, ma'am.

14 Q Did you or your staff have any
15 communications with the Secretary of State's office in
16 preparation for the November 7, 2000 election?

17 A (Witness Hall) No, ma'am.

18 Q Based upon your experience with this
19 election, Colonel Hall, would you agree that
20 checkpoints on election day could be perceived as an
21 infringement upon a person's right and/or ability to
22 vote?

23 A (Witness Hall) Would you ask that again,
24 please?

25 Q No problem.

1 A (Witness Hall) Based upon your experience
2 with this November 7, 2000 election, would you agree
3 that checkpoints on election day could be perceived as
4 an infringement upon the ability and/or right to vote?

5 A (Witness Hall) Properly done, and as I
6 have stated before, this checkpoint was properly
7 conducted, and it was not anywhere near a polling
8 facility, I don't see how that could affect anybody's
9 ability to vote. As a matter of fact, if you look at
10 it, the time that this was conducted, it was during
11 probably the lull in the voting time. We do not
12 conduct these during rush hours before work in the
13 morning or in the afternoon. We do this at a time
14 when we would have minimal inconvenience to the
15 public. So I don't see how this -- and historically
16 it's never been a problem. And when you consider the
17 fact that millions of people voted on November 7 and
18 we got one complaint, I think that speaks very well of
19 the operational tactics that were used that day as
20 well as any other day.

21 Q Okay.

22 A (Witness Hall) I want to follow up on that
23 too. We are very concerned about the perception
24 people may have about what the Patrol did that day or
25 the tactics that we use in terms of checking people's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 driver's licenses and where we conduct those. So
2 we're very sensitive to that. And to think that we
3 wouldn't look at that is probably wrong, we are very
4 concerned about that.

5 Q Do you think the Florida Highway Patrol
6 will authorize checkpoints on election day in the
7 future?

8 A (Witness Hall) That'll be for somebody
9 else to decide, it won't be my decision.

10 Q Are you retiring, Colonel Hall?

11 A (Witness Hall) I will be, yes.

12 Q When do you expect to retire?

13 A (Witness Hall) July 1.

14 Q You stated before, there was a mixup in
15 the office about the media notification. Could you
16 elaborate on that?

17 A (Witness Hall) What is by policy the
18 district commander puts together the list, gives it to
19 the PIO for that office and the PIO responsibility is
20 to ensure that it is properly distributed to the media
21 in that area. One thought the other was doing it.

22 Q Did either of them receive any counseling
23 or reprimand?

24 A (Witness Hall) Counseling.

25 Q They received counseling. The witness

1 that came forward to us on yesterday said that she
2 felt intimidated at the checkpoint, according to her
3 sworn testimony. How do you react to that?

4 A (Witness Hall) Well, I'm disappointed;
5 firstly, because we didn't even have the opportunity
6 to talk with her. She refused to cooperate in our
7 investigation and that's unfortunate because our
8 primary purpose is to get to the bottom of the issue.
9 And so from her side, we were unable to do that..

10 It's always disappointing to get a
11 complaint and it's especially disappointing when it
12 implies discrimination or that we may have imposed
13 improper standards or conduct on somebody. I can tell
14 you that through the investigation, that my personal
15 opinion and the opinion of others is that that did not
16 happen and it's unfortunate. I wish she had called my
17 office if she had a concern or called one of the local
18 troop commander's office, but that wasn't the case..

19 Q Surely you can understand that if she felt
20 intimidated at the checkpoint, that she probably felt
21 intimidated also by cooperating with your
22 investigation of that checkpoint?

23 A (Witness Hall) Possibly so, but we'll
24 never know.

25 Q Prior to your retirement on July 1 -- is

1 that right?

2 A (Witness Hall) Yes, ma'am.

3 Q -- are you going to make any
4 recommendations to your successor as to authorizing
5 checkpoints on election day?

6 A (Witness Hall) I'm sure that that will be
7 discussed.

8 Q Okay. What's your office's policy
9 regarding officer patrol in/or around polling places
10 during general elections?

11 A (Witness Hall) There is no policy that
12 specifically excludes polling places from any law
13 enforcement function. As a matter of fact, not
14 particularly this past election year, but in prior
15 years, we've been called upon by the county
16 supervisors of elections to actually be at polling
17 places to provide traffic assistance for people
18 getting in and out.

19 Q Right.

20 A (Witness Hall) So it's not unusual for us
21 to be there. Our people do vote too, and they use
22 their cars when they're working to go into the
23 precinct and vote.

24 Q With the first part of your statement, you
25 said you're sometimes asked to provide assistance with

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 traffic going in and out of polling places. Did your
2 division have any such requests on November 7, 2000?

3 A (Witness Hall) No, not that I'm aware of.

4 Q And of course, Florida Highway Patrol
5 officers are, I'm sure, encouraged to vote in
6 elections.

7 A (Witness Hall) Absolutely.

8 Q And what is the Highway Patrol's policy
9 with respect to their going in and out of polling
10 places, are they allowed to take their official
11 vehicles to the polling place?

12 A (Witness Hall) Well, they're state
13 employees and under the state law, they have the same
14 rights as other employees, which is they're given an
15 hour and a half on election day to participate in the
16 election.

17 Q Uh-huh.

18 A (Witness Hall) And if they happen to be
19 working that particular day, then yes, and their work
20 zone is close to their precinct, then they go ahead
21 and vote.

22 Q Is there any restriction on whether or not
23 they can wear their uniforms in or out of a polling
24 place?

25 A (Witness Hall) No.

1 Q Did you receive any reports or complaints
2 about increased Highway Patrol presence around polling
3 places for the November 7, 2000 election?

4 A (Witness Hall) No, ma'am.

5 Q Okay. Colonel Hall, if you know, who is
6 responsible for motor voter registration?

7 A (Witness Hall) That is a function that has
8 oversight within the same department that my division
9 is in, but another division is responsible for that.
10 And I know that it's an issue that the Commission is
11 interested in looking at nationally. I would
12 certainly recommend that you contact somebody within
13 our department and they can provide you the
14 information.

15 Q Okay, do you have any personal experience
16 as to the procedures of motor voter registration?

17 A (Witness Hall) No.

18 Q Colonel Hall, could you tell us the
19 specific locations of the checkpoints that took place
20 on November 7, 2000 election?

21 A (Witness Hall) Yes, we had, in addition to
22 the one on Oak Ridge Road, we had two others west of
23 here, one in Bay County and one in Escambia County.
24 We have maps of both of those aerial shots that can
25 give you a better idea of where the checkpoint was

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 located in relationship to the precinct.

2 Q Okay.

3 A (Witness Hall) That's the one for Oak
4 Ridge Road. If you'll point to that, Major Giddrey,
5 that's the checkpoint right there and if you will,
6 that is the Woodville First Baptist Church. It takes
7 three turns to get from where the checkpoint is to the
8 entrance of the church. And it's 2.1 miles away.

9 If there ever was any intent to influence
10 voters going to the poll, you can see that probably
11 would not be the best place to do that.

12 Q Is that a high traffic area, do you know,
13 on Oak Ridge Road?

14 A (Witness Hall) No, it provides for safety
15 for our officers as well as the motoring public. If
16 you look at a picture of the landscape there, you'll
17 see that there's wide shoulders, no visual
18 obstructions, it's a straight, narrow highway and it
19 affords the officer the safety of being able to pull
20 any vehicle over that may have to have additional
21 enforcement taken, and it also allows the motorist
22 ample visibility and ultimate safety. So those are
23 the primary things that we look at in terms of where
24 we conduct a checkpoint.

25 Q Colonel Hall, another witness came forward

1 on yesterday and under oath testified that he saw a
2 checkpoint -- I'm sorry, he saw police presence
3 outside of the Jefferson County High School voting
4 precinct, voting precinct number 6. Did you authorize
5 any checkpoint for that location?

6 A (Witness Hall) No, there was no checkpoint
7 in that location.

8 Q Do you have any explanation as to why
9 there would be Florida Highway Patrol officers at that
10 checkpoint -- I'm sorry, at that voting precinct?

11 A (Witness Hall) Is that plural or singular?

12 Q Plural.

13 A (Witness Hall) Well, I know in subsequent
14 review yesterday after seeing that testimony, a
15 trooper assigned to Jefferson County in fact did vote
16 at that precinct on Tiger Lane that runs -- at the
17 school. And was there from -- during a time period of
18 7:00 to 7:30 and I believe that's when the witness was
19 there.

20 Q Could you tell me the name of that officer

21 A (Witness Hall) Trooper David Hobbs.

22 Q And what time was he there, do you know?

23 A (Witness Hall) He stated that he was there
24 in that time between 7:00 and 7:30.

25 Q That same witness told us that he drove

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 downtown to voting precinct number 5 across from the
2 Jefferson County Courthouse, and saw Highway Patrol
3 cars parked at that polling place. Do you have any
4 information on that?

5 A (Witness Hall) No. There is a precinct
6 there, it's in the Monticello Opera House.

7 Q Uh-huh.

8 A (Witness Hall) And adjacent to that is a
9 very active service station that our cars utilize, as
10 do other law enforcement vehicles and it's so close to
11 that that it could be considered to be a stop that was
12 related to that. I'm not sure that it was, but in
13 looking at the other two troopers that were working
14 Jefferson County during that period of time, one votes
15 in Yakima and the other one did not vote. As to
16 whether or not any of them were up there, I don't
17 know, I don't have an explanation for that.

18 Q Do you know whether or not the trooper was
19 attempting to get his car serviced around then?

20 A (Witness Hall) I don't know.

21 Q Okay. Do you know the names of those
22 other two troopers that you referenced?

23 A (Witness Hall) I can get those for you, I
24 don't have them right now.

25 Q Okay. Thank you, sir.

1 MS. WIGGINS: I'm done, Madam Chair.

2 CHAIRPERSON BERRY: All right. Are there
3 questions from Commissioners? I see a hand up.
4 Commissioner Wilson.

5 COMMISSIONER WILSON: Thank you very much.
6 Thank you, Madam Chair.

7 Colonel Hall, we had a witness here
8 yesterday, the person who chose not to cooperate with
9 you. And if I'm not mistaken, what she said about
10 that road was that the road was not a well-traveled
11 road, so I'm not sure I understand why you would put a
12 roadblock there, a checkpoint there. But she did say,
13 again if I'm not mistaken, that it was a road that
14 people used to get to the polling place when they had
15 to travel a long distance, it was the road that they
16 used. And do you know that that's true, that it is
17 the road that's used?

18 WITNESS HALL: Apparently it is, used to
19 get to the polling place, but it's also used at other
20 times too. Our troopers estimated between 100 and 150
21 vehicles came through that checkpoint during that 90
22 minutes. Sergeant -- correction -- Captain Speers,
23 the local district commander, did a post survey review
24 of the traffic following the complaint and in about
25 the same period of time did in fact count 100 cars

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 come through there. So we feel that it is used
2 obviously, routinely, and not just by people -- now
3 there are some people that probably do use that when
4 they're headed to Woodville for whatever reason.

5 COMMISSIONER WILSON: Well, I don't really
6 know the area, but she said that if you were going to
7 where it was that you had to vote, that that for a
8 certain group of people living in a certain place,
9 that was the road that you would have to use.

10 WITNESS HALL: I can't respond to that.

11 COMMISSIONER WILSON: Okay. Well, my next
12 question is -- oh, you said that you had only one
13 call, you had one complaint. But the witness
14 yesterday said that she didn't feel comfortable
15 calling any government agencies, but instead called
16 the NAACP. So in fact there may have been other
17 people -- I mean you said you only got one call. There
18 may have been other people who felt intimidated or
19 upset but who didn't call. But my question is -- I
20 mean, I'm from New York so I live in another universe
21 altogether --

22 (Laughter.)

23 COMMISSIONER WILSON: -- but it would just
24 seem to me that it would be an odd day to choose to
25 have these checkpoints set up, on election day. I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 just am sort of baffled by it. Could you explain what
2 that had been planned?

3 WITNESS HALL: There was no reason to alter
4 the operational functions that are conducted on a
5 daily basis around the state by the Highway Patrol.
6 And when you look at the totality of the situation, I
7 still feel that way, quite frankly. I think you have
8 to be careful where you do those, but in fact, a
9 checkpoint to check drivers' license and equipment is
10 not unreasonable on election day. There are days when
11 we have more traffic than election day and there are
12 times when we would not do those, during hurricanes
13 and other types of events that would have unusually
14 high amount of traffic on particular roads, we would
15 not do them then.

16 COMMISSIONER WILSON: Well, in hurricanes
17 and, you know, under that kind of extreme
18 circumstance, you would be helping people to safety --

19 WITNESS HALL: Certainly.

20 COMMISSIONER WILSON: -- instead of
21 stopping them and asking them for their driver's
22 licenses.

23 I have just one more thing to say. There
24 was a witness her yesterday who said that he had grown
25 up in Tallahassee and that as a boy, he had had a very

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 strong feeling of admiration for the Highway Patrol.
2 I don't know if you saw that testimony.

3 WITNESS HALL: I did.

4 COMMISSIONER WILSON: And we did say that
5 we would pass along this message to you and that was
6 that after election day, he was very disappointed.
7 And I wonder if the Highway Patrol had any desire or
8 plans to reach out to this community of which he is
9 one person who expressed his feelings of
10 disappointment, to try and rectify that impression and
11 also the impression that was made by the press.

12 WITNESS HALL: We're always ' concerned
13 about perception, even if it's just one individual.
14 And even more so when it involves the minority
15 community and we would certainly do that.

16 COMMISSIONER WILSON: Thank you.

17 CHAIRPERSON BERRY: Any questions from any
18 other Commissioners? Commissioner Lee.

19 COMMISSIONER LEE: Thank you, Madam Chair.

20 This is for Ms. Hampton. How can the
21 voter get to know about the Election Commission's
22 ability to investigate any allegation?. I mean do you
23 put out notices when they register to vote, was that
24 information given to them; when they go to the polling
25 place, were there any signs to say if your rights are

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 being deprived, you can call us -- any information
2 like that given to the voters?

3 WITNESS HAMPTON: We don't put any
4 information at the polling locations, we don't have
5 any money in our budget for that type. We have
6 thousands of polling locations in Florida. Primarily
7 the supervisors of elections and the municipal clerks
8 are the ones that usually tell the people in their
9 area about the Elections Commission, usually the
10 complaints come in to the municipal clerk or the
11 supervisor of elections and they all have forms in
12 their office -- well, the supervisors all do. Some of
13 the city clerks do, I'm not sure that all 400 city
14 clerks in Florida have our complaint forms, but again
15 the complaint is on the Internet, it can be downloaded
16 and completed by the individual if they have access to
17 the Internet.

18 All of our public libraries in Florida
19 have Internet access so you don't even have to have it
20 at your house. But it's primarily through the
21 elections people in the local community, supervisor of
22 elections or the city clerk.

23 COMMISSIONER LEE: We heard testimony
24 yesterday from a pastor who, according to the record,
25 he was a convicted felon, he could not vote. But

1 because of his persistence by bringing up the
2 possibility of contacting his attorney, he was able to
3 vote. What happens if other voters who mistakenly,
4 because of the record by ChoicePoint or whoever is
5 providing those information, prevented that voter from
6 voting, can you go to the ChoicePoint and other people
7 who provided that misinformation and investigate?

8 WITNESS HAMPTON: Well, first, we would
9 have to have a sworn complaint. Again, we cannot
10 initiate any investigation into any type of election
11 law violation unless we have a sworn complaint. If we
12 had a sworn complaint, which on its face was legally
13 sufficient, we would proceed and look into the matter
14 and see. But one of the requirements to find a
15 violation is that there is willfulness. So if you had
16 a person who had accidentally been removed during the
17 purging of the election records, that would not be a
18 willful violation. You would have to have someone who
19 was deliberately removing people when they should not
20 be removed, for there to be an election law violation.

21 COMMISSIONER LEE: If I could ask one more
22 question. This is for Mr. Crawford. ..

23 It's good to hear that you also agree with
24 previous officials who testified earlier today that
25 there needs to be uniform standards for technology and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 application. They also mentioned that there's no
2 resources from the state. And given your Commission
3 members, the Governor, the Secretary of State and the
4 Director of the Division, who have access to these
5 resources, would you recommend that resources be
6 given to make sure that these uniform standards be
7 applied, meaning that they would have enough resources
8 for not only programming, but technology, that could
9 be applied to every county?

10 WITNESS CRAWFORD: Yes, I do and I think
11 that's probably one of the really good things that can
12 come out of this election experience, is I think there
13 is commitment, I know on the Governor's part, to make
14 sure that this state has the resources for the
15 technology, uniformly, so that we demonstrate to the
16 world very clearly every vote does count and that we
17 want people to vote and we want it to be recorded
18 properly. And I think Congress is going to have to
19 step forward in some areas to help with the funding.
20 It's very expensive. I see numbers in Palm Beach
21 County alone to go to the scan system in millions of
22 dollars. Palm Beach County might be able to afford
23 it, but there are other counties that may not.

24 So I think the legislature -- and we will
25 be pushing them to do exactly that.

1 COMMISSIONER LEE: And where is the
2 priority in terms of voters' education outreach?

3 WITNESS CRAWFORD: I think that has to be
4 a top priority, particularly when you have new voters
5 coming to Florida, first time voters that may not be
6 familiar with voting or may not be familiar with our
7 type of voting. That's why I think it's very
8 important to have a uniform standard of voting.
9 People are living in New York and have the machines
10 they have up there and then they retire and come to
11 Florida and all of a sudden they've got a punch card,
12 and they may have voted 30 or 40 times in their lives
13 and now it's a whole different system. I think the
14 nation would be better off with a uniform system so
15 that when you go to the voting booth, you don't see
16 something brand new that might intimidate you somehow.

17 So I think voter education is a big part
18 of making sure people feel comfortable when they go
19 into the voting booth.

20 COMMISSIONER LEE: I believe the
21 supervisors who testified earlier would be very glad
22 to hear that and I'm sure they're eagerly waiting for
23 those monies to come down.

24 (Laughter.)

25 CHAIRPERSON BERRY: Commissioner

1 Thernstrom.

2 COMMISSIONER THERNSTROM: I have a
3 question for Colonel Hall.

4 I assume that citizens feel annoyed by
5 checkpoints in general, at least I know I would find
6 myself, irrationally I might add, annoyed by being
7 stopped. Have you received complaints on other
8 occasions; that is, occasions other than election day
9 and if so, on what grounds and has the Highway Patrol
10 been found on any occasion of racial or ethnic
11 discrimination in its operations?

12 WITNESS HALL: I'm sure that over a period
13 of years we have received complaints about having to
14 be subjected to a checkpoint. We do so many and we
15 write a lot of activity in the state because we have a
16 tremendous amount of drivers, a lot of visitors to our
17 state. But we really get very few complaints. I
18 can't recall the last complaint that I got concerning
19 a checkpoint.

20 We have an excellent track record in terms
21 of racial issues within the department. The Florida
22 Highway Patrol was the first statewide law enforcement
23 agency in this country to voluntarily begin collecting
24 data concerning traffic stops in response to the
25 racial profiling issue and we started that January of

1 last year. All that information is on our website, if
2 any of you care to look at it. It compares the
3 traffic stops in our state compared to the
4 demographics and we're very proud of the approach that
5 we've taken and it has been a model for many states
6 around this country. And as a matter of fact, the
7 Department of Justice is using it in its training
8 program.

9 We also have developed diversity advisory
10 committees in each of the 10 troops that are comprised
11 of leaders within the minority communities in those
12 troops and they serve to advise the troop commander
13 and his staff or her staff on issues relative to
14 racial discrimination, or bias or anything. We use
15 them to receive input from the community.

16 So we've been, I think, on the leading
17 edge on dealing with issues concerning racial and
18 racial relations within the state of Florida. . .

19 COMMISSIONER THERNSTROM: And you've never
20 been officially found --

21 CHAIRPERSON BERRY: Commissioner
22 Thernstrom, just so that the Colonel is not misled and
23 since you are under oath, as I understood the
24 question, it asked that, but it also asked whether the
25 department had ever been accused of discrimination.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER THERNSTROM: No, I asked
2 whether it had been ever found.

3 CHAIRPERSON BERRY: And had it ever been
4 found, that means in its history.

5 COMMISSIONER THERNSTROM: I didn't use the
6 word accused actually. I said have you eve r--

7 CHAIRPERSON BERRY: Right, that means in
8 its history.

9 COMMISSIONER THERNSTROM: Have you ever
10 been found.

11 WITNESS HALL: I can't speak to the entire
12 history --

13 CHAIRPERSON BERRY: That's what I figured:

14 WITNESS HALL: -- since I've not been on
15 it 60 years.

16 CHAIRPERSON BERRY: I figured you couldn't
17 answer for the history of the department because the
18 department has had cases of discrimination in the past
19 and has been found -- as have other departments. So I
20 just wanted to make sure you understood that when you
21 answered, she asked you about whether the department
22 had ever been found to have engaged in discrimination.

23 WITNESS HALL: I would like to speak to
24 that though.

25 CHAIRPERSON BERRY: You may continue.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER THERNSTROM: No, that was
2 absolutely it.

3 WITNESS HALL: Just so I didn't leave you
4 misunderstanding my response, in 1979, we were issued
5 a consent decree concerning hiring. We have exceeded
6 all of those agreements that were made then. We are
7 at 32 percent of our entire work force is minority or
8 female, which I would put that up against any large
9 law enforcement organization.

10 COMMISSIONER THERNSTROM: Thank you very
11 much.

12 CHAIRPERSON BERRY: Are you finished?

13 COMMISSIONER THERNSTROM: I am. Thank you
14 very much.

15 CHAIRPERSON BERRY: Commissioner Edley.

16 COMMISSIONER EDLEY: Thank you. Colonel,
17 just before you doze off here, let me just have one
18 quick question.

19 (Laughter.)

20 COMMISSIONER EDLEY: Do you know anything
21 about the situation regarding the sheriff's
22 departments in regard to this last election? That is
23 to say have you become aware, formally or informally
24 about complaints about actions, not of Highway Patrol
25 officers but of sheriff's -- in sheriff's departments?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 WITNESS HALL: No, sir, I sure haven't.

2 COMMISSIONER EDLEY: Okay. Ms. Hampton,
3 let me just make sure I understand your testimony
4 here. You're saying that with all that's transpired
5 regarding alleged irregularities in the November 7
6 election, no one has filed a sworn complaint with you?

7 WITNESS HAMPTON: That's correct.

8 COMMISSIONER EDLEY: And moreover, did I
9 hear you correctly that as far as you can tell, you
10 haven't even read any news stories that raise issues
11 that colorably involve the jurisdiction of your
12 agency.

13 WITNESS HAMPTON: I don't remember being
14 asked any questions regarding newspaper stories.

15 COMMISSIONER EDLEY: Well, let me ask you,
16 from all that you have absorbed from the media and
17 conversations, have you heard anything which if made
18 the subject of an appropriate sworn statement, a sworn
19 complaint, would in your judgment trigger your
20 jurisdiction?

21 WITNESS HAMPTON: I've heard many
22 allegations, I haven't heard substantive facts,
23 however, from anyone who had first-hand knowledge that
24 would lead me to believe that.

25 COMMISSIONER EDLEY: So what kinds of

1 things have you heard that if in fact borne out with
2 substantive statements, that seem to be --

3 WITNESS HAMPTON: Well, such as the
4 Highway Patrol stops.

5 COMMISSIONER EDLEY: Anything else?

6 WITNESS HAMPTON: And if -- well, may I
7 finish on that point?

8 COMMISSIONER EDLEY: Sure, okay.

9 WITNESS HAMPTON: And, you know, when you
10 hear that in general, it's one thing, but when you're
11 looking at a violation of the Election Code, you have
12 to look at the particulars. And as I told the staff
13 from your Commission that was in my office last week,
14 you know, if you have a checkpoint that is on a well-
15 traveled road and there are several ways to get to a
16 polling place and that checkpoint is located some
17 distance from the polling place, that is not the kind
18 of situation I think that would be a violation of the
19 Election Code.

20 On the other hand, if you have a polling
21 place in a rural area and we have many rural areas in
22 Florida, that perhaps it's down one road to the
23 polling place, if the Highway Patrol or any other law
24 enforcement office would set up a checkpoint half a
25 mile from the polling place, that's the only road in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 there, then we might talk at that. But I haven't
2 heard any particular allegations regarding that type
3 of situation. And that's what you have to look at.

4 COMMISSIONER EDLEY: But what about -- let
5 me give you an example -- what about the allegations
6 that have been widely reported concerning the felony
7 disqualifications? Anything in there smell funny to
8 you? I mean somebody made decisions about how the
9 felony screening was going to be done. There's
10 certainly been a lot of allegations of irregularities,
11 people improperly being screened off the list. Does
12 that not raise a question as to whether or not there's
13 been some neglect of duty, at least it would violate a
14 misdemeanor?

15 WITNESS HAMPTON: Again, you have to have
16 the particulars. And we couldn't look at the
17 particulars unless we had a sworn complaint come into
18 the office. We've had no sworn complaint, I don't
19 know the particulars. Again, I've seen the news
20 stories on this, but if the Elections Commission acted
21 on every news story that we see in the paper, we'd
22 have to have a staff of several hundred, because not
23 only do we handle statewide elections, we handle the
24 county elections, the city elections, special
25 districts -- we have about 1000 special districts in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Florida.

2 COMMISSIONER EDLEY: But you see the
3 problem, it's a little bit difficult here -- you've
4 got -- your ability to get involved in these is
5 relatively new. There certainly hasn't been any
6 effort to make the general public aware of the fact
7 that you have this enforcement authority.

8 WITNESS HAMPTON: Well, I think putting
9 the website up with the information on the website
10 probably reached more people in Florida than we could
11 have done through any other resource.

12 COMMISSIONER EDLEY: I see. And how many
13 hits have you had on your website?

14 WITNESS HAMPTON: I don't know.

15 COMMISSIONER EDLEY: Ah-ha. Let me ask
16 this, what about the --

17 WITNESS HAMPTON: But I'm not in charge of
18 the website.

19 COMMISSIONER EDLEY: All right, I
20 understand. Maybe that's why you're so confident that
21 it's useful.

22 What about the long waiting lines, the
23 inability of precinct workers to -- at least the
24 allegations that the precinct workers can't get
25 through on the telephone to get a clarification? Just

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 speaking to you as a lawyer, is there anything in
2 there that might give rise to a question as to whether
3 or not there has been some misdemeanor violation of a
4 duty of officials to conduct elections properly?

5 WITNESS HAMPTON: Again, we have a civil
6 jurisdiction. When you talk to a misdemeanor, that's
7 criminal, so that would have to be your state attorney
8 or your sheriff, Florida Department of Law
9 Enforcement. We only look at the civil aspects of
10 violations of the Election Code.

11 Again, you have a requirement that it must
12 be willful. So, you know, if a public official simply
13 didn't enough telephone lines set up that particular
14 day, that probably would not rise to willfulness. Now
15 if they had one telephone line and deliberately didn't
16 put in more, which I cannot conceive of a supervisor
17 of elections doing in the state of Florida, that might
18 be another one. But you have to look at the
19 willfulness and you have to look at the particulars.
20 And again, we have to have a sworn complaint before
21 the Commission can do any type of investigation.

22 COMMISSIONER EDLEY: I'm sorry, but if the
23 officials neglected to install telephone lines and
24 take other steps that were necessary in order to deal
25 with a perfectly foreseeable surge in business,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 wouldn't that give rise to a concern about whether
2 they were doing their job appropriately?

3 WITNESS HAMPTON: Oh, I think probably a
4 concern, but whether that's a proper issue for the
5 Florida Elections Commission to investigate is a
6 different matter. And you have to realize that all of
7 the supervisors of elections work within their
8 budgetary constraints and not one of them can set
9 their own budget as they would like to have the
10 budget. The board of county commissioners in all 67
11 counties approves the budget and gives the money to
12 the supervisors to run their offices.

13 COMMISSIONER EDLEY: The statute says any
14 official who willfully refuses or willfully neglects
15 to perform his or her duties as prescribed by this
16 Election Code is guilty of a misdemeanor of the first
17 degree.

18 Whose responsibility is it to enforce that
19 statute?

20 WITNESS HAMPTON: If you're enforcing the
21 misdemeanor element, it would have to be a criminal
22 agency -- an agency that can enforce criminal laws,
23 which the Florida Elections Commission cannot. You
24 would have to go to your local sheriff's office, you
25 would have to go to the Florida Department of Law

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Enforcement, the 20 state attorneys can investigate
2 criminal violations and they prosecute all of the
3 criminal violations for all the law enforcement
4 agencies.

5 COMMISSIONER EDLEY: But if one wanted to
6 proceed civilly rather than criminally, they would
7 come to you.

8 WITNESS HAMPTON: They would come to us.

9 COMMISSIONER EDLEY: We do work
10 cooperatively with the other law enforcement agencies;
11 in fact, we have just the past few weeks worked with
12 the Florida Department of Law Enforcement on a case in
13 Gadsden County where a local commissioner was found
14 guilty and received a criminal sentence. And as a
15 matter of fact, the day after the election, I was not
16 in the office all day because I was appearing in
17 Broward County where we had worked with the local
18 state attorney against a county commissioner who was
19 found guilty and sentenced, who also paid a fine to
20 the Elections Commission of \$78,000. So, you know, we
21 work cooperatively with these people.

22 COMMISSIONER EDLEY: Why do you think that
23 the statute was set up so that you would not be able
24 to do anything until a sworn complaint was filed? Why
25 weren't you given -- why, in your judgment, as a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 policy matter, were you not given investigatory
2 powers?

3 WITNESS HAMPTON: You really would have to
4 ask the Florida legislature that.

5 COMMISSIONER EDLEY: But you don't have an
6 opinion as to why it was designed this way?

7 WITNESS HAMPTON: Well, I think probably
8 because of limited resources. Again, if you acted on
9 every article that you saw in a newspaper, you
10 literally would need hundreds of employees to be able
11 to look into those. And as I said, we have a staff of
12 13.

13 COMMISSIONER EDLEY: But I think every law
14 enforcement agency sees a potentially infinite number
15 of subjects that they could investigate, but they
16 simply use judgment in picking out those that they
17 think are worth of their time, given limited
18 resources. Wouldn't your agency be able to also
19 exercise judgment in deciding what to pursue sui
20 sponte?

21 WITNESS HAMPTON: Again, I think you'd
22 have to ask someone in the Florida legislature why the
23 law was written this way.

24 COMMISSIONER EDLEY: Okay, last question.
25 Do you think that -- are you aware of any

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 investigations being conducted presently by criminal
2 enforcement agencies? If you're not doing anything on
3 the civil side, are you aware of any county attorneys,
4 any --

5 WITNESS HAMPTON: Regarding the past
6 election?

7 COMMISSIONER EDLEY: Regarding this past
8 election.

9 WITNESS HAMPTON: I am not aware of any.

10 COMMISSIONER EDLEY: Okay, let me ask,
11 please, Commissioner Crawford, your statement about
12 the responsibilities of the canvassing board, and
13 which you characterized as ministerial in nature, who
14 told you that they were ministerial in nature?

15 WITNESS CRAWFORD: My attorney, Bill
16 Bryant. And the statute tells you that, it's
17 generally thought to be, I think, ministerial.

18 COMMISSIONER EDLEY: Well, the statute
19 says that you're to certify the counts, right? And
20 certify the returns that have come up from the
21 counties.

22 WITNESS CRAWFORD: Right.

23 COMMISSIONER EDLEY: Now if I recall
24 correctly, there was actually quite a bit of buzz
25 about the question of whether the Secretary of State

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 had improperly set deadlines with respect to when the
2 counties had to turn in their counts. Was there any
3 discussion of the canvassing board as to whether the
4 Secretary of State had impermissibly omitted or
5 impermissibly included certain county results in what
6 was presented to you for certification?

7 WITNESS CRAWFORD: The only discussion I
8 had was with my legal counsel and my own reading of
9 the statute and we concluded that she had accurately
10 followed the statute by following the deadline. So
11 that was not an issue we had a concern with.

12 COMMISSIONER EDLEY: So you had, no
13 conversation -- I just want to make absolutely clear
14 here -- you had no conversation with other members of
15 the canvassing board, with the Secretary of State or
16 anybody from her office, with the Governor or anybody
17 from his office, no conversations with any
18 representatives of either political party concerning
19 the appropriate interpretation of your statutory
20 responsibilities.

21 WITNESS CRAWFORD: That's correct. One of
22 the reasons that I hired the attorney was because I
23 realized that if I was going to go down to the
24 elections office to confer with their experts or with
25 the Secretary of State, it was going to have to be a

1 public meeting with hundreds of cameras and so we had
2 to kind of just operate on our own. The public in
3 other states don't understand sometimes our sunshine
4 laws, they're very strict, I helped write them when I
5 was in the legislature and if you're going to have a
6 meeting, you have to have it properly noticed and you
7 have to have it public. We did have one meeting where
8 we did the final certification, which was public and
9 noticed and we had a press conference that was
10 noticed. But other than that, I was kind of -- I had
11 to operate on my own and we looked at the statute,
12 read it hundreds of times to make sure we thought it
13 was accurate, our interpretation. And so had I
14 disagreed with it, then I would have called for a
15 meeting to discuss that.

16 COMMISSIONER EDLEY: Thank you.

17 CHAIRPERSON BERRY: Any questions from any
18 other Commissioners before I ask any?

19 (No response.)

20 CHAIRPERSON BERRY: Then -- go ahead, Vice
21 Chair.

22 VICE CHAIRPERSON REYNOSO: I have a
23 question. The certification took place quite a bit
24 after the election itself, isn't that correct?

25 WITNESS CRAWFORD: It's one week, seven

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 days, after the election, is the first certification.

2 And then there's a period of time to take in the
3 overseas ballots and then at that point we're
4 operating under a Supreme Court order that gave us
5 another period of time.

6 VICE CHAIRPERSON REYNOSO: Right. And you
7 indicated, I thought, in your opening statement that
8 you had not heard of any charges of improprieties in
9 the election when you took that vote, other than the
10 butterfly ballot?

11 WITNESS CRAWFORD: I think they were in
12 the nature of discrimination or civil rights
13 violation, minorities --

14 VICE CHAIRPERSON REYNOSO: Right.

15 WITNESS CRAWFORD: I was aware of the
16 concern of the Highway Patrol but I did not know there
17 was any racial concerns about that. I just thought
18 people were going to vote and had to stop for a check
19 and they didn't like the fact that they were on their
20 way to vote and had to stop. I didn't realize that
21 anybody was alleging there was a racial issue there.

22 VICE CHAIRPERSON REYNOSO: My memory may
23 be wrong, but I thought there were tons of newspaper
24 accounts shortly after the election, like the next day
25 and continuing, pertaining to the sort of concerns

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 that we're hearing about under oath. They were just
2 reports in the newspaper, but that we're now hearing
3 under oath today. Is my recollection wrong on that?

4 WITNESS CRAWFORD: Well, they focused
5 mainly on the butterfly ballot in Palm Beach County
6 and the under-voting and over-voting, those issues
7 were out there, but not as it relates to any kind of
8 civil rights violations. I thought that was kind of
9 the nature of the question.

10 VICE CHAIRPERSON REYNOSO: Yes, and that
11 was my concern too. Perhaps my memory is wrong in
12 that regard.

13 COMMISSIONER EDLEY: Mr. Vice Chair, if I
14 could, just to refresh your recollection. There was,
15 on Saturday, November 11, a many hour long public
16 meeting/hearing that the NAACP and a variety of civil
17 rights groups had that was televised on CSPAN and
18 widely reported in the press. So that was just four
19 days after.

20 VICE CHAIRPERSON REYNOSO: That was my
21 recollection.

22 CHAIRPERSON BERRY: I did recognize you.

23 VICE CHAIRPERSON REYNOSO: With respect to
24 your determination that the setting of deadlines by
25 the Secretary, was that pursuant to her discretion

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 under the law or was that required under the law? On
2 what basis did you and your counsel reach the
3 conclusion that she in fact had proceeded properly in
4 that regard?

5 WITNESS CRAWFORD: The statute was very
6 clear to us that -- there was two provisions in the
7 statute. One was very clear and said shall certify
8 seven days after and shall reject any ballots -- any
9 county certification after that point. Then there was
10 another part of the statute that used the term "may"
11 which caused some of the legal questions, which --
12 what did that mean.

13 I happened to be present in the Senate
14 when that provision was passed. I don't specifically
15 remember us passing that, generally I remember, and
16 actually remember that it was based on a Supreme Court
17 case that said it shall be cut off. And there was a
18 question well what if you had a hurricane and there
19 was some --

20 VICE CHAIRPERSON REYNOSO: Exactly.

21 WITNESS CRAWFORD: And so that -- we
22 interpreted that as extraordinary circumstances that
23 were unavoidable, that the Secretary of State could
24 waive, under those circumstances, but couldn't waive
25 simply because the people wanted more time to count or

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 to count again and count again. So we felt like that
2 was the cutoff, was seven days after the election.

3 VICE CHAIRPERSON REYNOSO: Were you
4 concerned about the issues that concerned the Florida
5 Supreme Court later pertaining to the incongruity of
6 the right of folk to have the recount and yet the
7 limited time?

8 WITNESS CRAWFORD: Well, there was a -- I
9 think the legislature clearly said there needs to be a
10 cutoff, and there's good policy reasons to get an
11 election over with. The Supreme Court then ruled that
12 the right of the voters' votes to be counted is
13 paramount and they ruled that that limitation could be
14 expanded to the following Sunday. But then they also
15 put their own limitation and said that it has to be
16 over at that point. So even though the Supreme Court
17 was trying to solve the problem of making sure you got
18 all the votes counted, they also put a limit. They --
19 everybody recognized you had to have a limit. And
20 then so we complied with their ruling and went to 5:00
21 on that following Sunday.

22 VICE CHAIRPERSON REYNOSO: On the
23 following Sunday, there was a controversy even then --

24 WITNESS CRAWFORD: Right.

25 VICE CHAIRPERSON REYNOSO: -- about the

1 discretion that the Secretary had pertaining to
2 extending the time even for an hour or two, to finish
3 the count. What did you and your lawyer conclude as
4 to that?

5 WITNESS CRAWFORD: The Court was very
6 clear. They said the cutoff -- the new cutoff was
7 going to be Sunday at 5:00 or if the election office
8 was not open on a Sunday, that it could be -- the
9 cutoff would be I think 9:00 Monday morning. And we
10 were -- the election office was going to be open, it
11 was open, it was almost impossible to close it at that
12 point.

13 So under those circumstances, the Court
14 said if you are open, then that is the cutoff. And
15 Palm Beach was wanting a little bit of extra time and
16 I think everybody would have liked to say okay, let's
17 just kind of fuzz it up a little bit and wait for it,
18 but the Court was very clear it had to be 5:00 if you
19 were open and we were definitely open. And so -- I
20 should say they were definitely open, the Secretary of
21 State.

22 It's very much like my daughter, who is a
23 student at FSU, went to vote on that election day and
24 she got to the polling place about two minutes after
25 7:00 and they had closed and she was upset that she

1 didn't have a chance to vote. Well, 7:00 is 7:00 and
2 she missed it. And when the vote came out very close,
3 she was even more upset that she missed it, but you
4 have the cutoffs and you have to have definite periods
5 of time.

6 And so the only thing we could do, and I
7 felt very compelled, is to follow exactly the law, and
8 not try to prefer one candidate over the other
9 candidate and the Supreme Court of Florida has a
10 little more power to interpret the law than I have,
11 and they did that and that's why the time was changed.

12 VICE CHAIRPERSON REYNOSO: Thank you,
13 Madam Chair.

14 CHAIRPERSON BERRY: I have several
15 questions. I'll try to be brief.

16 First of all I wanted to ask Mr. Crawford
17 whether your counsel met and talked with the other
18 staff people or the other members of the canvassing
19 board, anyone. You said you did not, I wanted to know
20 whether your counsel either talked on the phone or e-
21 mail or had any discussions at all with any of the
22 other people?

23 WITNESS CRAWFORD: We understood that he
24 could not be my surrogate under the open meetings law
25 and that any discussion would have to be on procedural

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 issues, such as are we going to certify the vote today
2 and do I need to stay in the Capitol; you know, can I
3 go home; what time are we going to certify the vote.
4 It says immediately following these deadlines. So
5 there was only procedural issues that he contacted the
6 Secretary of State's office.

7 CHAIRPERSON BERRY: So he did have
8 conversations, even though you did not.

9 WITNESS CRAWFORD: That is correct. Not
10 with the Secretary of State, I think just with their
11 counsel.

12 CHAIRPERSON BERRY: Okay. Counsel has one
13 other question to ask and then --

14 MS. WIGGINS: Thank you, Madam Chair.

15 Colonel Hall, if you know, what is the
16 demographic makeup of the community surrounding the
17 checkpoint?

18 CHAIRPERSON BERRY: On Oak Ridge Road.

19 MS. WIGGINS: On Oak Ridge Road; thank
20 you, Madam Chair.

21 WITNESS HALL: Information I received from
22 the Leon County Supervisor of Elections indicates that
23 the three precincts that vote at that church in
24 Woodville are comprised as follows: 107, white, 1257
25 or 82 percent; black, 212, which is 13 percent. The

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 109th precinct, white 302, which was 37 percent; and
2 black, 464 which is 57 percent. And then 100,
3 precinct 110 is 690 white, 70 percent; and black 240,
4 24 percent.

5 If you look at that in total, I believe it
6 figures out to be 27 percent black and 83 percent or
7 73 percent rather, white. And that pretty much -- as
8 I said earlier Sergeant -- correction -- Captain
9 Speers, the district commander, did a post survey of
10 that area and out of the 100 cars that he checked
11 during that period of time, I believe it was 82
12 percent were white, 18 percent I believe it was were -
13 - 18 percent minority in that area.

14 Does that answer your question?

15 MS. WIGGINS: Yes, sir. I do have another
16 one.

17 WITNESS HALL: Okay.

18 MS. WIGGINS: Under the policy 17.07,
19 under provision 17.07.04(b), which addresses media
20 notification, the district or subdistrict commander
21 shall direct the public information officer to prepare
22 press releases for distribution to the local media
23 advising that the Florida Highway Patrol shall be
24 conducting the driver license and vehicle inspection
25 checkpoints.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 If the procedures were followed correctly,
2 do you believe that the NAACP, Disability Rights or
3 other civil rights organizations would have protested
4 that checkpoint?

5 WITNESS HALL: I don't think that that
6 would have had any effect on the outcome of where we
7 are today and the effect that we ended up doing an
8 investigation. No, I don't think so.

9 MS. WIGGINS: And do you have any
10 information to believe that the procedures were not
11 followed in order to prevent that type of protest?

12 WITNESS HALL: I'm sorry, would you repeat
13 that?

14 MS. WIGGINS: Certainly. Do you have any
15 information to believe that the media notification
16 procedures were not followed in an effort to prevent
17 that type of protest from a civil rights organization?

18 WITNESS HALL: Oh, not at all; no,,ma'am.

19 MS. WIGGINS: Thank you. That's all,
20 Madam Chair.

21 CHAIRPERSON BERRY: All right. The
22 testimony that we have heard in this panel and in the
23 one before, part of it at least, and other testimony -
24 - as the day goes on, of course, we'll be hearing more
25 -- leads me to believe that in part voting in Florida

1 is like, you know, there's some kind of a goody in a
 2 box and you want to get it but you've got to be
 3 persistent to get it, because if you're not
 4 persistent, you won't be able to vote when there's a
 5 problem, for some people at least. And then if you
 6 have a complaint, unless you can figure out who to
 7 complain to and get it there when you're supposed to
 8 and that in a sense it's sort of like the old story
 9 about the librarian who doesn't want anyone to check
 10 books out of the library.

11 So that voting, instead of being something
 12 that you go around encouraging people to do, trying to
 13 get every barrier out of the way, making sure that
 14 they've got a smooth way in to get there, by gosh,
 15 it's like if you don't do this right and go here and
 16 go there and go here and that a lot of public
 17 officials do not even think -- or at least some of
 18 them -- do not even think about how they could ease
 19 the way for the voter, as opposed to doing business as
 20 usual or not even thinking about how the voter might
 21 feel.

22 And what I mean by that is one thing we've
 23 learned in the history of the Civil Rights Commission
 24 is that if there are not complaints, if you receive no
 25 complaints, when there are widespread reports to the

1 media about some event, it means that either people
2 don't believe that you will investigate them and
3 therefore they don't bother. It's like the
4 Commissioners this morning who said that they didn't
5 ask the Secretary of State for any money because they
6 knew they wouldn't get it.

7 So that whenever an agency -- we have a
8 long history of doing these studies and when an agency
9 receives no complaints when there's a bunch of stuff
10 happening out there and it's all reported in the
11 media, that means the people who are complaining
12 either don't know you're somebody to complain to or
13 they don't believe you'll do anything about it. And
14 so from our standpoint, that's not a good thing,
15 that's a bad thing.

16 The other thing I've noticed is that I, at
17 least and some of us on the panel, read all the
18 stories about what was happening in Florida, or at
19 least what was alleged to be happening in Florida in
20 the media, in newspapers, it was on television, and as
21 Christopher Edley pointed out on November 11, there
22 was a big hearing or something in Miami that was front
23 page news, at least in my paper and I wasn't even in
24 Florida, and all over the country, about people
25 alleging this and alleging that and complaining about

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 this and complaining about that.

2 But when I listened to the panel, for
3 example Mr Crawford, if I understood your testimony
4 correctly, you said that at the time that you were
5 engaged in these matters with the canvassing board,
6 you weren't aware that there were all these people
7 complaining except about the butterfly ballot. You
8 didn't really know about anything else.

9 And as I understood your testimony -- and
10 maybe I misunderstood and please correct me if I'm
11 wrong -- Ms. Hampton, you were not really all that
12 familiar with anything that came -- that was in the
13 media that made you wonder why nobody was complaining
14 to your agency or did it have anything to do with us,
15 and that Colonel, after your long years of
16 distinguished service, that it didn't seem to the
17 state troopers that maybe not having checkpoints to
18 check lights and so on the road where people had to go
19 to the polls might be a good idea that day, just so if
20 anybody was a little worried, it would be okay and you
21 wouldn't even be stopping them because there's going
22 to be a big turnout, that was in the paper too, I
23 read it somewhere before the election -- lots of
24 people out there, that it might be a service to the
25 public to not stop them when they were on the way that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 day, unless you had a criminal investigation going on
2 or something where you really needed to do it.

3 So in a sense, those are questions. What
4 is your reaction -- I'll now ask each one of you -- to
5 my little speech I just made.

6 (Laughter.)

7 CHAIRPERSON BERRY: And then we can go on,
8 but I'll permit you to say anything you want to say,
9 if you wish to say anything.

10 WITNESS HAMPTON: Chairman Berry, I'd like
11 to respond to that please, as an agency with 13 people
12 who have statewide jurisdiction.

13 I think my sense of the public in Florida
14 was they wanted something done immediately. They
15 wanted something done before the vote was certified.
16 I don't think they wanted to wait six months or 12
17 months or 18 months, which is typically how long it
18 takes for the Florida Elections Commission to do an
19 investigation.

20 So, you know, I really didn't think about
21 the people and why they weren't complaining to us
22 because my reaction was I think they wanted somebody
23 to do something immediately and we had no jurisdiction
24 to do anything immediately.

25 CHAIRPERSON BERRY: Okay. If there are no

1 further comments, let me simply -- I have given you
2 the opportunity to comment --

3 WITNESS CRAWFORD: Let me comment. If
4 you're going to give it to me again, I'll take it.

5 (Laughter.)

6 WITNESS CRAWFORD: I do beg to differ with
7 your characterization of voting in Florida. I've been
8 on the ballot here many, many times; in fact, I think
9 probably more times than almost anybody in the state.

10 This is a state that's very progressive, we've got I
11 think a wonderful record of government here. And we
12 encourage everybody to vote. I happen to be a
13 Democrat and I usually benefit in some of these
14 precincts that you're talking about, and I think the
15 same thing in this last election, it's hard to get
16 people out to vote, that's the hardest thing. And I
17 think we differ from no other state in that regard.
18 And we want everybody to vote.

19 And I think this election put a microscope
20 on this state and I would say to any state under the
21 same microscope, you're going to have problems.

22 And some of the problems that may look --
23 when the question is asked did I know of any
24 allegations of discrimination or civil rights
25 violations, I knew people were concerned when they

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 went to the polls that there was some -- that their
2 name was taken off the list, but I don't jump to
3 conclusions that's a racial violation. That's a
4 violation of their right to vote and it happened to
5 all kinds of -- you're going to have clerical problems
6 when you've got millions of people voting all on the
7 same day throughout the nation, there's going to be
8 problems.

9 And I think we can improve upon a lot of
10 them, but I think this state's got a good record of
11 elections and I think that we don't make it hard to
12 vote, we try to make it easy to vote. We passed the
13 motor voter registration here in the state so people
14 could register to vote when they get their driver's
15 license and that's dramatically increased registration
16 in the state and it helped -- so I think we've got a
17 good record here and I hope as you continue with your
18 hearings that it might get more information to change
19 your opinion a little bit about Florida.

20 CHAIRPERSON BERRY: Well, I haven't
21 reached any conclusion yet, I was just saying that
22 that was my -- I was a little worried about the goody
23 in the box and how would you get it out if you didn't
24 work real hard.

25 COMMISSIONER EDLEY: Madam Chair.

1 CHAIRPERSON BERRY: Yes, Commissioner
2 Edley.

3 COMMISSIONER EDLEY: Look, since we got
4 into this, I'd like in particular, Commissioner, to
5 get your reaction to these rates of blank or spoiled
6 ballots.

7 CHAIRPERSON BERRY: Who are you asking?

8 COMMISSIONER EDLEY: I mean -- I'm asking
9 Mr. Crawford. I mean, you -- something about a cookie
10 box, the candy box you can't quite get into doesn't
11 strike me as wholly inapposite when you have counties
12 in which five, seven, eight, twelve percent of votes
13 effectively go up in smoke. That's a pretty big
14 discount on the value of democracy.

15 WITNESS CRAWFORD: Well, as a person who,
16 as I said, has been on the ballot a number of times
17 and I usually carry Palm Beach County very strongly, I
18 had no idea that there were that many discount --
19 votes that didn't count in previous elections when
20 I've been on the ballot. Fortunately I didn't have
21 that close of a race, but I've had some pretty close
22 ones -- too close for me. But not only in Palm Beach
23 County and other counties around the state and then
24 I'm hearing Cook County in Illinois, that they had a
25 huge amount of votes that didn't get counted, like

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 65,000 didn't get counted there, and across the
2 nation.

3 COMMISSIONER EDLEY: I think we can
4 stipulate that Cook County shouldn't be the standard.

5 (Laughter.)

6 WITNESS CRAWFORD: Mr. Daley thought --

7 But yeah, across the nation that's
8 occurring, it's not unique to Palm Beach, not unique
9 to Florida, and it is so hard to get people to vote.
10 The idea that they actually take the time to go to the
11 ballot box, to the precinct and cast a vote and then
12 it doesn't get counted, to me is important and that
13 needs to be changed. Because there's no
14 predictability about whose vote is not going to count
15 and whose vote is going to count.

16 So I don't think it's a party issue or a
17 racial issue, I think it's a breakdown in the system.

18 And we need to have systems that don't have those
19 frailties. And I think we can get there and I hope a
20 part of what this Commission can do is help us get
21 there. And that will help everybody on all sides of
22 the political spectrum, all minority groups and
23 otherwise will benefit from a better system.

24 So I think that's the good thing that's
25 come from this election, it put a microscope on us for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the first time like it's never been done before
2 anywhere I guess probably in the world. And that
3 microscope is going to show that we need to make some
4 positive changes. And you've got a government here in
5 Florida that is committed to make those changes. The
6 Governor appointed that task force, he's not running
7 away from it and saying oh, no, everything's fine
8 here. He's saying we're going to find out how to
9 solve these problems. But the whole country needs to
10 solve these problems.

11 I remember watching election night in New
12 Mexico, you know, Bush was up one count and Gore was
13 down and then, you know, 12 hours later, Gore was down
14 -- I mean it kept going back and forth. And in Iowa
15 we kind of had some of the same problems and there
16 were other -- I guess Oregon had, you know, they were
17 flip-flopping back and forth. And so there's no
18 reason why you should have to wait three weeks to find
19 out who won an election and we've got the technology
20 to know immediately who won the election and every
21 vote gets counted.

22 . . . And I don't care if, you know, your level
23 of education, if you're seeing impaired, everybody has
24 a right to vote and we need systems that deliver
25 accurate votes for everybody. And I think that's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 where we're heading and I'm real excited about that.

2 CHAIRPERSON BERRY: I want to thank the
3 panel. Did you want to say anything, Colonel?

4 WITNESS HALL: (Shakes head.)

5 CHAIRPERSON BERRY: Okay, I want to thank
6 the panel very much for being with us today. You are
7 dismissed, someone from our staff will escort you
8 through the sign-out procedures.

9 (Witnesses excused.)

10 CHAIRPERSON BERRY: We are in recess until
11 the next panel, which is at 2:00.

12 (Whereupon, a luncheon recess was taken at
13 12:55 p.m., the hearing to resume at 2:00 p.m., the
14 same day.)

15

16

17

18

19

20

21

22

23

24

25

A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

CHAIRPERSON BERRY: This is the afternoon session Florida Voting Practices and Procedures: Requirements and Responsibilities.

**Florida Voting Practices and Procedures:
Requirements and Responsibilities**

CHAIRPERSON BERRY: The first panel is a panel of one, consisting of the Honorable Robert A. Butterworth, Attorney General of the State of Florida, who is accompanied, I see. Could you please identify the person who is accompanying you?

ATTORNEY GENERAL BUTTERWORTH: Yes, Allison Bethel, who is a Senior Assistant Attorney General and head of the Civil Rights Section of the Florida Attorney General's Office.

CHAIRPERSON BERRY: All right. Could the two of you please stand and raise your right hand so that you can take the oath.
Whereupon,

ROBERT BUTTERWORTH

ALLISON BETHEL

appeared as witnesses herein, and having been first duly sworn, were examined and testified as follows:

CHAIRPERSON BERRY: Thank you very much.
Please be seated.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Counsel Michael Foreman will be asking the
2 questions. Counsel, you may begin to proceed in
3 whatever way you wish with the witnesses.

4 EXAMINATION

5 BY MR. FOREMAN:

6 Q Attorney General Butterworth, I see from
7 the stack of paper in front of you, you brought
8 documents with you. Are they pursuant to the subpoena
9 that was issued to your office?

10 A (Witness Butterworth) Yes, Mr. Foreman,
11 they are.

12 Q And just so the record is clear, your
13 office was kind enough to deliver late last night the
14 documents to our office. So I had a chance to look at
15 a few of them.

16 I just want to go down the list so that we
17 get an understanding of what you're producing here: I
18 am looking first at a document entitled "Demographics
19 of Florida Counties by Total Population." Could you
20 just please describe very briefly what that is?

21 A (Witness Butterworth) Yes, sir. It
22 presents county-by-county in alphabetical order, the
23 type of voting equipment that they use, the percentage
24 of white voter, the percentage of black voter, the
25 percentage of Hispanic voter with numbers and numbers

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 and it gives the total. And that is for each and
2 every one of the counties in the state and says that
3 it's the 1996 census.

4 MR. FOREMAN: And the records clerk, could
5 we number these sequentially as they come in?

6 BY MR. FOREMAN:

7 Q The second document I am looking at is
8 what appears to me to be a summary of complaints.
9 It's about a 49 page document, it appears to be a
10 summary of complaints. Could you just again describe
11 what this is for the record?

12 A (Witness Butterworth) Yes, sir, we
13 started receiving complaints from this election during
14 the -- shortly after the election started and we
15 started keeping tabs of them, and this is just a
16 summary of the 3600 -- 2600 complaints and the 1000
17 letters that we have received to date.

18 Q How many was it exactly?

19 A (Witness Butterworth) 2600 actual
20 complaints and 1000 letters that were sent to us
21 giving us ideas of how elections can be done better in
22 the future.

23 Q Okay. And now there is a stack to your
24 immediate right; again, would you just describe what
25 that large stack of documents is?

1 A (Witness Butterworth) Yes, this stack of
2 approximately -- I don't know how many pages it is,
3 but these are the actual complaints that were taken by
4 the office, most of them by phone, and there'll be
5 three to a page, it'll give the date, the time, the
6 name of the person, their phone number, a contact
7 number, the precinct or basically location of the
8 polling place and what the nature of that complaint
9 would be.

10 Q So they're actual complaints from
11 individuals claiming any of a variety of voting
12 irregularities in the state of Florida.

13 A (Witness Butterworth) Yes, sir, any
14 problem they had with the year 2000 election, these
15 people chose to call us and contact us, so we took
16 down the information.

17 Q Okay. And I notice clear out to the -- I
18 guess to your right, there is a large box filled with
19 documents. Could you again just generally describe
20 what is being produced there?

21 A (Witness Butterworth) Pursuant to
22 subpoena, what you will have here will be copies of
23 all various legal briefs that were filed by my office
24 with the Florida Supreme Court, the 11th Circuit Court
25 of Appeals, the United States Supreme Court pertaining

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 to the last election. It will also involve all of the
2 Attorney General's Opinions that have been issued
3 since the year 1974, including those that were issued
4 this year involving this election. It also will have
5 in it the November 20th notice to all supervisors and
6 the November 21 fact sheet regarding counting overseas
7 ballots of the United States military personnel.

8 Q Are these true and correct copies and
9 authenticate documents as maintained by your office?

10 A (Witness Butterworth) Yes, they are and
11 also, we have not yet made a complete copy of the
12 Section 5 preclearance communications, but we do have
13 available for you the -- an index and we'd be glad to
14 give to you anything you want, but this is very
15 voluminous and probably would take up many, many boxes
16 that would probably be not material to --

17 Q We have in fact been working out
18 arrangements with your office to come to your office
19 and review the documents and then determine what we
20 believe is relevant to our investigation.

21 If you came with a prepared --

22 CHAIRPERSON BERRY: First you have to ask
23 me to move that --

24 MR. FOREMAN: I would like to ask you to
25 move the documents into the record.

1 CHAIRPERSON BERRY: Yes, the acceptance
2 and the serialization in terms of members of the
3 documents, without objection, so ordered.

4 MR. FOREMAN: I'm not used to sitting next
5 to the Judge, so --

6 (Laughter.)

7 BY MR. FOREMAN:

8 Q If you have a prepared statement that you
9 came, a brief statement --

10 A (Witness Butterworth) Yes, I have a
11 statement that is prepared that I'd like to have
12 submitted, but I also have a very brief comment that
13 will take about three and a half minutes. I'd like to
14 start off with those.

15 CHAIRPERSON BERRY: The statement will be
16 included in the record.

17 WITNESS BUTTERWORTH: Thank you very much.

18 Madam Chair, members of the Commission, it
19 really is a great honor to appear before you. I know
20 everybody has said that, they really have.

21 CHAIRPERSON BERRY: Even if they don't
22 mean it.

23 (Laughter.)

24 WITNESS BUTTERWORTH: Well, I'm sure we
25 all mean it, but I would also like to say I know

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 there's a lot of other people who are not coming here
2 today that really appreciate it also. Those are the
3 49 other governors, the 49 other attorneys general,
4 the other secretaries of state and thousands of
5 supervisors of elections, because they're pleased
6 you're here and you're not in one of their states.

7 (Laughter.)

8 WITNESS BUTTERWORTH: I happened to host
9 in late November the National Attorney General
10 Association in Fort Lauderdale and so many of them --
11 and virtually 40 or 50 showed up for about a four-day
12 conference and they were all so delighted and there
13 were still about five states where this could have
14 happened in any one of those states, so they were so
15 delighted that everything happened that's happening
16 here. But I really do thank you for being here.
17 Thank you for accepting my written testimony.

18 As Florida's chief legal officer, I have
19 statutory and common law authority to challenge action
20 which I believe is contrary to the law. In regard to
21 the recent election, those responsibilities first came
22 into play at approximately 12:30 p.m. on November 7.
23 It was then that my staff and I learned -- in fact,
24 Allison Bethel was notified at that time -- learned
25 that law enforcement officials were stopping cars in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 the vicinity of a heavily black polling place south of
2 Tallahassee. I'm sure you heard about this and
3 discussed this in the last few days.

4 I immediately made contact with the
5 Department of Highway Safety, which came back very
6 quickly and confirmed that a safety checkpoint had
7 been set up about two miles from a polling place on
8 the only road where 900 African-Americans were
9 assigned to vote. We were advised the checkpoint was
10 not longer in operation by afternoon and I was assured
11 that it would not be re-established.

12 Our Civil Rights Unit has since
13 investigated the incident and determined whether it
14 was done with the purpose or effect of intimidating
15 minority voters. We concluded that the safety
16 checkpoint was established without sufficient regard
17 for established procedures such as obtaining authority
18 through a chain of command. However, as of now, we
19 have not concluded one way or the other that the
20 checkpoint was established for the purpose of
21 intimidating minority voters, or for that matter, any
22 voters. Although we certainly will review any new
23 evidence that might be forthcoming. And we had last
24 week the opportunity to interview the witness that you
25 had here yesterday. And I hope because of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 emphasis this is getting on the media and such that if
2 anyone out there has any information, to please
3 contact either your offices or my office so we can
4 actually resolve this issue. I think it has to be
5 resolved.

6 What we do know is that a checkpoint on
7 that date, election day, was absolutely not necessary
8 for law enforcement purposes and similar checkpoints
9 should never again be implemented on election day.
10 Therefore, I have prepared the legislation that I am
11 forwarding to the Florida legislature that would
12 prevent routine safety traffic checkpoints on election
13 days anywhere within the state of Florida. There
14 would be exceptions for roadblocks dictated by fleeing
15 felons or other extreme circumstances. No law
16 enforcement barriers should be placed on Florida's
17 roadways when people are going to and from voting.

18 The highway checkpoint issue was just the
19 first of numerous complaint of election irregularities
20 to arise. Of course, we had a lot of phone calls on
21 the butterfly ballot, which I'm sure we'll be
22 discussing. These also include such issues as
23 improper purging of voter rolls, malfunctioning
24 machines, misinformation from poll workers, student
25 voter registration problems, poll access problems for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 disabled, inadequate language assistance and the use
2 of less reliable voting technology in minority
3 precincts.

4 Over the past weeks, my Civil Rights Unit
5 and others in my office have looked into each of these
6 matters as they have arisen. We continue to work with
7 the NAACP, the U.S. Justice Department and others to
8 determine whether these allegations are founded in
9 truth.

10 As I've introduced Allison Bethel as the
11 head of the Civil Rights Unit, the person she directly
12 reports to is my chief deputy for the -- Deputy
13 Attorney General for the Southern Region of Florida,
14 Paul Hancock, who was with y'all for three years. He
15 has spent 27 years with the U.S. Justice and left
16 there as the head of the Civil Rights Section, the
17 highest ranking career attorney with the Civil Rights
18 Section, and has spent 10 years in charge of the
19 Voting Rights Section, so we have an excellent working
20 relationship with U.S. Justice and we certainly hope
21 with the new Attorney General we will have the same
22 working relationship and that the officers or that the
23 attorneys who are in the field now will stay there.

24 If in fact the State of Florida passes
25 just one bill beyond the mandatory appropriations, I

1 hope it will be a Florida voter's bill of rights.
2 You've heard something about that from other
3 witnesses. And I also hope that it will bear the name
4 of Harry T. Moore, who was one of Florida's NAACP
5 founding fathers and a pioneer in the area of voting
6 rights and education. If he could educate voters in
7 1930, there's no reason why we cannot educate voters
8 in the year 2000.

9 Such a declaration should place a burden
10 on both state and local officials to explain carefully
11 the election process to voters. It should also ensure
12 that ballots are not confusing in any way. Voters
13 have a right to fair and accurate information and
14 assistance that they need.

15 State and county officials must devise
16 methods for training temporary workers so that their
17 jobs can be done properly and we should outreach for
18 volunteers such as members of the Florida Bar and
19 other professions that have to give pro bono hours to
20 be able to assist during those election days.

21 We should also target those communities
22 with the most urgent needs and Florida has communities
23 with many urgent needs, especially language needs,
24 people who are elderly and minority communities who
25 are voting sometimes for the first time.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 We must be using modern voting methods and
2 not methods that have been shown to the whole world --
3 not only by Florida but other states -- that have a
4 very high over-vote and under-vote that many people
5 maybe never knew what an over-vote or under-vote or a
6 chad was up until just a few short weeks ago.

7 Voting is not a favor extended to the
8 people of the public of the states by public
9 officials. Rather, it is the basic right from which
10 all other rights flow. Election reform should not be
11 designed to make the work of public officials easier,
12 it should be designed to advance the rights of the
13 people to direct their government.

14 I see my light is about ready to come on.

15 I thank you for that opportunity and I'd be now
16 willing to answer any and all questions and if I
17 cannot, I'll be glad to turn them over to Allison
18 Bethel, or if you wish to ask her for an answer,
19 please feel free to do so.

20 CHAIRPERSON BERRY: Thank you. Proceed,
21 counsel, if you have any questions.

22 BY MR. FOREMAN:

23 Q I just want to get a handle on the type of
24 investigation and again, you've received in excess of
25 2500 allegations of voting irregularities in the State

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 of Florida, is that correct?

2 A (Witness Butterworth) Yes, sir, it is.

3 Q And it's fair to assume that to this day,
4 you're continuing to receive additional allegations of
5 voting irregularities.

6 A (Witness Butterworth) Yes and especially
7 when the public I think realizes that something will
8 be done. I think originally many people were
9 concerned if I -- where do I go to approach us, what
10 do I do. But now as time is going on, people are
11 calling up the news media, they're calling up my
12 office, they're calling up the Secretary of State's
13 office, the Governor's office and other offices. So I
14 think what's happening now is I believe the people of
15 Florida have confidence that if they file a complaint,
16 somebody is going to look at it.

17 Q And do I hear you right that this 2500
18 allegations may be just the tip of the iceberg?

19 A (Witness Butterworth) I have no idea how
20 many are out there. I understand that the Secretary
21 of State's office, from what I understand, received
22 about 100,000 in various forms, but I don't know
23 whether they're suggestions or whether they're actual
24 complaints. Complaints obviously will -- individual
25 complaints are such, but what you will find out

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 obviously is there's always a pattern of complaints
2 and depending upon where they come from in the state
3 will determine what that particular pattern will be.

4 Q And so I'm clear, your office is just one
5 of the state entities that may receive complaints, is
6 that correct?

7 A (Witness Butterworth) That is correct.

8 Q And other offices may include the state or
9 the county attorney, I don't know what you call it
10 here, but would they receive complaints also?

11 A (Witness Butterworth) I believe a lot of
12 people in government would be receiving complaints.
13 Now whether or not they actually document them like we
14 do, whether they say well -- even a lot of these, we
15 take the complaint and then say we'll forward it to
16 the Secretary of State or if you wish, you may also
17 call the Secretary of State's office or we'll transfer
18 the call to you.

19 What we may not have in place right now
20 yet, because everything has happened so quickly
21 throughout this whole procedure for a number of weeks,
22 is that we have been speaking to a number of
23 supervisors of election and others throughout the
24 State of Florida. We've worked very close with the
25 NAACP, with the Haitian community and other interest

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 groups to determine whether or not there are any
2 complaints that they have that we do not have, that
3 we'd be glad to have so we can look at.

4 I think what you will find, and I think
5 that this Commission is going to help us to facilitate
6 it, is that we're all going to be literally working
7 together on handling various parts of these
8 complaints. It may very well come down that when it
9 comes to issues dealing with individual rights, that
10 may end up going to the office of the Attorney
11 General. If it comes down to procedures during
12 elections and such like that, it may very well be with
13 the Secretary of State and a group of the actual
14 county supervisors of elections.

15 So I think as time goes on, we're going to
16 be seeing this becoming more and more organized, which
17 I think will help, from the standpoint of having
18 people come forward.

19 Q And I take it from what you've said there,
20 one of the things that you are not capturing but hope
21 to capture is that whole group of people out there
22 that may not have filed with a state agency formally
23 for one reason or another. That there are another
24 whole group of allegations that you have not heard and
25 other state agencies have not heard, is that correct?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 A (Witness Butterworth) That's correct and
2 there may not be anything different that we haven't
3 already had maybe one complaint on, but it helps if we
4 have more complaints.

5 Some people may have a complaint
6 themselves but they may not want to say that they were
7 intimidated or they felt intimidated or they felt like
8 well, gee, I was stupid or something like that -- or
9 be perceived to be stupid -- so they might want to say
10 something to the effect that well, I had heard that
11 something had occurred, didn't happen to me, but I
12 heard that it occurred. I'm interested in hearing
13 about that also.

14 Q Okay. You were well aware of the
15 anticipated turnout in the November election, were you
16 not?

17 A (Witness Butterworth) I'm not sure. I
18 really -- we have had -- I've been involved now in
19 Florida for 50 years, in government for about 25 in
20 various capacities -- sometimes you have a very high
21 voter turnout and sometimes you have unfortunately a
22 very low voter turnout. Some precincts high, some
23 precincts low. The local supervisors have a pretty
24 good feel on what they believed the turnout would be.

25 I thought it was going to be -- at first, when the

1 election first got started, maybe eight months, six
2 months out, I thought this was going to be perhaps the
3 lowest voting turnout in the history of this state or
4 the country. It seemed that neither one of the
5 candidates were able to -- major candidates -- were
6 able to really get momentum going.

7 And then all of a sudden that momentum
8 came real quickly as it came closer and closer to the
9 election. And I think what happened is that I think
10 the actual turnout surprised many, many people.

11 Q Did the Governor's office sort of pursuant
12 to his constitutional mandate to see that the laws are
13 fairly enforced and his executive power, contact your
14 office in anticipation of the turnout?

15 A (Witness Butterworth) We never did
16 anything formally. I know we sit next to each other
17 on the cabinet which meets -- the Florida cabinet
18 meets every couple of weeks, and we would discuss the
19 upcoming election. I don't think either one of us was
20 really sure fairly far out as to what the actual
21 turnout would be.

22 Q Was Secretary Harris at these cabinet
23 meetings also?

24 A (Witness Butterworth) Yes, Secretary
25 Harris, there are seven of us that sit up there, just

1 like --

2 Q Do you recall any discussion of election
3 matters with Secretary Harris?

4 A (Witness Butterworth) No.

5 Q Did Secretary Harris' office have any
6 contact with your office because, if I understand your
7 law, she is the chief election officer, to prepare for
8 the election year in terms of handling complaints or
9 to assure that it ran smoothly? Have any contact with
10 your office?

11 A (Witness Butterworth) Not with me, but I
12 have no idea whether or not any of her assistants
13 contacted any of mine, but I will check. I do not
14 think that there was any contact. We do have -- we do
15 meet in various capacities as the Governor I'm sure
16 stated yesterday, as the Governor and cabinet, we're
17 in charge of a number of agencies, but that -- when it
18 comes to those agencies, usually our staff members
19 will be talking to each other with reference to the
20 type of issues that will be coming up to us pertaining
21 to the agencies that report to the Governor and to the
22 cabinet.

23 Q Did -- well, let me go back to the
24 complaints for a second. Given the volume of
25 complaints you have before you and what you believe to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 be also out there that you haven't captured, would you
2 agree at least to the allegations that this represents
3 more than just incidental or sporadic allegations of
4 voter irregularity?

5 A (Witness Butterworth) Well, this number is
6 a little bit skewed because of the butterfly ballot.
7 And I think about 2300-plus of these complaints would
8 have come just from the butterfly ballot in Palm Beach
9 County, so now we're talking about maybe 300
10 complaints that are different than the butterfly
11 ballot.

12 I was trying to find my sheet here which
13 broke it out as to which were what. The sheet
14 actually breaks it down by county and you will see
15 that about 2400 of these do come from Palm Beach
16 County, which is butterfly ballot. But even though
17 the other numbers we have, I consider it to be very,
18 very serious because when someone will actually pick
19 up a phone and say who do I call and call up the
20 office of the Attorney General or someone else, I
21 think that person owes for someone to take the
22 information, someone to look at it and check it out if
23 necessary.

24 And when someone says that I'm a first
25 time voter and I got to the polling place and I really

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 did not know what to do and there was no one there who
2 was able to explain to me what to do; I'm concerned
3 about that particular type of thing. Or someone says
4 I hit a certain number or knocked out a -- no one
5 called them chads -- but I knocked out that little
6 block and I found out later it was the wrong number,
7 so I went to get another card and the person did not -
8 - the poll worker said I'm sorry, you cannot get
9 another card where Florida law says you're allowed to
10 have three cards. That concerns me. It concerns me
11 enough from the standpoint that we had a problem, we
12 must stop this from being a problem going forward. So,
13 a lot of things that we're dealing with are issues
14 such as the checkpoint issue, I mean, for what it
15 symbolizes, it gives the State of Florida such a bad
16 name.

17 Q And what does it symbolize?

18 A (Witness Butterworth) It symbolizes to
19 many people many things. To the minority community in
20 certain parts of this country, certain parts of
21 Florida, it would symbolize what might have occurred
22 50 years ago. It might have symbolized something that
23 maybe their grandparents had to go through or that Mr.
24 Harry T. Moore had to go through. This was written by
25 a professor here at Florida State University. And

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 what so many people fought for.

2 So even if it comes out to be that the
3 troopers had a roadblock for so many days chose the
4 wrong road at the wrong time, as far as I'm concerned,
5 it is inexcusable -- it's inexcusable.

6 But also, for the non-minority, for the
7 person who wants to go and vote and says gee, you
8 know, did I pay that last parking ticket; is my tag up
9 to date -- well, I'm just not going to vote at all.
10 So from the standpoint, it could be for a number of
11 people, it could be intimidating. We have not had
12 anybody come forward saying that it is or isn't that
13 much, but I believe that it's just a wrong symbolism.

14 It's a flat out wrong symbolism.

15 Q And when -- and I don't know if you heard
16 that testimony, but the testimony yesterday from an
17 African-American gentleman who said he felt he was
18 slingshotted back into slavery, you would understand
19 that type of reaction to a checkpoint, from what
20 you've told me; is that correct?

21 A (Witness Butterworth) I would understand
22 that and I think that anybody who is familiar with
23 history would understand that. Because if you look
24 back -- well, a lot of our grandmothers didn't have
25 the opportunity to vote. Some of our mothers did not

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 have the opportunity to vote until later on in their
2 life. African-Americans did not have really the right
3 to vote until really very recently, which is wrong.
4 And fortunately our society, which is evolving,
5 because of what this Commission has been doing, is now
6 we're finding that it is changing. I'm surprised to
7 hear from many, many people, because I believe what
8 the law is in Florida and anywhere else in this
9 country is that someone has a right to vote. Fine,
10 but they also have the right to have that vote
11 counted. So therefore, the law is you must determine
12 the intent of the voter.

13 Many people say well, gee, if the person
14 couldn't read the instructions and he didn't knock the
15 chad out completely, they shouldn't have a right to
16 have their vote counted, or if they put an X as
17 opposed to coloring in the bubble, their vote
18 shouldn't count. I think that's wrong and I don't
19 think it's the law of the state. So mistakes do not
20 throw out -- voter mistakes do not throw out a ballot.

21 The intent of the voter should be read by a
22 supervisor or the canvassing board.

23 And when you basically start saying --
24 when you start putting up roadblocks or procedural
25 roadblocks, I just think it brings back things that

1 should not be brought back, and it gives an
2 opportunity for the media to maybe put Florida in a
3 light that Florida obviously does not want to be put
4 in.

5 Q I want to ask you about at least one media
6 account and I will just read the headline, it says
7 "Voting Probe of Florida on Florida Blacks Finds no
8 Evidence."

9 From what I understand, your investigation
10 is still continuing, so that would be incorrect, would
11 it not?

12 A (Witness Butterworth) It is very rare for
13 the media to have an inaccurate statement from anyone,
14 but I would say yes.

15 (Laughter.)

16 Q But in that report, there is a quote
17 attributed to, and I think it's Ms. Bethel, where she
18 -- and I don't know if this is accurate either, but
19 you're there and you can react to it -- "What we have
20 found at this point is a need to educate the voter and
21 reform the system although we can conclude that the
22 problems had a disproportionate impact on the black
23 community."

24 Do you believe, based upon your
25 investigation so far, that that is a correct

1 statement?

2 A (Witness Bethel) To some extent yes,
3 although I think that statement is a little bit
4 limited. I think it had a disproportionate impact on
5 a variety of minority communities in Florida -- the
6 black community, the Hispanic community, we've had
7 concerns about members of the disabled community,
8 we've had concerns about -- complaints about the
9 elderly community and all of the minority communities
10 really that our Civil Rights Unit and that the state
11 is involved in protecting.

12 So to that extent the statement is more
13 limited than what I believe our investigation has
14 revealed.

15 MR. FOREMAN: Madam Chair, that's all I
16 have.

17 CHAIRPERSON BERRY: Thank you very much.

18 Any Commissioners have questions for this
19 panel? Commissioner Edley.

20 COMMISSIONER EDLEY: Mr. Butterworth,
21 what's your sense -- what's going on with the DOJ
22 investigation so far as you know?

23 WITNESS BUTTERWORTH: We don't know at
24 this point in time. We work with the DOJ --

25 COMMISSIONER EDLEY: That makes it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 unanimous.

2 WITNESS BUTTERWORTH: Okay. From the
3 standpoint of on election day, we were working closely
4 with them on this one issue that they wanted to advise
5 us with right away, because of Allison's work and
6 because of Paul Hancock and myself working closely
7 with DOJ for so many years, we have a very good
8 working relationship with them. Like I said before, I
9 certainly hope it continues beyond next Saturday.

10 While we were going through the contest
11 and protest periods, DOJ did not want to be looking
12 like they were on one side of the issue or the other.

13 The Attorney General's office, we were involved on
14 doing all we could do to make sure that every voter
15 who voted a legal vote, that that vote would be
16 counted. So DOJ at that time, until the election was
17 over, we had to keep our distance, but since the
18 election is over, we are working again with their
19 lawyers.

20 COMMISSIONER EDLEY: But they have
21 lawyers, they have investigators on the ground here in
22 Florida?

23 WITNESS BUTTERWORTH: I believe my staff
24 spoke with a couple of their lawyers just I think as
25 recently as about two days ago.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 COMMISSIONER EDLEY: If there are suits
2 filed, either by private parties or by the U.S.
3 Justice Department against state and local officials
4 here in Florida, will it fall to your office to defend
5 those officials?

6 WITNESS BUTTERWORTH: It may not. The
7 State of Florida works a little bit differently than a
8 lot of other states. With the Constitutional officers
9 and other officers, they have a right to have their
10 own lawyers. In most cases, the agencies will ask for
11 the State of Florida to -- the Attorney General's
12 office -- to defend that particular action of any
13 officer, and we do.

14 If in fact we are sued from the standpoint
15 where we may not agree with the lawsuit or our
16 investigation is different, we may not obviously
17 defend, but I think a lot of these lawsuits that are
18 being filed right now, I hope that -- I'm not saying
19 they shouldn't be filed, they should be filed and it
20 does direct more attention to the issue and I do
21 believe more people come forward. But from the
22 standpoint of the State of Florida, not only in my
23 office but I think you'll find in other offices, may
24 be going in the exact same direction that the lawsuits
25 are at now. So whether it comes to the lawsuit that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Mr. Minnick was talking about yesterday with actually
2 having persons with disabilities being able to
3 register to vote -- well, I'm not against that. And I
4 think we should reach out in order to make sure,
5 through every aspect possible, being able to make sure
6 that everyone over the age of 18, and most of here I'm
7 sure were not able to vote when we were 18, we had to
8 wait until we were 21. We could fight, we could be
9 drafted, but we couldn't vote. So we think that's
10 great that they changed it for the 18 year old.

11 But from here, from the standpoint -- yes,
12 persons with disabilities, of course they should be
13 able to vote, but the registration obviously should be
14 done in a different way, if need be. And I think the
15 State of Florida, it's incumbent upon us as a
16 government and we're the one who works for the people,
17 that we should make sure that our bosses are able to
18 be able to get out there to register to vote and then
19 be able to vote.

20 COMMISSIONER EDLEY: What is your sense --
21 and I hesitate to ask you questions that are going to
22 require too much speculation on your part, but what's
23 your understanding of the applicable federal and state
24 law with respect to these two issues in particular,
25 the access for the disabled and the problem of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 translators being available to help non-English
2 speakers or limited English speakers? There have been
3 so many allegations reported and that we have heard
4 about those two particular problems.

5 WITNESS BUTTERWORTH: We're very concerned
6 about both of those problems and let me take the
7 second one first because as you know, a number of our
8 preclearance counties, we must do ballots in Spanish
9 as well as English.

10 COMMISSIONER EDLEY: Right.

11 WITNESS BUTTERWORTH: And that's only in a
12 few counties, I think it's maybe 11 counties in
13 Florida that are doing that, or less. Dade County,
14 because of the strong Haitian community, has a ballot
15 in Creole. They did that by county ordinance. I
16 commend them for that and in 60 of their precincts,
17 they had ballots in both English and Creole. Now
18 there might not have been enough handouts in Creole or
19 enough interpreters there to assist, but I think at
20 least the counties went in the right direction, and
21 with the strong enrollment, this time the Haitian-
22 American community had a tremendous enrollment, a
23 tremendous turnout and it appears that there may not
24 have been enough materials there for this election.
25 But I think the county was going in the right

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 direction. So we're working very closely with the
2 Haitian community now in order to resolve these
3 issues.

4 But of course we get a complaint that we
5 can't verify yet and that is that well, there were so
6 many people that went to the polls that there were not
7 enough parking places and so we parked on the side of
8 the street and when we got back to our car, we had a
9 parking ticket. Well, we've not been able to resolve
10 that yet, but if that happens, I want to find it out
11 and I want to go and talk personally to that police
12 officer that did that, if in fact it happened.

13 I believe Broward County should enact an
14 ordinance reference Creole being required in certain
15 precincts up to the -- and also other languages. We
16 have so many languages that are being spoken
17 throughout Florida, especially in the Dade County
18 area, that we have to make accommodations.

19 COMMISSIONER EDLEY: Well, let me try to
20 pin this down a little bit. I mean I guess what I'm
21 trying to figure out is if in a situation in
22 particular precincts...when there was a quite
23 foreseeable need for translation services of one sort
24 of another and they were not provided, does that, in
25 your mind, amount to the kind of neglect of official

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 responsibility, official duty that might -- that's at
2 least a colorable claim under either federal or state
3 statute?

4 WITNESS BUTTERWORTH: It could be a claim,
5 but the thing is --

6 COMMISSIONER EDLEY: A complaint.

7 WITNESS BUTTERWORTH: -- should it be a
8 complaint or should it be a lawsuit? When you see a
9 community like Miami-Dade attempting to reach out and
10 do what they believe is appropriate and they miss the
11 estimates -- well, gee, all the news media missed the
12 estimate twice when it came to Florida. But they tried
13 to, as they predict what the election is going to be,
14 how many machines they'll need in each precinct, they
15 have to go by their own experience and the people in
16 the community. I think what we do need probably is
17 more community leaders working more closely with our
18 supervisors of elections. And I do believe that our
19 supervisors -- I know a lot of them, they're very fine
20 people -- and I think they have taken personally a
21 very negative hit here where they should not have. I
22 think most of them do what they believe is right. But
23 we're going to learn from this.

24 Now if we find out that someone
25 intentionally did not have any materials there, well

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 that's a little different story.

2 COMMISSIONER EDLEY: What do you mean by
3 intentionally not have material? I mean either they
4 purchase the materials or they don't purchase the
5 materials. This is a difficult issue of what do you
6 mean by intentionality. Obviously -- I shouldn't say
7 obviously, but let's stipulate that we're not talking
8 about malice --

9 WITNESS BUTTERWORTH: Right, I don't think
10 we are.

11 COMMISSIONER EDLEY: -- but there was
12 knuckleheadedness, I mean real -- I mean knowing
13 neglect to do what a reasonable person would have
14 acknowledged, there are going to be a lot of Creole
15 speakers, we know there's been substantial
16 registration, we know there's a big push for turnout,
17 but oops, we just don't happen to have anybody there
18 who can answer questions in their language.

19 WITNESS BUTTERWORTH: Or not enough
20 people.

21 COMMISSIONER EDLEY: Right.

22 WITNESS BUTTERWORTH: In some cases it
23 might not be enough and people don't have enough time
24 to wait around, and a lot them, unfortunately a lot of
25 people will come in under the circumstances and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 unfortunately will be a first time voter and I think
2 that the supervisor should look not only from the
3 standpoint of how many do I expect, but how many are
4 going to be first time voters, because they will --
5 they're more prone to make mistakes, especially on a
6 punch card, they may not be able to read the
7 instructions. So you may need additional personnel.
8 And I think that's into an issue which I think that
9 we're going to have to look at and I think now when
10 the supervisors come to the county commissioners and
11 to the state legislature saying we need certain
12 facilities, certain things, I think we're going to
13 have our legislative branch be a little more
14 cooperative with the supervisors.

15 COMMISSIONER EDLEY: What concerns me in
16 your answer is that you do seem to readily acknowledge
17 that there's -- this creakiness, if you will, in the
18 system is a public administration concern.

19 WITNESS BUTTERWORTH: It is.

20 COMMISSIONER EDLEY: That it is an
21 appropriate subject for legislative action.

22 WITNESS BUTTERWORTH: It is.

23 COMMISSIONER EDLEY: But for the
24 frustrated voters or would be voters, I think the
25 other question is, is there a law enforcement problem

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 here, does this give rise to a need for some kind of
2 litigation by your office to demonstrate to the public
3 that their rights are taken seriously?

4 WITNESS BUTTERWORTH: Well, I think by the
5 Civil Rights Section, the weight of the Attorney
6 General's office --

7 COMMISSIONER EDLEY: Yeah.

8 WITNESS BUTTERWORTH: -- this section has
9 been very active. I'm very proud that the Attorney
10 General's office in Florida, we were the first and may
11 still be the only attorney general's office in the
12 south that has a civil rights section.

13 COMMISSIONER EDLEY: May I shift to a
14 different topic? I mean this problem that's been
15 reported very much and that we've heard also about, of
16 voters who can't get a clarification of their status
17 because the phone lines were jammed and the precinct
18 workers are unable to reach back to the central -- is
19 there anything in that that you think may point to a
20 violation of the official obligations under state law?

21 WITNESS BUTTERWORTH: At this point in
22 time, I have submitted some preliminary
23 recommendations in my remarks which you should have.
24 I don't want to say -- I'd like to maybe just say
25 under your definition of knuckleheadedness, I think

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 we're there. Now as we go further on into an
2 investigation, we may get further where you're going.

3 I don't know.

4 But I was listening to some of the
5 testimony yesterday reference the affidavit balloting
6 --

7 COMMISSIONER EDLEY: Right.

8 WITNESS BUTTERWORTH: -- and the
9 provisional balloting and whether or not we have that
10 in Florida. Well, we should have it in Florida, and
11 I'm not quite sure -- I'm not at all an expert on the
12 -- I will be, but I'm not at all an expert on election
13 code as it stands now. But I read that yesterday
14 evening and I read it and read it again and I said I'm
15 awful tired because I'm not understanding this. So I
16 asked Allison and others in my Civil Rights Unit and
17 my opinion section who reads things all the time and
18 gives me opinions. And basically we're not sure. So
19 we recommend that we do need the affidavit voting so
20 that when you have that type situation, why have
21 someone stand in line while you're calling. What's
22 the problem, write it out, put it there, if it's going
23 to make a difference in the election, we'll deal with
24 it. If you're not on the polls, even if you don't
25 count your vote, we're going to makes sure that if

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 you're not on the polls and get back to you to tell
2 you why you're not on the actual voter list. I mean,
3 so -- and we'll correct it.

4 But sure, looking back on it, I'm a Giants
5 fan because I was born in New Jersey and I remember in
6 '51 when Bobby Thompson hit that home run, I was
7 ecstatic, you know. I can't remember the name of the
8 pitcher for the Dodgers, but I'll bet you to this day
9 he's saying I wish I would not have thrown that pitch
10 to Bobby Thompson. That's about how it is here.

11 Now a lot of it should have been
12 predicted, I think common sense would say yeah, we
13 need -- yes, we did need more phone lines." "Not having
14 the phone lines was terribly wrong. Was it beyond
15 knuckleheadedness? I don't know. But I guarantee you
16 next time there's going to be more phone lines.

17 Most of what we're dealing with here is --
18 let me do this real quickly -- is that we seem to be
19 going towards the election in 2002. I would submit
20 that the problem is not 2002, the problem is going to
21 be only a couple of weeks from now. Many of our major
22 counties that have punch card ballots have city
23 elections with primaries being -- I know in Broward --
24 only a couple of weeks away. So the problems that
25 they faced a few weeks ago, I don't believe even

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 though the turnout might be much smaller and more
2 limited, I don't believe that any supervisor in this
3 state, with your coming back into the community only a
4 few weeks after the elections, wants to have any
5 problem.

6 So I think you will find that a lot of
7 these particular issues are going to be addressed real
8 quickly and the State has an opportunity to address
9 them quickly.

10 COMMISSIONER EDLEY: Okay, just one last
11 question, same kind of issue of how you understand the
12 applicable law. If in the course of your
13 investigations and the other information that becomes
14 available to you, there does seem to be a correlation
15 between those precincts or counties in which there
16 were substantial irregularities and substantial
17 impediments to the voters casting and having counted
18 their ballots, a substantial correlation between the
19 problem areas on the one hand and race or ethnicity on
20 the other hand. Do you believe that that might
21 constitute a violation of state or federal law?

22 WITNESS BUTTERWORTH: I don't know yet,
23 but hopefully the federal government will stay in here
24 long enough -- the thing which we may find is that
25 there were -- it was knuckleheadedness and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 knuckleheadedness occurred in those counties that have
2 the large percentage of minority working or using the
3 various machines. So the actual intent was not to
4 disenfranchise any particular group, but it ended up
5 disenfranchising, because of what happened and where
6 the location was -- is that any different or not? The
7 intent is not there, but the effect is the same:

8 I can say right here from what's happening
9 here in Palm Beach County, the elderly, it appears, in
10 Palm Beach County, or a significant number of them,
11 were disenfranchised by a confusing ballot. And the
12 person who received thousands of votes from a
13 community he never expected to receive those votes in
14 actually went on national TV and said I never expected
15 to get those votes, something must have happened. So
16 therefore, from that standpoint, is that criminal? We
17 know full well it appears that the supervisor intended
18 to do something that would help out the voters with 10
19 candidates for president, put them all on one page.
20 They can't see, so therefore do a so-called butterfly
21 ballot, but when you change it, now that elderly
22 person has just become a first time voter because it's
23 a new system and the person was not educated as to the
24 new system, so at least 2300 people that called us
25 thought that they were disenfranchised because of that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 particular situation.

2 COMMISSIONER EDLEY: Thank you very much.

3 CHAIRPERSON BERRY: Thank you. I wanted
4 to point out just quickly that we have jurisdiction,
5 of course, concerning discrimination not just based on
6 race, but national origin, religion, age and so that
7 the ballots that you're talking about, depending on
8 what the problem was, even if it wasn't a race issue,
9 may be something -- and we have jurisdiction to look
10 at voting rights issues even if none of those factors
11 are involved.

12 Could I ask Commissioners to reduce their
13 inquiry to one succinct question because we are off
14 schedule and we must get back on schedule in the
15 interest of witnesses who have been subpoenaed for a
16 certain time.

17 Commissioner Thernstrom, please, and all
18 other Commissioners, ask one question, if you have a
19 question.

20 COMMISSIONER THERNSTROM: Okay, so can I
21 put all my questions into one question? I mean
22 Commissioner Edley did go on for a very long time.

23 Well, let me start with a question that he
24 also raised --

25 CHAIRPERSON BERRY: It all evens out in

1 the end, Commissioner Thernstrom, so don't worry about
2 it.

3 COMMISSIONER THERNSTROM: Okay. Following
4 up on something that Commissioner Edley raised; that
5 is, the federal Department of Justice, which usually,
6 in my view -- I've had long contact with it myself --
7 usually acts very quickly and in this case has not.

8 But do you know what precise election
9 procedures the Department of Justice is looking into
10 as potentially discriminatory in their result under
11 Section 2 of the Voting Rights Act and connected to
12 that, you have a situation in which black turnout in
13 the state was up I believe 65 percent since the last
14 election. Do you think that that fact is pertinent to
15 the entire question of discrimination and since I've
16 only got one question, I'll -- I have others which I
17 hope to be able to come back to later, but let's start
18 with that combined question.

19 CHAIRPERSON BERRY: And we may submit
20 questions in writing to witnesses.

21 COMMISSIONER THERNSTROM: Well, let's
22 start with that combined question of what precise
23 election procedures you think the Department of
24 Justice might be looking into as discriminatory in
25 their result under Section 2 and whether you think the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 huge rise in black turnout is pertinent to the
2 question of the extent of discrimination.

3 WITNESS BUTTERWORTH: On the first
4 question, Commissioner, I do not know what the
5 Department of Justice is actually looking into. As
6 you know, the Department of Justice, when asked, will
7 not give an answer. So I do not believe I would be in
8 a position to be able to answer for them. And I don't
9 mean that to be negative, they don't tell me exactly
10 either. But some things we do together, sometimes
11 they'll make us aware of certain things and sometimes
12 they'll do some things on their own -- we'll do
13 things, they'll do things.

14 COMMISSIONER THERNSTROM: Right. I'm just
15 having a hard time myself thinking of practices and
16 procedures --

17 CHAIRPERSON BERRY: Commissioner
18 Thernstrom --

19 COMMISSIONER THERNSTROM: -- that in fact
20 would fall legitimately under Section 2, but go on, on
21 the black turnout question.

22 WITNESS BUTTERWORTH: I'm not sure of the
23 exact percentage, whether it was -- the turnout was
24 that much higher, but it was significantly higher in
25 various areas of the state. And what ended up

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 happening is we ended up with many first time voters
2 again voting. And we ended up with in Duval County
3 where as you know many, many thousands of votes were
4 thrown out because of over-count, where the
5 instructions were vote each page and if you follow the
6 instructions, you're just throwing your vote out for
7 President of the United States. By having the punch
8 card system which is the most unreliable system and
9 not having a procedure to deal with the under-vote and
10 over-vote, I think that caused a problem and as my
11 comments submitted state that it appears that the
12 minority communities were most adversely affected
13 because that's where the punch cards were. The whole
14 community would be that way, the whole county was that
15 way.

16 COMMISSIONER THERNSTROM: But doesn't that
17 huge rise in black voting --

18 CHAIRPERSON BERRY: ... Commissioner
19 Thernstrom, I asked if you would ask one question.

20 COMMISSIONER THERNSTROM: Yeah, but it's
21 the same question which he didn't really, it seems to
22 me, respond to; that is, that the huge rise in black
23 participation does raise questions about the charge of
24 discrimination.

25 WITNESS BUTTERWORTH: Well, from the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 standpoint that we had a very high percentage of votes
2 that did not count, it'd be a much greater number of
3 votes did not count. I think it's terrible when
4 27,000 votes are not counted in a particular county.
5 White vote, black vote, other vote. I think something
6 is wrong when you have a 12 to 15 percent over-vote
7 and under-vote. I think definitely something is
8 wrong.

9 CHAIRPERSON BERRY: Thank you.
10 Commissioner Meeks, you don't have one. Commissioner
11 Lee -- thank you Commissioner Meeks for not asking a
12 question. Commissioner Lee.

13 COMMISSIONER LEE: Thank you. Mr.
14 Butterworth, you mentioned that you received
15 complaints from language minorities. Have any of
16 those complaints been forwarded to the DOJ's Section
17 203 Language Assistance Division?

18 WITNESS BUTTERWORTH: I do not know.

19 WITNESS BETHEL: We've been coordinating
20 with DOJ and we've been sharing information. You
21 asked about the language section?

22 COMMISSIONER LEE: Uh-huh.

23 WITNESS BETHEL: I'm not really sure,
24 they're very, you know, sectionalized there,
25 departmentalized. Most of our communications have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 been with the Voting Section, so I don't know if
2 they're working together on that as a unit or how
3 that's working.

4 CHAIRPERSON BERRY: The only other -- and
5 I have just one question myself, keeping to the
6 discipline -- but I will say that it's extraordinary
7 that you received so many complaints when the other
8 agencies in the state seem not to get any. And you
9 may have heard me explain earlier what that means in
10 terms of the research the Commission has done, that
11 when agencies don't receive complaints and there's a
12 lot of information out there, that that means there's
13 something wrong. That's not a good thing, that's a
14 bad thing.

15 But my question is did the cabinet meet at
16 any time in the 30 days leading up to the election?

17 WITNESS BUTTERWORTH: No, the cabinet did
18 not met -- yes, we met, but we did not meet and
19 discuss election issues, if that would be the follow
20 up.

21 CHAIRPERSON BERRY: But you did meet in
22 the 30 days leading up to the election.

23 WITNESS BUTTERWORTH: Yes, we probably
24 would have met -- the chance we could have met twice,
25 at least once, depending upon the calendar, perhaps

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 twice.

2 CHAIRPERSON BERRY: In the 30 days leading
3 up to the election.

4 WITNESS BUTTERWORTH: Right.

5 CHAIRPERSON BERRY: Was the Secretary of
6 State present at the cabinet meetings?

7 WITNESS BUTTERWORTH: I believe so.

8 CHAIRPERSON BERRY: Is that your
9 recollection?

10 WITNESS BUTTERWORTH: That's my
11 recollection.

12 CHAIRPERSON BERRY: Okay. Thank you very
13 much. We appreciate your testimony and we -- there
14 are some sign-out procedures that counsel will engage
15 in with you, and you are dismissed. Thank you, Mr.
16 Attorney General.

17 (Witnesses excused.)

18 CHAIRPERSON BERRY: Could the sign
19 language interpreter come forward please and ask
20 whether there are any persons who -- as soon as you
21 get a chance to -- anyone who needs sign
22 interpretation. And could the next panel come forward
23 also.

24 (Whereupon, the sign interpreter
25 complies.)

1 THE INTERPRETER: Madam Chairman, I see no
2 one.

3 CHAIRPERSON BERRY: Thank you very much.

4 Could we have the Honorable Katherine
5 Harris and Mr. L. Clayton Roberts. I see you have
6 come forward. Could the two of you please stand and
7 raise your right hands while you take the oath. And I
8 see you have someone with you. Is that your counsel?

9 SECRETARY HARRIS: My counsel.

10 CHAIRPERSON BERRY: What is your counsel's
11 name?

12 SECRETARY HARRIS: Debbie Kerney..

13 CHAIRPERSON BERRY: Could you please stand
14 also and raise your right hand, all three of you,
15 please.

16 MS. KERNEY: I didn't know I --

17 CHAIRPERSON BERRY: I beg your pardon?

18 MS. KERNEY: I didn't realize I would be
19 testifying.

20 CHAIRPERSON BERRY: You are not planning
21 to -- well, raise your right hand anyway in case you
22 have to advise your client while you're standing
23 there.

24 Whereupon,

25 KATHERINE HARRIS

1 L. CLAYTON ROBERTS

2 DEBBIE KERNEY

3 appeared as witnesses herein, and having been first
4 duly sworn, were examined and testified as follows:

5 CHAIRPERSON BERRY: Thank you very much,
6 please be seated.

7 Counsel, I understand that you have
8 questions, of course, for the witnesses. Do you have
9 any queries concerning documents?

10 ACTING GENERAL COUNSEL HAILES: Yes, Madam
11 Chair.

12 EXAMINATION

13 BY ACTING GENERAL COUNSEL HAILES:

14 Q At this time, I would ask Ms. Harris and
15 Mr. Roberts if you brought with you to this hearing
16 documents that were requested pursuant to a subpoena.

17 A (Witness Roberts) Yes, Mr. Hailes, I
18 turned in 18 boxes of documents to one of your
19 assisting counsels, Bernard A. Quarterman, in an
20 office directly over here. I have here the -- my
21 certificate that goes with those documents and a brief
22 index.

23 Q Okay. You can hand that to our records
24 clerk. And I would just ask though, the certificate -
25 - in the certificate, do you attest that the documents

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 you are submitting fully and directly respond to the
2 subpoena that was issued?

3 A (Witness Roberts) In the certificate, I
4 attest that they are true copies of the documents that
5 are responsive to your request shown in the record.
6 We do not have the full request ready, we are
7 processing those. I expect we will have those
8 certainly done within the next two weeks and when the
9 entire request is done, I will certify that we have
10 fully responded to your request.

11 Q Thank you very much.

12 CHAIRPERSON BERRY: Counsel, we need a
13 date certain on which the final submission will be
14 made.

15 ACTING GENERAL COUNSEL HAILES: Two weeks
16 would be --

17 WITNESS ROBERTS: Two weeks from today.

18 ACTING GENERAL COUNSEL HAILES: Okay.

19 WITNESS HARRIS: I think it was 30 days
20 but we were trying to expedite it for you.

21 ACTING GENERAL COUNSEL HAILES: Okay,
22 thank you very much.

23 And at this time, each witness can proceed
24 with an opening statement.

25 CHAIRPERSON BERRY: Order the --

1 ACTING GENERAL COUNSEL HAILES: In fact, I
2 will ask the Chair at this time to please receive the
3 documents that have been received into evidence into
4 the record.

5 CHAIRPERSON BERRY: Without objection, so
6 ordered.

7 ACTING GENERAL COUNSEL HAILES: Thank you
8 very much.

9 At this time, will each witness proceed
10 with an opening statement of no more than five
11 minutes?

12 WITNESS HARRIS: Thank you... Good
13 afternoon, Chairperson Berry and Commissioners,
14 welcome to Tallahassee and thank you for the
15 opportunity to provide information to you regarding
16 the Florida -- regarding Florida's voting and election
17 system.

18 This afternoon I hope to clarify and
19 provide a better understanding of my official duties
20 as Secretary of State by the Constitution and Florida
21 Statutes. As you may know, I was elected as Florida's
22 Secretary of State in the statewide general election
23 of 1998, a term commencing January 5, 1999 and ending
24 January 7, 2003.

25 Under the Florida Constitution, the

1 Secretary of State is an independently elected member
2 of the Florida cabinet with the responsible to keep
3 the official records of acts of the legislative and
4 executive branches of government. Additional by
5 statute, I am vested with the duty to manage the
6 Florida Department of State.

7 The Department is composed of seven
8 divisions -- the Division of Administrative Services,
9 Corporations, Licensing, Historic Resources, Library
10 and Information Services, Elections and Cultural
11 Affairs. In addition, through the Statute and with a
12 Memorandum of Understanding with the Governor, the
13 Office of Secretary of State operates the office of
14 International Affairs. As a cabinet member, I deal
15 with innumerable issues, including the environment or
16 education issues.

17 The Division -- each of the divisions
18 within the Department if State is managed by a
19 division director. The division directors are highly
20 qualified, experienced professional managers and in
21 many cases are known as the best in the nation. They
22 are charged with implementing our responsibilities
23 with regard to all matters within their realm. It is
24 my responsibility to oversee the operations of the
25 Department and best management practice suggests the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 delegation of the day-to-day operations to these
2 division directors. I meet regularly with them and
3 participate in overarching policy decisions, and one
4 of the documents that we have submitted is the
5 standard delegation of authority letter. I work to
6 provide leadership to ensure common working principles
7 among the divisions and demand the highest level of
8 professionalism and ethics among my staff.

9 With regard to the Division of Elections,
10 Mr. Clay Roberts was appointed as Division Director in
11 1999. Mr. Roberts brings to the division extensive
12 experience in elections law, having served and worked
13 extensively for both the Florida Senate and the
14 Florida House of Representatives with an emphasis in
15 the election law.

16 As with each of the division directors, I
17 have delegated to Mr. Roberts a high level of
18 authority to operate the Division of Elections and to
19 implement the statutory duties of the Division of
20 Elections and the chief elections officer.
21 Historically and at present, the day-to-day
22 responsibilities for implementing the duties outlined
23 in the Florida Elections Code are assumed by the
24 Elections Division Director. Therefore, I will refer
25 you to Mr. Roberts for questions pertaining to the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 particulars of the implementation of Florida's
2 Election Code.

3 As to the basic structure of how elections
4 are conducted in Florida, its underlying foundations
5 are the 67 supervisors of elections. Forty-four of
6 these supervisors are Democrats, 19 are Republicans,
7 three are nonpartisan and one is a nonpartisan
8 appointed officer. These are public officials that
9 our Constitution and Statutes hold accountable for (1)
10 carrying out the registration of qualified electors;
11 (2) handling the qualifying process for candidates for
12 count offices and for other local offices with
13 jurisdiction in one county; and (3) conducting the
14 elections, including the hiring and training of poll
15 workers, selecting of poll sites and purchase and
16 maintenance of any state-approved voting systems.

17 The countywide canvassing board of county
18 officials is responsible for reporting the returns of
19 the elections in each county. Neither I nor my staff
20 are authorized to direct the conduct of these
21 supervisors of elections. Just as the Florida cabinet
22 officers are elected independently and answer directly
23 to the residents of Florida, the supervisors of
24 elections answer to the residents of each of their
25 respective counties and are elected constitutional

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 officers.

2 Although by statute, I am the chief
3 elections official, please understand the Florida
4 Constitution created the election system founded upon
5 local control. I have the utmost respect and
6 confidence in our supervisors of elections and believe
7 that they, together with my staff and their staff,
8 exercise their duties with integrity and
9 responsiveness to their constituents.

10 As always, I will continue to perform my
11 official duties within the construct of the
12 Constitution and statutory laws of the state. Within
13 this framework, the Department of State is responsible
14 for the qualification of candidates for state and
15 federal office and for district offices where the
16 district comprises more than one county; for campaign
17 finance reporting for candidates who qualify with the
18 division; and for maintaining a central voter file.

19 The Election Canvassing Commission,
20 composed of the Governor, the Secretary of State and
21 the Division Director of Elections, certifies the
22 final tallies that are submitted by each of the county
23 canvassing boards for federal and state offices, and
24 for any local offices whose jurisdiction exceeds one
25 county.

1 The Department of State is charged with,
2 among other things, obtaining and maintaining
3 uniformity in application, operation and
4 interpretation of the election law. This goal is
5 achieved by the Division's authority to issue formal
6 and informal advisory opinions to supervisors of
7 elections and through the opportunities to provide
8 training and educational assistance to our supervisors
9 of elections, other agencies and the public. In most
10 areas, including those dealing with the interplay
11 among supervisors and the Division, the Division's
12 authority is best described as ministerial. We
13 attempt to achieve uniformity in the interpretation of
14 the Election Code but are without authority to direct
15 conduct of county supervisors of election.

16 Again, let me emphasize that in Florida,
17 the supervisors are independently elected local
18 officials who conduct elections. As Secretary of
19 State, I truly believe that I have the best job in
20 state government. In addition to permitting and
21 supporting statewide efforts in the areas of cultural
22 affairs, historic preservation, literacy and library
23 services and international relations, our Division of
24 Elections staff and I welcome the opportunity to make
25 our voting system the model for our nation and for the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 benefit of all Floridians. No responsibility than
2 ensuring the integrity of the elections system. Most
3 importantly, I will concentrate on eliminating --
4 concentrate on the core issue, voting systems that
5 will make the will of the voter self-evident.

6 Thank you.

7 ACTING GENERAL COUNSEL HAILES: Thank you,
8 Ms. Harris.

9 BY ACTING GENERAL COUNSEL HAILES:

10 Q Before we go to Mr. Roberts, Ms. Harris,
11 can you please point out the part of the Election Code
12 or statute that refers to or characterizes the role of
13 the Secretary of State as ministerial as it relates to
14 the county supervisors?

15 A (Witness Harris) Well, I was specifically
16 referring to our role. And there are other issues
17 that are not ministerial, but in case law, we are
18 generally referred to as ministerial in the conduct of
19 our duties.

20 Q And will you, through your counsel, submit
21 to our office within a reasonable time the case law
22 that refers to the duties of the Secretary of State as
23 ministerial?

24 A (Witness Harris) Yes, we will.

25 Q Okay, thank you very much.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Mr. Roberts.

2 A (Witness Roberts) Thank you, Mr. Hailes.

3 Last week, I met with Mr. Foreman from
4 your staff as Ms. Wiggins from your staff and
5 conducted extensive conversations with them. I'm
6 confident that they have briefed the Commission
7 members and I waive an opening statement in order to
8 get on to questions if I can help you.

9 Q Okay, thank you very much.

10 Ms. Harris, I do want to go to a document
11 that our staff did receive from your office, I
12 believe, a compilation of the election laws of the
13 State of Florida and it has your name and your office
14 and it's dated August 1999. Is this a current and
15 accurate compilation of the election laws or are there
16 any amendments or revisions that we should know about?

17 A (Witness Roberts) There were some
18 amendments that were passed in the year 2000
19 legislative session. As you question, if you bring up
20 an area that has been amended, I will make sure to
21 tell you. Also, I will prepare a supplemental request
22 for documents, copies of all the bills that amended
23 the statutes.

24 Also, I might need to point out that as
25 far as the statutes that deal with the absentee voter

1 certificate and certain absentee ballot procedures,
2 the statutes that were passed in 1998, which happen to
3 be official statutes that were passed by the State of
4 Florida, were not granted -- certain portions of them
5 were not granted preclearance by the United States
6 Department of Justice. So there are statutes that
7 exist in the statute books that are unenforceable and
8 as those come up, I will point those out and I'll also
9 make copies of those available to the Commission as
10 soon as possible.

11 Q Okay, thank you very much. I refer your
12 attention, Ms. Harris, to Title IX of the statute,
13 specifically Chapter 97, 97.012 and I believe you
14 referred to it in your opening statement in which the
15 Secretary of State is the chief elections officer of
16 the State and it is his or her responsibility to --
17 and I'll just name a couple of responsibilities that
18 we see here -- obtain and maintain uniformity in the
19 application, operation and interpretation of the
20 election laws.

21 Is it your understanding that that is your
22 responsibility or is it a responsibility that you have
23 attempted to delegate to the Division of Elections?

24 A (Witness Harris) It is my understanding
25 that it is the responsibility of the Secretary of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 State's office and we -- I have delegated authority to
2 each of my division directors as to the specific day-
3 to-day operations.

4 Q Okay, and have you delegated the duty to
5 provide technical assistance to the supervisors of
6 elections on voter education and election personnel
7 training services?

8 A (Witness Harris) Indeed I have. I would
9 consider those people to be the experts and be able to
10 give far greater technical assistance than could I.

11 Q Okay. And Mr. Roberts, how many persons
12 do you have on your staff?

13 A (Witness Roberts) I have a total of 39
14 people on my staff, 10 of those are in my Bureau of
15 Administrative Code, who don't have election related
16 duties.

17 Q Okay. And in addition to your position as
18 the head of that Division, do you have other
19 responsibilities under state law?

20 A (Witness Roberts) Being the head of the
21 Division of Elections, which consists of the Bureau of
22 Administrative Code, the Bureau of Election Records
23 and the Director's office are my sole
24 responsibilities. There are some additional statutory
25 duties within the Department of State that are also

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 held within the Division. We're the filing office for
2 all the financial disclosure forms that state
3 government officials have to file yearly. We're the
4 filing office for all gift disclosure forms that the
5 state officials have to file either quarterly or when
6 they receive certain gifts. We are the office that
7 maintains all the official acts of the Governor and
8 cabinet, they are certified and held in our files.
9 And we are the general filing office for a wide
10 variety of state government official acts.

11 Q And under Chapter 106.22 under the duties
12 of the Division of Elections, and I go to section 11,
13 it appears that your division has the duty to conduct
14 preliminary investigations into any irregularities or
15 fraud involving voter registration or voting, and
16 report its findings to the state attorney for the
17 judicial circuit in which the alleged violation
18 occurred, for prosecution where warranted.

19 And that is your duty, it's not a duty
20 that you've delegated to anyone?

21 A (Witness Roberts) Yes, Mr. Hailes, that
22 is a duty within the Department or within the Division
23 of Elections and how we execute that duty is the
24 Division of Elections has attorneys on staff but we do
25 not have investigative personnel on staff. So when we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 receive a complaint of voter fraud or irregularities,
2 we -- if it's telephonic, we send a complaint form to
3 the person so complaining, so we can get information
4 to find out more about what they're alleging. We look
5 at the complaint to see if it is a complaint regarding
6 irregularity or fraud. Very often on our voter fraud
7 hotline, people call in with campaign finance
8 complaints and then we send them a form; although
9 we're not responsible for enforcing the campaign
10 finance laws, we send them the correct form and get
11 them in touch with the Commission on Elections who
12 enforces those laws.

13 We do a preliminary review of the
14 complaint and we have a contract with the Florida
15 Department of Law Enforcement by which they provide
16 investigative support for us to follow up on those
17 complaints. They go out and interview witnesses and
18 do investigations and when it comes back to our
19 office, if there is any evidence to lead us to believe
20 that there would be a violation of Florida statutes
21 regarding voter fraud or any violation of a federal
22 statute, we would refer that to the appropriate
23 prosecutorial agency.

24 Q So you only conduct investigations that
25 are based on complaints that are received by your

1 Division? Because I'm just reading the section and it
2 says conduct preliminary investigations into any
3 irregularities. There is no reference at all to
4 responding to or receiving complaints. Are you able
5 to respond to irregularities that you become aware --
6 that your Division, that the state, the Secretary of
7 State becomes aware of with regard to the election?

8 A (Witness Roberts) We become aware of
9 irregularities through people complaining of them.

10 Q That's the only circumstance under which
11 you understand your responsibility to respond to?

12 A (Witness Roberts) In the past, that has
13 been our interpretation of what is required for us to
14 move forward.

15 Q Let me ask you this question, Ms. Harris,
16 you are a member of the cabinet of the Governor in an
17 independent role. Is there a liaison person that you
18 speak to with regard to your official functions as
19 those functions relate to the Governor?

20 A (Witness Harris) Yes, there is. As you
21 may know, Florida has a unique set of laws called our
22 sunshine laws and as cabinet officials, we don't talk
23 with each other directly about any issue which may
24 involve an upcoming vote. So my chief cabinet
25 officer, my chief cabinet aide, Lilly Goodson, works

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 directly with the chief cabinet aide of the Governor.

2 Q And the name of that person?

3 A (Witness Harris) Lilly Goodson is my
4 chief cabinet aide.

5 Q Yes, and the Governor's chief person?

6 A (Witness Harris) Colleen Castille.

7 Q Okay. Are you aware of conversations
8 between your cabinet liaison person and the Governor's
9 liaison person for the period between September 2000
10 and November 7, 2000 of this year?

11 A (Witness Harris) In response to your
12 request, I'm certain that any communication, via e-
13 mails or letters or phone calls, we have asked our
14 chief cabinet aide to document that for you.

15 Q And did you have any specific
16 conversations with the Governor with regard to
17 anticipated turnout on election day?

18 A (Witness Harris) No, no. I had no
19 conversations with the Governor concerning the
20 turnouts.

21 Q Did you cause to have any communications
22 with the Governor or his liaison person regarding
23 anticipated turnout on election day?

24 A (Witness Harris) No, I think -- I believe
25 specifically everyone in the state had anticipated a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 larger turnout and a very close election through the
2 media, and those were our responsibilities to make
3 certain that the polls were available and open. In
4 fact, one communication we received was a concern that
5 -- pardon me -- specifically here in the Capitol with
6 so many government workers, the polling places may be
7 inundated with those types of votes. So through my
8 chief cabinet aide we communicated to all of the
9 cabinet officials and sent an e-mail -- I'm sure it
10 will be included -- specifically requesting and asking
11 the cabinet officials to make known that their
12 employees, by statute, had the ability if they lived
13 within the county to be able to take one hour off to
14 vote and indeed two hours off if they lived outside
15 the county.

16 Q Ms. Harris, you are aware of allegations
17 that a private firm that you contracted with produced
18 a list of purported felons who were taken off the
19 voter registration list?

20 A (Witness Harris) Yes, I am aware.

21 Q And you did contract with that private
22 firm?

23 A (Witness Harris) Yes, the Department of
24 the State had contracted in -[] subsequent to the 1998
25 laws that were passed prior to my becoming Secretary

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 of State.

2 Q And you became aware of the concerns
3 raised about the legitimacy of the lists that were
4 provided by the private firm?

5 A (Witness Harris) Yes, I became aware.

6 Q And what action did you take in response
7 to becoming aware of those concerns?

8 A (Witness Harris) Again, I'm going to
9 defer that to Mr. Roberts in that he's in charge of
10 those day-to-day operations.

11 Q Well, before you do let me just ask you if
12 you are familiar with Section 97.012 of the Election
13 Statute which says that the Secretary of State has a
14 responsibility to actively seek out and collect the
15 data and statistics necessary to knowledgeably
16 scrutinize the effectiveness of elections laws?

17 A (Witness Harris) Yes.

18 Q Yet this is a duty that you've delegated
19 to the Division of Elections?

20 A (Witness Harris) Absolutely. With regard
21 to all my division directors, those responsibilities
22 specifically charged to the Secretary of State are
23 delegated in each of the seven different divisions.

24 Q So when you became aware of the concerns,
25 you simply referred them to Mr. Roberts?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 A (Witness Harris) Those -- that -- I'm
2 sorry -- that would specifically be addressed by Mr.
3 Roberts, yes.

4 CHAIRPERSON BERRY: Someone out in the
5 audience is speaking on a cell phone. Could you
6 please go outside. Thank you.

7 BY ACTING GENERAL COUNSEL HAILES:

8 Q Mr. Roberts, can you tell the Commission -
9 -

10 CHAIRPERSON BERRY: Would the marshals
11 identify the person and have them go outside? Thank
12 you.

13 Go ahead.

14 BY ACTING GENERAL COUNSEL HAILES:

15 Q Mr. Roberts, --

16 A (Witness Roberts) Yes, Mr. Hailes, I'll
17 direct your attention to Section 98.0975 of the
18 Florida Statute. This section of the statute was
19 passed in response to a 1997 Miami mayoral's election
20 where it was challenged in court and went up through
21 the court system in the State of Florida. The
22 gentleman who originally won that mayor's race was
23 turned out of office. There was a grand jury
24 investigation. There was a Senate Select Committee
25 appointed to investigate that election. There was

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 allegation and it was eventually proven that a large
2 number of people who were deceased cast ballots --
3 well, someone cast ballots in the name of some people
4 who were deceased in that election. People who were
5 convicted felons who had lost their right to vote
6 under the Florida Constitution cast ballots in that
7 election and people who were also registered in
8 another municipality or another county within that
9 area cast ballots in the City of Miami mayor's race.

10 Q So the law requires your office to
11 contract with the private firm?

12 A (Witness Roberts) It specifically
13 requires us to contract with a private firm.

14 Q I understand that. And the Secretary of
15 State has said she became aware of specific concerns
16 about the work of that firm, and I'm asking what
17 actions were taken by your office because the
18 Secretary of State has indicated those
19 responsibilities were delegated to you, and I'm asking
20 what specific actions were taken in response to the
21 concerns.

22 A (Witness Roberts) I need to tell you how
23 that data from various databases is compiled and put
24 together and how we come up with the list of possible
25 felons, possible dead people, and possible duplicates.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Q That's pretty clear from the documents
2 that we've already received. We're more interested in
3 what specific actions you took because the Secretary
4 of State has delegated to you the responsibility to
5 actively collect data and statistics to scrutinize the
6 effectiveness of a law that was passed, which you've
7 already explained. What specific actions did you
8 take, Mr. Roberts.

9 A (Witness Roberts) You were aware that in
10 putting the data together there were identified by the
11 supervisors of elections that there were a significant
12 numbers of persons who had not committed felonies that
13 were identified on the list --

14 Q Yes.

15 A (Witness Roberts) -- or who were not
16 deceased or not duplicates. Okay. When that was
17 identified -- and this was early on in the process,
18 1998, and that was before my tenure began, but I am
19 aware of the process, and I'm not trying to pass the
20 buck.

21 Q Excuse me. Ms. Harris, when did you
22 become aware of the concerns about the list provided
23 by the firm, the private firm? I'll identify that
24 firm as DBT, ChoicePoint, or any predecessor or
25 successor to that company. When did you first become

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 aware of the concerns?

2 A (Witness Harris) Again, because our
3 division director would have made me aware, brought
4 this to my attention, I'll have to refer to him
5 because I'm not certain on the specific dates.

6 Q Okay. I'm trying to move this along, Mr.
7 Roberts, and you're not helping me out.

8 A (Witness Roberts) And I'm not trying to
9 stall you. I'm trying --

10 Q But you're not giving me the information
11 we're asking.

12 A (Witness Roberts) Okay.

13 Q Please do.

14 A (Witness Roberts) Because when the
15 legislature created this, they didn't provide any
16 specific authority for us to direct, supervise, how to
17 do this, we contacted the Florida State Association of
18 supervisors of elections. They established a
19 committee on this issue. We got the committee
20 together with people from FDLE, with people from the
21 Board of Executive Clemency, with DBT. We got
22 together to come up with a framework and a methodology
23 that the supervisors could go through in verifying
24 this information, to go through in a methodical way to
25 try to verify before anyone's name was removed from

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the voter rolls.

2 Q And how many names were removed from the
3 voter rolls following that process of scrutiny?

4 A (Witness Roberts) That is information that
5 is not contained in the Division of Elections, and I
6 don't have available at this time.

7 Q And who would have that information?

8 A (Witness Roberts) Each of the county
9 supervisors of elections. In this past year -- let me
10 give you the numbers for this year that we've sent out
11 -- we sent out a list that had 3993 possible felons to
12 the 67 supervisors of elections. They went about the
13 process of trying to verify those felons. They do not
14 report to us if they removed someone based on that
15 list.

16 Q Well, I'm not going to pursue then this
17 line of questions at this time, but we will submit
18 questions in writing and ask for specific responses
19 regarding the ChoicePoint company and the work that it
20 presented to your office and what you did in response
21 to the list they provided and the county supervisors'
22 concerns.

23 A (Witness Roberts) Yes, sir, I'd be happy
24 to answer those.

25 Q And I just have one further line of

1 questions. I received, and again I believe this is
2 from your office, Ms. Harris. It does say Division of
3 Elections, but your name is listed as Secretary of
4 State, and it is entitled "Your Vote Is Your Voice".

5 And you are familiar with this document?

6 A (Witness Harris) It's produced by our
7 Division of Elections, yes.

8 Q Okay. But are you familiar with this
9 document?

10 A (Witness Harris) Not specifically, I did
11 not write the document.

12 Q Are you familiar with this document?'

13 A (Witness Harris) May I see it?

14 Q Yes, it's called "Your Vote is Your
15 Voice."

16 Well, Mr. Roberts, will you explain to the
17 Secretary of State the purpose of [] -

18 A (Witness Harris) It's our standard how
19 to register to vote and those types of issues.

20 CHAIRPERSON BERRY: Maybe she can't see
21 it. You can take it right back, just let her see what
22 it is...She doesn't know what it is...We need it right
23 back to ask a question.

24 (Brief pause.)

25 BY ACTING GENERAL COUNSEL HAILES:

1 Q Mr. Roberts, will you explain the purpose
2 of this document and how it was distributed and to
3 whom?

4 A (Witness Roberts) This is the Florida
5 Registration and Voting Guide. It has a brief
6 explanation of how important votes are, it has the
7 election county, the offices that are to be filled,
8 the procedures to register to vote, the procedures to
9 request an absentee ballot, and various other election
10 procedures that would be useful to citizens. We
11 distribute this information primarily through these 67
12 counties --

13 Q Ms. Harris, why don't you keep that for
14 now because I would like to refer your attention to
15 page four of this document.

16 A (Witness Roberts) We distribute this
17 information primarily through the county supervisors
18 of election. We make them aware and let them know we
19 have this, so they can distribute it to voters when
20 they are having voter registration drives out in the
21 community. We've posted it on our website, and any
22 time the Department of State has a booth or a kiosk at
23 any public event, we provide these documents.

24 Q And it's a document to encourage persons
25 in the state to --

1 A (Witness Roberts) To register to vote.

2 Q -- to register to vote?

3 A (Witness Roberts) Yes, sir.

4 Q And on page four, Ms. Harris, there is a
5 section of this document that is entitled "How
6 Important Is One Vote", and it begins by saying, "In
7 1645 one vote gave Oliver Cromwell control of
8 England." Do you see where I am reading?

9 A (Witness Harris) Yes, I do.

10 Q Will you go down further and read where it
11 says, "In 1876"? Can you read that, please, into the
12 record?

13 A (Witness Harris) Yes. Would you like me
14 -- I'm sorry, I thought you were asking me if I could
15 actually read it.

16 Q No.

17 (Laughter.)

18 Q An MBA from Harvard, I believe you can
19 read it.

20 A (Witness Harris) "In 1876, one vote gave
21 Rutherford B. Hayes the presidency of the United
22 States."

23 Q And you would understand that to have a
24 special significance to the African-American
25 community?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 A (Witness Harris) I would understand every
2 one of these to have a special significance to the
3 African-American community and all the citizens of the
4 United States.

5 Q And please read the next one.

6 A (Witness Harris) "In 1923 one vote gave
7 Adolf Hitler leadership to the Nazi party."

8 Q And that also would have special
9 significance to every community.

10 A (Witness Harris) Yes, it would.

11 Q And the last point?

12 A (Witness Harris) "In 1941 one vote saved
13 Selective Service just weeks prior -- before Pearl
14 Harbor was attacked."

15 Q And you would understand and appreciate
16 the anger and the frustration that many communities
17 feel for not having the opportunity to cast votes and
18 to have their votes count in this last election?

19 A (Witness Harris) Yes, Mr. -- Mr. Hailes,
20 yes.

21 Q And based on your understanding, what
22 specific actions have you taken or delegated to be
23 taken with regard to that anger and frustration in
24 several communities in the State of Florida?

25 A (Witness Harris) Primarily we believe

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 that the most important issue that we can address
2 moving forward are the voting systems. We want to
3 make sure that every voter's -- the will of every
4 voter is self-evident, and we think that through the
5 appropriate voting systems that they will be able to
6 not only feel comfortable with that, but that we can
7 be assured that through those voting systems, and the
8 accuracy, that they will be counted as well.

9 Q Mr. Roberts, do you wish to add to the
10 Secretary of State's comments?

11 A (Witness Roberts) That's certainly our top
12 priority, Mr. Hailes, to have voting systems that are
13 easier for supervisors to conduct voter education on,
14 that are uniform statewide so that the state can play
15 more of a role in doing voter education and not have
16 to educate on different voting systems in different
17 counties, and to provide a system by which the voter
18 can make their intent known and clear and every single
19 vote, no matter how many times you did a recount,
20 you'd get the same number. There's some other issues
21 as far as some statutory changes we need to accomplish
22 to make it clear what the intent of the voter means
23 and how canvassing boards are supposed to go about,
24 determining the intent of the voter so there is not a
25 different standard in different counties, and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 certainly there are issues that I think the
2 Commission, and various other groups that are studying
3 this, will make recommendations to have us improve our
4 statutes and our administrative rules to provide
5 better and more effective training for supervisors,
6 and to help supervisors provide better and more
7 effective training for their poll workers.

8 ACTING GENERAL COUNSEL HAILES: Thank you,
9 Mr. Roberts.

10 Madam Chair, I'm going to reserve all
11 further questions about accountability and uniformity
12 and submit them in writing to these witnesses.

13 CHAIRPERSON BERRY: They have already
14 indicated that they will respond to the questions, is
15 that my understanding?

16 WITNESS HARRIS: Yes.

17 WITNESS ROBERTS: Yes.

18 CHAIRPERSON BERRY: Vice Chair, did you
19 have a question?

20 VICE CHAIRPERSON REYNOSO: Yes, I do.

21 Ms. Harris, you've emphasized several
22 times your delegation of responsibilities, but I take
23 it you understand that you are the one that's
24 responsible? Delegation takes no responsibility off
25 your shoulders. Every --

1 WITNESS HARRIS: I couldn't agree more.

2 VICE CHAIRPERSON REYNOSO: Every statute
3 that was read and so on, you are the one that is
4 responsible?

5 WITNESS HARRIS: That's correct.

6 VICE CHAIRPERSON REYNOSO: We have
7 testimony that the statute requires you to provide
8 standards for all the different counties, even though
9 they are administered locally, it's your
10 responsibility to apply standards. We had testimony
11 that the Department has not provided those standards.

12 Either the standards that were used before the
13 election and particularly we had testimony that you
14 provided no guidance to the local agencies, the local
15 counties in terms of the standards to be used on the
16 recount. So we were told that every single elected
17 official was there sitting trying to figure out what
18 standards to use. There is a law that requires you to
19 provide that standard and none, we were told under
20 oath by the officials, were provided by your office.
21 Is that correct or incorrect?

22 WITNESS HARRIS: That is incorrect.

23 VICE CHAIRPERSON REYNOSO: What standards
24 do you provide? And let's start with the standards to
25 be used in the recount.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 WITNESS HARRIS: I'm going to let Mr.
2 Roberts address this legal question.

3 VICE CHAIRPERSON REYNOSO: Thank you.

4 WITNESS ROBERTS: Commissioner, the
5 statutes provide what the standards are for
6 determining --

7 VICE CHAIRPERSON REYNOSO: I'm sorry, say
8 that again?

9 WITNESS ROBERTS: The statutes provide the
10 standards for determining voter intent, and nowhere
11 within the statutes does it provide the authority of
12 the Secretary of State to provide additional standards
13 to that. Florida has very strict rules regarding
14 their administrative procedure act, and we cannot
15 engage in rulemaking without a specific delegation of
16 authority to enact that rule. So the statute is the
17 only standard we have, and we were without authority
18 to provide a more specific standard than that.

19 VICE CHAIRPERSON REYNOSO: So there is
20 incongruity in the statutory scheme that gives Ms. --
21 Secretary Harris the obligation to provide standards
22 on the one hand and that authority is removed on
23 another hand, is what you're telling me you understand
24 the law to be?

25 WITNESS ROBERTS: I understand that there

1 is incongruity in the law where it does not provide
2 specific authority to enact standards.

3 VICE CHAIRPERSON REYNOSO: So therefore
4 you have no authority to establish standards even when
5 the law says that is your responsibilities? Is that
6 your testimony?

7 WITNESS ROBERTS: That is what the statute
8 provides.

9 VICE CHAIRPERSON REYNOSO: Wow, this must
10 be a unique state and a unique system of government.
11 I'm unpersuaded by your testimony, I must tell you,
12 but let's go on.

13 We're told that you have the
14 responsibility of providing educational assistance.
15 One of the problems, we were told under testimony was
16 that your department has been cut, if I remember the
17 testimony correctly, from over 60 employees to over --
18 to somewhat over 30 employees in the last couple of
19 years. Is that true?

20 WITNESS HARRIS: Prior to my election, it
21 was almost 70 employees, that's correct.

22 VICE CHAIRPERSON REYNOSO: And what
23 happened after your election? Why were you cut down
24 to this many? And I'm talking -- I understood the
25 Division of Elections, at least that's the way I

1 understood the testimony.

2 WITNESS HARRIS: Those cuts were made
3 prior to my election.

4 VICE CHAIRPERSON REYNOSO: I beg your
5 pardon?

6 WITNESS HARRIS: Those cuts were made
7 prior to my election.

8 VICE CHAIRPERSON REYNOSO: They were cut
9 prior to your election?

10 WITNESS HARRIS: That's correct.

11 VICE CHAIRPERSON REYNOSO: So the
12 testimony we had indicated that really was quite a --
13 one, you have the change of personnel and then two,
14 you have the cutting down of personnel. What caused
15 that? I'm just puzzled in light of the testimony we
16 had earlier today about all the need that the local
17 agencies need and hoped to get from your office. They
18 did not. And they said one of the problems was simply
19 lack of resources.

20 WITNESS HARRIS: I concur in terms of the
21 lack of resources. The cuts in the Division of
22 Elections occurred prior to my election as Secretary
23 of State. We have not cut in the Division of
24 Elections. In terms of a change in personnel, most of
25 the Elections personnel have been there many years and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 are extremely experienced. The interim director --
2 the interim division director retired, and Mr. Roberts
3 replaced her.

4 VICE CHAIRPERSON REYNOSO: Was your
5 overall budget cut or was it just a cut in the
6 Division of Elections? It just seems like such an odd
7 thing to happen.

8 WITNESS HARRIS: Actually, we've been
9 augmented since then.

10 WITNESS ROBERTS: Mr. Chairman -- or Mr.
11 Commissioner, sorry, the overall budget of the
12 Department, I don't know about that, but the way the
13 appropriations process works in the State of Florida
14 is monies are appropriated on a by-division basis.
15 The overall appropriation has gone down for the
16 Division of Elections from when we had 70 employees to
17 we had -- to we've gone down to 39 employees. There
18 was some additional money that was appropriated for
19 the voter fraud efforts and the contract with DBT, but
20 that was specifically earmarked money which we
21 couldn't use for other purposes.

22 VICE CHAIRPERSON REYNOSO: And in fact we
23 heard testimony that your office had requested I
24 believe it was \$100,000 to help advertise and educate
25 the public on voting, and that was removed from the

1 Governor's request to the legislature. Can you tell
2 me what happened in that regard?

3 WITNESS ROBERTS: Mr. Commissioner, I was
4 not here at the time, but my understanding is, and
5 from looking at past budgets, we did request that
6 \$100,000. The way the budgeting process works in this
7 state is all the agencies submit requests to the
8 Governor's office, what they want in their budget
9 proposal, and the Governor's office has to prioritize
10 among a great many state priorities and make
11 decisions, and to follow-up on that question, you
12 would have to talk to someone from that office.

13 VICE CHAIRPERSON REYNOSO: All you know is
14 it didn't make it through the Governor's office to the
15 legislature?

16 WITNESS ROBERTS: Yes.

17 WITNESS HARRIS: Sir, what I can tell you
18 is that we did have commercials about voter fraud. We
19 had billboards concerning voter fraud trying to
20 educate our citizens as to any issues, and we had a
21 fraud hotline. So if there were any concerns
22 whatsoever they could be addressed. And additionally
23 we also sponsored a PSA commercial on getting the vote
24 out, trying to encourage people to vote.

25 VICE CHAIRPERSON REYNOSO: Thank you. I

1 have just two more questions.

2 Ms. Harris, there was a great deal of
3 controversy after the Florida Supreme Court opinion
4 pertaining to when the counties that were involved in
5 a recount could submit their votes, and the Supreme
6 Court had said they should be submitted on Sunday, if
7 I remember correctly, if your office was open, or on
8 Monday if it wasn't. Then I understand you had a
9 request to extend the time on Sunday for the
10 submission of some of those votes, at least from one
11 county, and you declined. I guess my question is, in
12 light of your testimony on the importance of every
13 single vote and in light of the Supreme Court opinion
14 saying that if your office was open, you could receive
15 it, but you could also receive it Monday, why in the
16 world didn't you just simply not open the office on
17 Sunday, knowing that that request was there, and
18 accept the votes on Monday to honor the votes of those
19 folk who had voted in that county?

20 WITNESS HARRIS: I'm glad you asked that
21 question because I can tell you that as we met on
22 Sunday, we went round and round about the issue. From
23 the time that we entered this recount period, my only
24 interest was to follow the law regardless. Recently I
25 was asked by the media, didn't you feel hostage to the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 law? And I said, no, that was my only safe harbor. I
2 couldn't move to the right or the left, and there
3 wasn't -- in terms of my discretion, I had to follow
4 the law. When it came to the deadline on Sunday, I
5 wasn't quite sure why the Supreme Court, the Florida
6 Supreme Court, had said if your office is open on
7 Sunday, you know, by five, or if it was open on Monday
8 [] this was Thanksgiving weekend -- and in the interest
9 of the nation, we discussed because people, you know,
10 wanted to have some conclusion. We had no information
11 or knowledge that the votes would not be completely
12 counted by 5:00 p.m. on Sunday, except --

13 VICE CHAIRPERSON REYNOSO: The whole
14 nation did. Apparently your office was the only one -
15 -

16 WITNESS HARRIS: No. When --

17 VICE CHAIRPERSON REYNOSO: -- in the world
18 that didn't.

19 WITNESS HARRIS: When we decided to open
20 the office on Sunday, when the Supreme Court said
21 either you will be open on Sunday or Monday, we
22 announced immediately that we would be responsive and
23 we would open our offices on Sunday. When they were
24 open we couldn't -- Okay. When they were open on
25 Sunday and other counties had certified their votes,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 we were notified late in the afternoon that Palm Beach
2 County was within two hours of being able to certify
3 their votes, could we wait another two hours? And in
4 terms of my interests and certainly having every vote
5 counted, we discussed, couldn't we just be, quote,
6 "gracious" in waiting another two hours. But what I
7 can tell you is, that wasn't the law. When the
8 Supreme Court said by five, if you are open, certify
9 at five, not two hours later, not two days later, not
10 two weeks later, and consequently it was not reported
11 accurately in the press. The returns from Palm Beach
12 County, they came in but they were not certified and
13 actually were never certified later. They came in
14 several days later with just one signature and not the
15 county canvassing board. So it wasn't indeed
16 accurate that they were ready in another two hours.
17 It was several days later that they were able to
18 reconcile the votes.

19 VICE CHAIRPERSON REYNOSO: Well, I can
20 understand that since their late filing had been
21 rejected at that point. They probably figured there
22 was no rush.

23 WITNESS HARRIS: Well, let's go to why the
24 late counting was rejected, sir. The reason,
25 according to the statutes and case law, originally

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 when we looked at the law and it said --

2 CHAIRPERSON BERRY: Turn off the cell
3 phone, please. Excuse me.

4 WITNESS HARRIS: No, that's -- thank you.

5 CHAIRPERSON BERRY: I couldn't hear.

6 VICE CHAIRPERSON REYNOSO: The nemesis of
7 modern society --

8 CHAIRPERSON BERRY: Is that your last
9 question?

10 VICE CHAIRPERSON REYNOSO: No, I have one
11 more, I'm sorry.

12 I'm sorry, I thought you were still
13 answering the question, no?

14 WITNESS HARRIS: I addressed your question
15 on the two hours extension.

16 VICE CHAIRPERSON REYNOSO: All right. One
17 final question. We've had a lot of testimony -- the
18 law seems confusing the way I read it, actually -- the
19 statute seems to provide for provisional voting, but
20 everybody that has appeared before us is of the view
21 that the statute does not, but also all the testimony
22 before us yesterday and today has been that a lot of
23 the problems could be solved by provisional voting,
24 when there is a dispute as to whether or not a person
25 is a felon or not. I just wonder if you've studied

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 those proposals for provisional voting, which I
2 understand from some of the officials have been
3 bounced around a lot in Florida and what your own
4 views are on the merit of having provisional voting.

5 WITNESS ROBERTS: We were not aware of the
6 issue of provisional voting and the necessity of it
7 before this instance. If the State of Florida ends up
8 keeping the felon list and the removal procedure in
9 effect now, and certainly even if we don't, to solve
10 problems of people moving, it will be part of our
11 legislative package to propose that the legislature
12 enact laws allowing a provisional voting plan in
13 Florida. I think that is a good solution to a lot of
14 our problems.

15 VICE CHAIRPERSON REYNOSO: Thank you very
16 much. Sorry to have taken so long, Madam Chair.

17 CHAIRPERSON BERRY: I do not do this
18 ordinarily, I recognize Commissioners, but I am going
19 to ask some questions myself because I feel a need to
20 ask certain questions on the record. So I will do
21 that and then I will recognize the other
22 Commissioners. I just want to make sure that these
23 get asked.

24 First of all, would your answers,
25 Secretary Harris, if I were to list all of these items

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 -- and I'm perfectly willing to read them -- in Section
2 97.012 that gives you certain responsibilities, that
3 the answer to the question of whom I should ask about
4 these responsibilities is, I should ask Mr. Roberts.
5 Is that your general answer to the question of your
6 responsibilities?

7 WITNESS HARRIS: That's correct. I
8 understand I am ultimately responsible, but Mr.
9 Roberts oversees the Division of Elections.

10 CHAIRPERSON BERRY: What if I wish to ask
11 you instead? And I ask you that because as Chair of
12 this Commission, we have a staff director, and he is
13 delegated the responsibility of the overall
14 management. When we go before the Congress -- and
15 I've been called there many times before the
16 subcommittee -- to answer operational questions about
17 our agency, and when I turn and say the staff director
18 is responsible, they say, you are accountable, you
19 answer the questions; what is your understanding of
20 the law, Chairman Berry? What's your understanding of
21 what's needed out there? So I'm asking you. I care
22 about what Mr. Roberts says, but as I understand the
23 law, you are accountable, and even though you've
24 delegated it, I still -- we should ask you what you
25 think, what you interpret as your responsibility. So

1 my questions will be directed at you.

2 WITNESS HARRIS: I will still have to
3 defer to Mr. Roberts in that I don't manage the day-
4 to-day operations and I stand accountable by what he
5 says when there are issues that arise, and then if a
6 decision needs to be made, he presents those to me and
7 -- with our legal counsel, and we address those
8 issues, but with all due respect, as I have seven
9 divisions and I have the oversight of those seven
10 divisions, I don't manage, nor do I have the expertise
11 in everything ranging from management of records in
12 our archives to our multi-million inquiries in
13 Division of Corporations every day. So, with all due
14 respect, I stand accountable and responsible as
15 Secretary of State for these issues, but Mr. Roberts
16 is the one who administers those issues every day and
17 there are many, many things that I'm only made aware
18 of when there is a necessary decision.

19 CHAIRPERSON BERRY: Ms. Harris, what is
20 the size of your entire staff? All of the areas of
21 your responsibilities.

22 WITNESS HARRIS: Seven hundred nine FTEs,
23 those are permanent employees.

24 CHAIRPERSON BERRY: And what is the size
25 of your budget?

1 WITNESS HARRIS: I have about 161 million.

2 CHAIRPERSON BERRY: Okay.

3 WITNESS HARRIS: One hundred sixty-one
4 million, I'm sorry, we do that in revenue, and we
5 generate about 171 million.

6 CHAIRPERSON BERRY: The largest thing I've
7 ever run was the education division of the federal
8 department, and we had a 13 billion dollar budget, and
9 thousands of employees with division heads all over
10 the place who were delegated responsibility. But when
11 I was asked to come and testify, I was asked questions
12 about every aspect of the operations and the policies,
13 and I felt it was my duty to inform myself so that I
14 would be able to answer them.

15 So I'm simply going to ask you questions,
16 and if the answer is you don't know, then fine. If
17 the answer is only Mr. Roberts knows, that's fine too.

18 WITNESS HARRIS: I can probably go ahead
19 and tell you that only Mr. -- again, Mr. Roberts --
20 really, the way I have chosen to administer our office
21 with such diverse responsibilities from international
22 to the cabinet issues of education -- And I admire
23 you. My goodness, that's an extraordinary task that
24 you were able to accomplish, but again, I have chosen
25 to in these delegation letters and the memorandum of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 understanding that we have with the division
2 directors, they really do run the operation.

3 CHAIRPERSON BERRY: Are you satisfied with
4 the entire operations of the Division of Elections in
5 the election that just occurred in Florida? Do you
6 believe that the supervisors are complaining
7 needlessly about the lack of information that they
8 got, the lack of support on voter education? Do you
9 believe that everything that happened with the
10 Division of Elections to whom you delegated this
11 operational responsibility was done exactly as it
12 should be and these people are just griping and
13 complaining. Is that your belief?

14 WITNESS HARRIS: No, I have great respect
15 for the supervisors of elections, but I have
16 extraordinary respect and confidence in my staff. If
17 they wish more funding, and certainly I wish we could
18 support them more in that regard, then we work with
19 them to go to the legislature for those types of
20 funding issues, and so on many issues I might well
21 concur. I would say, and I would be confident, that
22 should they request support or information or any type
23 of assistance that our staff is capable of giving, I'm
24 confident that they were supplied that information or
25 that type of assistance.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON BERRY: What budget did you
2 request for Mr. Roberts' office and what discussions
3 did you have with the Governor about the submission of
4 his budget for the operations of the Division of
5 Elections and what was the result?

6 WITNESS HARRIS: I will let Mr. Roberts
7 speak specifically to the budget issues, but I have no
8 direct conversations with the Governor. We meet with
9 the division directors and our budgeting offices
10 directly with the staff of the Governor to discuss
11 budgeted items. We don't speak directly with the
12 Governor.

13 CHAIRPERSON BERRY: And you've never
14 submitted a budget request or said to the Governor or
15 written to the Governor that your Division of
16 Elections and the voting operations in the state
17 needed a lot of work and that you needed better
18 funding for it?

19 WITNESS HARRIS: Each year we submit
20 budget requests to the Governor and to the legislature
21 that are indicative of those issues, I believe.
22 Again, in this very close election, I think there were
23 many issues that came to light and gratefully because
24 of that information I think we have a legislature and
25 an executive branch that are extremely interested in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 making sure that there are more adequate solutions
2 provided.

3 CHAIRPERSON BERRY: I don't understand
4 your answer. I asked you did you submit a budget for
5 his office and what was it and what was the fate and
6 did you submit it to the Governor. I thought at first
7 you said no and then you said yes. - Is the answer yes?

8 WITNESS HARRIS: No, we do submit it to
9 the legislature and the Governor's office as well, and
10 in addition to that, we have the opportunity to
11 request a supplemental budget. Because we weren't
12 aware of some of situations that occurred in this
13 election and some additional resources that are
14 required in our original budget requests, we are now
15 working on our supplemental budget that will include
16 some kind of mechanism for additional funding for
17 counties. Normally the individual counties fund these
18 voting systems, and we're working on a scenario where
19 the legislature would provide to the Department of
20 State, either in the form of matching grants or other
21 type of funding where we can give assistance to these
22 counties to purchase new voting systems?

23 CHAIRPERSON BERRY: The other problems
24 that were much publicized surrounding the election on
25 the front end, not the counting -- I'm not talking

1 about the count -- on the front end, the complaints,
2 the litany of complaints, about everything from
3 registration, the card and the filling out, and you've
4 been asked about the felon list and the rest of it,
5 are you satisfied that everything your office could
6 have done, you did in the lead up to the election to
7 prepare for it, and to make sure that these front end
8 problems would be taken care of to the extent that you
9 provided assistance, to the extent that you provided
10 education and all the other matters in the statute?

11 WITNESS HARRIS: With additional funding I
12 believe we could do ever so much more in terms of
13 voter education and other issues, but I believe within
14 our budget constraints and limited resources, I think
15 -- I have confidence that our Division of Elections
16 has done a very good job. I know that, for example,
17 we provided technical support even though it wasn't
18 specifically in the budget. One of our expert
19 technical staff from the Division of Elections went
20 around the state and was able to determine software
21 issues that could have been a problem within some of
22 these voting systems. So there was extensive work
23 done on the Division of Elections, that part, and on
24 behalf of the supervisors to make certain that this
25 election could have the integrity that it absolutely

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 must have. Furthermore, we have something that is a
2 voter certification system within the state, not all
3 states have it, and we are, interestingly enough,
4 reported as being one of the -- as having the best
5 voting systems in the country, which means that our
6 voting machines must be certified to the point of
7 having one mechanical error per one million votes.

8 CHAIRPERSON BERRY: Now, you said that
9 there was a fraud hotline, and we heard testimony
10 about that before and there was a PSA. Were there
11 voter education materials prepared and distributed on
12 the mechanics of how to vote?

13 WITNESS HARRIS: That's a day-to-day
14 operations type of thing. I know we have those
15 materials, but I don't -- and each county is required,
16 the supervisors of elections, since all voting systems
17 are determined by the county supervisors of elections,
18 they provide their own instructions for each of the
19 counties. It is not as though we could do in one
20 media market have voting information that would
21 explain how to vote because within that particular
22 media market there would be a number of different
23 systems that might be employed.

24 CHAIRPERSON BERRY: And you don't know
25 whether your office provided information or marketing

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 help or education help to the counties on the
2 mechanics of how to vote as opposed to --

3 WITNESS HARRIS: Again, that would be a
4 day-to-day operational question that you could address
5 to Mr. Roberts, if you would like.

6 CHAIRPERSON BERRY: Why don't you ask him.
7 You're sitting next to him. He works for you, ask
8 him.
9 Why can't he whisper in your ear and tell you the
10 answers?

11 WITNESS ROBERTS: Would you rather that,
12 Madam Chair, or can I answer directly?

13 WITNESS HARRIS: I just thought it would
14 be more expeditious if you had him answer it.

15 CHAIRPERSON BERRY: I see. Are you
16 interested in the answer to the question, Madam
17 Secretary?

18 WITNESS HARRIS: I'm extremely interested
19 in --

20 CHAIRPERSON BERRY: I see. Is your
21 interest engendered by my asking you the question or
22 were you interested before you came here?

23 WITNESS HARRIS: Actually, I was very
24 interested. When I ran for office, and I ran all over
25 the state, and you get input. You get some of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 best ideas that you can imagine, and what I said was,
2 the integrity of our elections was very important, and
3 while I have a background and interest in so many of
4 our different divisions, I think the elections process
5 is exceedingly important, an exceedingly important
6 responsibility in my office. And so we had great
7 ideas, and I met with the supervisors after I was
8 elected, and I said, oh, we can do all this exciting
9 voter education and internet opportunities, but you
10 know, all sorts of things. There were suggestions as
11 I was campaigning, we could work with some of the fast
12 food restaurants, on their paper mats, you know when
13 you get them, we could have encouraging voter turnout,
14 voter education, and I was actually informed very
15 quickly by the supervisors of elections that, you
16 know, they do this locally within each community. If
17 I wanted to -- if I didn't have the budget from the
18 legislature and I wanted to raise private funds to do
19 this, they suggested that I forward that on to them,
20 but they had the complete autonomy, and they do, to
21 provide that kind of voter education. And we very
22 interested people. . . We perform through the Department
23 of State in mock elections in our school system to
24 help educate voters, to help educate the children, and
25 certainly get the parents involved and issues such as

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 that, but yes, I have been interested in this since my
2 time in the senate and certainly even more so now.

3 CHAIRPERSON BERRY: I have just one other
4 question, and I'll see if the Commissioners have any,
5 and I will ask this one of Mr. Roberts.

6 There was some testimony we had that the
7 fraud -- First of all, how much did the fraud hotline
8 cost?

9 WITNESS ROBERTS: The fraud hotline costs
10 approximately \$7,000 a year to maintain.

11 CHAIRPERSON BERRY: And the PSA?

12 WITNESS ROBERTS: The PSA, I don't have
13 the exact numbers, but we spent between billboards,
14 television ads, production and airing it, it was
15 several hundred thousand dollars.

16 CHAIRPERSON BERRY: How much did you spend
17 on voter education, actually how to vote, the
18 mechanics of how to vote?

19 WITNESS ROBERTS: The extent of what we've
20 done on mechanics of voting is we provide posters to
21 the supervisor of elections in Spanish and English,
22 which are posted in the polling place that explain to
23 voters the basics of voting; to get their ballot, take
24 it to their voting system to vote it, if they make an
25 error on it, they are entitled to get another ballot.

1 As far as the mechanics of voting and showing voters
2 how to vote, we do not participate in that because
3 different counties have different systems, and if we
4 were to run an ad or to put out information for
5 instance on one of the local television stations in
6 Leon County about the mark sense voting system which
7 we use here to vote, it would be confusing --

8 CHAIRPERSON BERRY: That's not my
9 question. My question is, did you give them any money
10 so that they could do it? Did you fund anything,
11 that's what I'm asking?

12 WITNESS ROBERTS: No, ma'am.

13 CHAIRPERSON BERRY: You didn't. Okay.

14 Any Commissioner have any question?

15 Commissioner Wilson?

16 COMMISSIONER WILSON: Thank you very much.

17 Did anybody ever hear of the expression "a
18 merry-go-round called denial"?

19 (Laughter.)

20 COMMISSIONER WILSON: I feel as if this
21 should be called the trickle-down effect because I
22 hear what you have to say, and I hear that you had
23 wonderful intentions for the voters and were trying to
24 help them, but I've also heard today, this morning and
25 yesterday, but particular today supervisors who were

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 desperate, desperate for your help. The word that
2 comes to mind is that you abandoned them. They were
3 abandoned by your department. They wanted help, they
4 wanted money, they wanted guidance, and I understand
5 you are responsible. You obviously have a huge staff.
6 You were dealing with the day-to-day goings on of
7 your division. The Division of Elections was I don't
8 know where. The supervisors were desperate for some
9 information, and the voters ended up having to pay the
10 price.

11 You know, I sit here and I listen to you,
12 and I think well, maybe -- I read what you or somebody
13 wrote about one vote made this difference and one vote
14 made that difference, and you know, that was very
15 powerful, but the fact is that you didn't help the
16 voters. You did not help the voters, and the voters
17 really had to pay the price, and I don't know who was
18 responsible. The supervisors are saying you're
19 responsible. You're saying Mr. Roberts is
20 responsible. Mr. Roberts is trying to do his job, and
21 in the meantime I'm on the merry-go-round called
22 denials of what's going on.

23 Now, my question, starting with the
24 smallest and going to the largest is, you have \$170
25 million dollar overall budget, is that right? \$171

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 million dollars. Okay.

2 WITNESS HARRIS: I'm sorry, I have about
3 \$161 million. We generate about \$171 million in terms
4 of revenues.

5 COMMISSIONER WILSON: Good for you, you
6 brought in \$10 million dollars. Perhaps you've
7 already answered this, but I didn't hear it, how much
8 of that is allotted to the Division of Elections or to
9 the voters or to the whole mechanism of voting?

10 (Ms Harris and Mr. Roberts confer.)

11 COMMISSIONER WILSON: I don't mind if you
12 answer the question.

13 WITNESS HARRIS: Okay, I'm sorry. Five
14 hundred and --

15 WITNESS ROBERTS: Five point four million.

16 WITNESS HARRIS: It's 5.4 million
17 specifically for Division of Elections, but I did want
18 to say in terms of our responsibilities, I am chief
19 elections officer, and I consider myself accountable
20 and responsible for this election. I do delegate the
21 day-to-day operations to Mr. Roberts, but in no way
22 would I, you know -- that would be as far as it would
23 go. So in answering many of these questions, that's
24 where I'm saying you have to get the information. I
25 know the supervisors of elections, many of them have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 called me personally, and I never had anyone say, I'm
2 desperate for information that we are not receiving
3 from your office.

4 COMMISSIONER WILSON: Then you should have
5 been here -- I'm sorry to interrupt you, but you --
6 we're having a discussion about this. You should have
7 been here this morning and you should have listened to
8 these people who are very hard-working, who were
9 dedicated, who had been doing their jobs for 20 years
10 and who had to go out, basically, and raise their own
11 funds --

12 WITNESS HARRIS: Exactly.

13 COMMISSIONER WILSON: -- to educate the
14 voters, and one that worked was a man, a brilliant
15 supervisor, Mr. Sancho from Leon County who raised
16 enough funds to send out the ballots, sample ballots
17 to the voters, and if you look at the -- if you look
18 at the blank or spoiled ballot percentage in his
19 county, it's unbelievably low. In Leon County it's
20 .18 percent, and the reason is because those people
21 had the ballots beforehand.

22 WITNESS HARRIS: By law, all supervisors
23 send out ballots or publish it in the newspaper, and
24 that is part of their budgets.

25 COMMISSIONER WILSON: They don't have the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 money.

2 WITNESS HARRIS: And again, again I think
3 the legislature will be much more responsive and we
4 can be much more aggressive in terms of funding issues
5 because this has become so readily apparent in such a
6 close election that more needs to be done with regards
7 to our election system.

8 COMMISSIONER WILSON: Well, yesterday -- I
9 don't know, you probably didn't see it, but yesterday
10 there was a man here, a distinguished gentlemen who
11 you probably know, undoubtedly, by the name of Jim
12 Smith who was the co-chair of the Task Force on
13 Election Procedures, Standards, and Technology. He
14 was the Secretary of the State.

15 WITNESS HARRIS: Yes, indeed.

16 COMMISSIONER WILSON: Okay. So I'm sure
17 you are familiar with him. Seemed like a very
18 serious, dedicated man, and what he said was that he
19 had written reports outlining the condition of the
20 voting situation, the voting situation in the State of
21 Florida when he was the Secretary of State, and he
22 said this was a time bomb waiting to go off. So if it
23 was known then, why is it that it is only now that
24 people are willing to cope with what was a disaster?
25 It was a disaster for your state as well as for the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 rest of the country and the way people feel about
2 having faith in the system of this country.

3 WITNESS HARRIS: Much needs to be done
4 with the election -- with the legislature and the
5 elections laws this year, and I'm confident that the
6 legislature will address it. In the past -- it is
7 difficult, practically speaking, to pass laws that
8 relate to elections, but this year I think we will
9 have the opportunity to do a much better job in
10 addressing that and the legislature is very sensitive
11 to these issues.

12 COMMISSIONER WILSON: I understand that
13 all of the Florida counties on optical scan did not
14 actually recount the individual ballots for Florida
15 for this election. Is this true?

16 WITNESS ROBERTS: Yes, ma'am, that's my
17 understanding.

18 COMMISSIONER WILSON: That that is true?

19 WITNESS ROBERTS: Yes, ma'am.

20 COMMISSIONER WILSON: Okay. Two of the
21 counties that did recount had over a thousand
22 additional votes that were recorded. Is that true?

23 WITNESS ROBERTS: I'm not aware of that
24 number.

25 COMMISSIONER WILSON: Were you aware that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 there were any additional votes that were added once
2 the recount took place?

3 WITNESS ROBERTS: Typically when there is
4 a machine recount there are extra votes that are
5 counted, and there are some counties that did report
6 to me that when they did their original count there
7 were ballots that for some reason or another did not
8 get counted.

9 COMMISSIONER WILSON: Well, how can some
10 counties be counted and others not counted without
11 discrimination?

12 WITNESS ROBERTS: I don't think that they
13 can, but there were some counties where supervisors
14 have interpreted the statutes to not require a machine
15 recount in that automatic machine recount.

16 COMMISSIONER WILSON: Well, how can the
17 vote be certified if the ballots aren't counted?

18 WITNESS HARRIS: When we receive -- the
19 supervisors -- the canvassing boards, the local county
20 canvassing boards certify the results to the state
21 board. When we receive that, which again is strictly
22 ministerial, you can't look beyond that certification.

23 When we receive it, that is what we can certify. We
24 can't go back and say how did you count, what are
25 these issues here. That is the role of the state

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 board.

2 COMMISSIONER WILSON: Okay.

3 CHAIRPERSON BERRY: Did you have a
4 question.

5 COMMISSIONER THERNSTROM: I do have a
6 question.

7 It's a question directed to Secretary Harris.

8 You testified in response to an earlier
9 question by the Commission's general counsel that
10 people -- that you understood the frustration people
11 felt in not being able to cast their votes or to have
12 their votes properly counted, and I wonder whether you
13 really think that is an accurate description of what
14 happened in Florida that voters were in fact
15 disenfranchised?

16 WITNESS HARRIS: I believe that voters
17 have the opportunity to go to the polls and vote.
18 Their vote was counted and then, because of the close
19 election, by law immediately recounted. Less than
20 one-half of one percent said their votes were counted
21 twice. With regard to the manual recount and our
22 legal understanding, as the laws are written when it
23 says that you may certify a count, traditionally when
24 you look to those who originally drafted that
25 legislation, or staff, that is meant -- may would

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 occur in the case of a natural disaster. In
2 researching this to decide an extend in a manual
3 recount, and again, in answer to your question did I
4 feel the voters were disenfranchised, in trying to
5 bend over backwards and determine if we're going to
6 not only count the votes once, but count the votes a
7 second time through -- through the electronic
8 recounts, and then now again a third time due to a
9 manual recount, our attorneys researched the statutes
10 and then went to case law, as I directed them, to
11 determine what those standards would be to justify a
12 manual recount, yet a third count of the votes, and
13 came back with two more criteria based on case law,
14 and that would be if there were any mechanical error
15 whatsoever or if there were fraud, and in those
16 requesting a manual recount to our office,
17 specifically to prevent any disenfranchised amount
18 voters, that they could be counted. They all
19 certified that neither was there a natural disaster,
20 mechanical error, nor was there any fraud involved.
21 So when we're looking to the law, that's how we
22 determine that.

23 I will say in terms of disenfranchisement,
24 another effort that we were very concerned about and
25 that we took the initiative was concerning the press

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 reporting that they were going to call the election at
2 7:00 in the evening in Florida when in the panhandle
3 another 200,000 voters had not voted yet. I felt that
4 if -- we felt that if the election was called at 7:00
5 in the evening and 200,000 voters still had to go to
6 the polls for Florida, we felt that that was in
7 essence disenfranchising voters because they felt that
8 their vote wouldn't count if they went to the polls at
9 this point because they were already calling it for,
10 you know, for the vice president. So if they had been
11 intending to vote for President Bush -- nor would
12 their vote count if they were voting for Vice
13 President Gore because he had already won. So I do
14 think there were some issues, you know, concerning
15 that as well. And we sent letters out a week prior to
16 that occurring to the media saying, please don't call
17 it at 7:00 because we feel that that will
18 disenfranchise the 200,000 voters in the panhandle as
19 well because they are on a different time schedule.

20 CHAIRPERSON BERRY: Commissioner Meeks, do
21 you have a question?

22 COMMISSIONER MEEKS: I'll see, if I can
23 argue with this or not. You know, throughout this
24 whole hearing, and this is really the last panel we
25 have for the formal hearing, but there were a lot of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 things that did or did not happen that really led up
2 to this immense spoilage of ballots and all the crises
3 with the election, and I just can't help but to keep
4 thinking that, you know, it really seems like there
5 has just not been an interest on the part of the
6 elected officials or lawmakers in this state to make
7 sure that new voters are brought into the system and
8 are educated to vote, and you know, I just can't help
9 but wonder why -- and this may be just completely
10 theoretical that I ask this, but why, why has there
11 not been attention and increased funding or at least
12 why was funding cut to ensure that Florida had a very
13 good election system, that would ensure new voters
14 were brought into the system and educated?

15 WITNESS HARRIS: In the past we believed
16 that we had a good election system. Across the
17 country it's been stated that perhaps there's a one
18 percent voter error or rejected votes. One percent in
19 a large state like this is far too many. Although I
20 don't believe the spotlight was ever on that issue
21 before because we'd never had such a close election,
22 if there is any silver lining about what has happened
23 the five weeks after the election day it certainly is
24 first and foremost voter education. I mean, there's
25 never been a more extensive voter education scenario

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 in the history of our country than I think what we've
2 just incurred in the last five weeks, an extraordinary
3 lesson in civics, and I think systemically changing
4 probably our students lives forever. They'll always
5 understand how important voting is.

6 But certainly for the legislature, for all
7 the citizens of Florida and the United States, a wake
8 up call saying voting systems are important. The idea
9 to educate the voter remind them how absolutely
10 crucial one vote is and certainly to make sure we have
11 as open and accessible system as possible, and so we
12 will reinvigorate our efforts to make certain that
13 that happens now.

14 CHAIRPERSON BERRY: Commissioner Lee.

15 COMMISSIONER LEE: Thank you, Madam Chair.

16 I find it really disturbing that -- you
17 mentioned earlier the best way to improve the current
18 situation is to provide better voting systems
19 mechanically. We've sat here for two days. We heard
20 about, sworn testimonies, about people who could not
21 register to vote. They thought the were registered to
22 vote, found out they weren't on the list. People went
23 to the polling places and found out they were somehow
24 purged. So no matter how good of a system you have,
25 if people cannot even get there to use the fine

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 machines, their votes are being deprived. So, it is
2 very disturbing to me that you did not mention you
3 were going to spend the money to provide the voting
4 education, outreach, registration, all those programs
5 that the county supervisors and other community groups
6 have cried out for yesterday and today.

7 You also mentioned you delegate a lot of
8 the responsibilities to Mr. Roberts. My question to
9 you is, Mr. Roberts has got to know that with the
10 heavy voter registration drive by grassroots groups,
11 universities, that you were expecting a very, very
12 heavy turnout. So regardless of the closeness of this
13 election, you should have known before November 7th, a
14 month before November 7th, that you will be
15 encountering a huge number of first time voters. Did
16 you at any time meet with the Secretary to alert her
17 of this problem and to ask for any suggestions and
18 support from this day to help these counties? Because
19 you'd have to know that a big problem is coming on
20 November 7th.

21 MS. KERNEY: Madam Chair, may I make a
22 statement before? I had informed your staff that
23 Secretary Harris does have an airplane to catch at
24 5:10.

25 CHAIRPERSON BERRY: I understand that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 We're going to have two more questions and that's it.

2 MS. KERNEY: Thank you. I appreciate it.

3 WITNESS ROBERTS: Commissioner, was that
4 directed to me?

5 COMMISSIONER LEE: I'm asking, Mr.
6 Roberts, did you inform the Secretary when you know
7 there is going to be a huge number of first time
8 voters.

9 CHAIRPERSON BERRY: Five minutes.

10 WITNESS ROBERTS: Voter registration
11 numbers came in that -- voter registration is closed
12 29 days before the general election in Florida. They
13 submit those numbers to us about two weeks out. It
14 was apparent at that time that there was an increase
15 in voter registration. It was consistent with the
16 slightly more than previous presidential election
17 years as far as voter registration. We knew that we
18 were going to have a lot of voters. All the
19 supervisors had been working hard to conduct voter
20 education in those counties. And believe me, it was
21 mentioned by the panel that the supervisors were
22 crying out for help, and I have five people in the
23 director's office that that's all they do, is answer
24 supervisors' questions, and I talk to supervisors
25 every day and provide all the support to them that I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 can, but within the resources that I have, and I know
2 that that provides no solace to those supervisors. I
3 feel like I gave them as much support as was available
4 to give them.

5 CHAIRPERSON BERRY: Mr. Roberts, the
6 Commissioner's question was whether you briefed the
7 Secretary on this problem, and what did the two of you
8 do together and decide to do, not whether you thought
9 you did the best you could.

10 WITNESS ROBERTS: That was not an issue
11 that I thought raised enough of a new concern that I
12 brought that to the Secretary. I did not.

13 CHAIRPERSON BERRY: So you didn't discuss
14 this at --

15 WITNESS ROBERTS: I did not.

16 CHAIRPERSON BERRY: -- all with the
17 Secretary?

18 WITNESS ROBERTS: No, I did not.

19 CHAIRPERSON BERRY: Commissioner Edley,
20 quickly, could you ask your question?

21 COMMISSIONER EDLEY: I'll do it in
22 writing.

23 CHAIRPERSON BERRY: All right, you'll do
24 it in writing. And I'll just ask one question myself.

25 Madam Secretary, since Mr. Roberts did not

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 brief you on this issue of turnout, you're telling us
2 that you knew, yourself, that there was likely to be -
3 - without him briefing you, right?

4 WITNESS HARRIS: Yes, that's correct.

5 CHAIRPERSON BERRY: Did you have a
6 discussion with him or call him in and say, you know,
7 we didn't sit down and discuss, but is there anything
8 else we can do to help with this issue of turnout?

9 WITNESS HARRIS: We had had a lot of
10 suggestions, and one of the issues that I'm very
11 interested in, although it wasn't available to us for
12 the future, would be to have the type of technology
13 that would allow our voters, no matter where within
14 the county they lived, no matter which precinct, to be
15 able to vote at certain locations. We were very
16 concerned -- our primary concern about the increased
17 turnout would be the long lines because we knew that
18 so many people would come and vote. So that's why we,
19 for example, in Tallahassee at the Capitol, why we
20 suggested and sent out to all the cabinet officers to
21 please inform their staff they would have two hours
22 off if they weren't in this county, and one if they
23 were. But in terms of we knew we'd have more voters
24 at the polls, but I wasn't aware of any specific
25 requests from supervisors of elections of additional

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 resources that they might need. The issue that I
2 personally anticipated was, that I was deeply
3 concerned about, were the issues of fraud or just the
4 time standing in line. I didn't want people to be
5 discouraged and go away not having a timely
6 opportunity to vote.

7 CHAIRPERSON BERRY: Okay. The absolute
8 last question for sure.

9 WITNESS HARRIS: Yes, ma'am.

10 CHAIRPERSON BERRY: You were asked a
11 question about what would constitute disfranchisement
12 in an earlier question.

13 WITNESS HARRIS: Yes.

14 CHAIRPERSON BERRY: If someone were purged
15 from the rolls as a felon and they were not a
16 convicted felon and they were prohibited from voting,
17 and they tried manfully or womanfully and were not
18 able to, would you consider they were disfranchised
19 when it was a mistake?

20 WITNESS HARRIS: I suppose mistakes occur,
21 but I think that would be a terrible mistake, and this
22 morning I did hear testimony, or perhaps it was
23 yesterday, from a gentleman who in essence that had
24 happened. But according to his testimony, even though
25 it's discomfoting that that had been experienced,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 they were able to reconcile that; indeed it happened,
2 and it was a mistake and he was able to vote.

3 CHAIRPERSON BERRY: My question is, would
4 you believe it was disfranchisement if indeed someone
5 were prevented from voting ultimately by that process
6 when they were not a felon?

7 WITNESS HARRIS: By that process or any
8 process, if someone were legally registered to vote
9 and by some means they were precluded from voting, I
10 know if that occurred to me that that would be
11 extremely -- I would think that's very -- that's a
12 terrible mistake, and so --

13 CHAIRPERSON BERRY: We want to thank you
14 very much for coming, and thank you, Mr. Roberts, and
15 thank you, counsel, and there are some sign-out
16 procedures, very quickly.

17 WITNESS HARRIS: Madam Chairman and
18 Commissioners, thank you for coming to Florida and
19 making us even more aware of these issues, and I look
20 forward to our task force and to your suggestions or
21 issues, and these issues will be addressed.
22 Discrimination of any kind in this state will not be
23 tolerated. We have zero toleration. Florida is a
24 progress state, and I love this state, and I think it
25 is very important that we make sure that people are

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 certain that their vote will be counted and have
2 confidence in the system. So I think you.

3 CHAIRPERSON BERRY: The Commissioners
4 might like to make a statement or make some comment
5 before we close the books, if anyone wishes to, since
6 this is the last of the public part of hearing or
7 Commissioner Edley may want to say something since I
8 think he's going to be leaving.

9 COMMISSIONER EDLEY: Can we have order --

10 CHAIRPERSON BERRY: Yes.

11 VOICE: Why don't we wait for the media.

12 CHAIRPERSON BERRY: Yes, I'm alerting the
13 media as to what's happening.

14 We will wait until the Secretary and Mr.
15 Roberts have gone out the door.

16 No, no, I was referring to you leaving.

17 So that if there is any comment that
18 anyone would like to make at this juncture before we
19 recess, before the public session, I would be happy to
20 entertain any such comments.

21 Commissioner Edley.

22 . . . COMMISSIONER EDLEY: I guess to some
23 extent my comments are in the nature of a request for
24 a little research by the staff, at least in part. I'd
25 be interested in knowing by way of background a little

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 bit more about the history of the funding and the
2 various efforts to make improvements in the voting
3 systems in Florida because to get back to what
4 Commissioner Wilson said, and -- I don't feel on the
5 record that we've heard the last two days, I don't
6 feel that Florida officials, elected officials, the
7 legislature and so forth, have done a reasonable job
8 of addressing what should have been quite evident
9 problems in the voting system -- in the voting system
10 here. The data we have about blank or spoiled ballots
11 in which there are numerous counties with three, five,
12 seven, ten, even twelve percent of ballots that end up
13 not being counted, it seems to me there's been really,
14 some fairly systematic, implicit disenfranchisement of
15 voters. And the best interpretation you can put on
16 this is that this massive disenfranchisement has
17 occurred because people haven't cared enough to spend
18 the money to have good voting systems, to have voter
19 education, and the like. So I would like to know a
20 little bit by way of background of have there been
21 requests to the state legislature to increase funding
22 so that counties could do this more effectively, and
23 if the requests were made, why were they -- why were
24 they turned down?

25 Now, second point. I'm especially

1 interested in whether the impact of these inadequate
2 resources and inadequate procedures is correlated on a
3 precinct basis and a county basis with race,
4 ethnicity, age, class; in other words, what I am
5 trying to get a sense of for us to be able to describe
6 to the public and for us to think about this is
7 whether what seems to me to be a breakdown in the
8 political system where you have elected officials not
9 doing their job by way of the voting public. Is the
10 breakdown because basically the folks who are
11 disadvantaged by the broken system were the people who
12 did not have a lot of political power, the people that
13 didn't have clout and influence. I would like to know
14 whether if you -- whether, in other words, the
15 incidents of ineffective voting mechanisms fell
16 disproportionately on the least powerful in the state.

17 And finally, I guess what -- I have to
18 comment a little bit on the tone of what we've heard
19 from several of the officials. Look, we've got a
20 whole bunch of folks here who are now quite zealous
21 about seeing to it that everybody gets to vote and
22 that every vote counts, but you do have the sense that
23 this, at least for some people, is a newfound religion
24 because of the glare of the public's spotlight and the
25 closeness of the election. And I think what is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 missing to me from their statements is just a
2 confession that, yeah, we blew it, we didn't keep the
3 faith with our constituents, we should have been
4 making these investments, we should have been more
5 forward-thinking about the need for the telephone
6 lines and the sample ballots and the translators and
7 the facilities that would work for the disabled, we
8 should have thought about it more carefully; we blew
9 it, we are sorry, and now we will do the right thing.

10 I don't hear that tone coming through at all. I hear
11 a lot of denial, and I hear a lot of excuses and a lot
12 of finger pointing, but not stepping up to the plate
13 and saying, I made a mistake, my colleagues made a
14 mistake, and we regret it.

15 And the reason that I think that is important is not
16 just a moral matter, it's a matter of doing everything
17 that can possibly be done to try to restore
18 confidence, especially for those voters who are new to
19 the system, and who have stuck a finger into the
20 water. They went to the trouble of getting
21 registered, they went to the trouble of -- of coming
22 to the polls, and are left with a very bitter taste
23 after this election. It would be a tragedy for
24 Florida and a tragedy for the rest of the country if
25 every effort isn't made to try to turn around that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 perception and try to restore people's faith in the
2 system.

3 Thank you. That's all I wanted to say.

4 CHAIRPERSON BERRY: I would thank you
5 Commissioner Edley. I was happy to let you make a
6 comment. I would think that -- and we, of course,
7 will reserve conclusions about what has happened
8 definitively until after we've examined the record and
9 after staff has had an opportunity to examine the
10 documents that we have asked for. But I wanted to
11 give you an opportunity to state your impressions, as
12 others have done, including myself, as we have gone
13 along here.

14 And now what will happen is, we will be in
15 recess until 6:00, it is, when we have the open forum.

16 We are in recess.

17 (Whereupon, the hearing was recessed at
18 4:22 p.m., to reconvene at 6:00 p.m., the same day.)

19

20

21

22

23

24

25

1 E-V-E-N-I-N-G S-E-S-S-I-O-N

2 CHAIRPERSON BERRY: We will now reconvene
3 the hearing and we will go to the open session, and
4 during this session the commissioners will hear
5 testimony from concerned persons who are not part of
6 the witnesses who are called and subpoenaed for this
7 hearing.

8 **Open Forum**

9 CHAIRPERSON BERRY: We have several
10 individuals we will be calling, and they have signed
11 up and had a brief screening with our staff and they
12 are being called to come to speak to us for about five
13 minutes each, and I will remind us that the record for
14 this hearing will remain open for 60 days during which
15 any person may submit additional testimony.

16 General counsel, please call the witness
17 for the next panel.

18 ACTING GENERAL COUNSEL HAILES: Thank you,
19 Madam Chair.

20 Our first witness for this open session
21 will be the Honorable Corrine Brown.

22 Congresswoman Brown, will you please come
23 forward at this time?

24 CHAIRPERSON BERRY: Let me, before you
25 begin with her, I forgot to ask whether the signer

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 would come forward to ask whether anyone needs signing
2 during the session.

3 (Whereupon, the sign interpreter
4 complies.)

5 THE INTERPRETER: I see no one, Madam
6 Chair.

7 CHAIRPERSON BERRY: Thank you.

8 Welcome to you, Congresswoman Brown.
9 Thank you very much for coming. We're happy to see
10 you here.

11 **STATEMENT OF CONGRESSWOMAN CORRINE BROWN**

12 CONGRESSWOMAN BROWN: Thank you, Madam
13 Chair, and --

14 CHAIRPERSON BERRY: We're happy to see
15 everyone.

16 CONGRESSWOMAN BROWN: I want to
17 particularly thank you and the Commission for having
18 these hearings in Florida. It's the only credibility
19 as far as any recommendations because people in
20 Florida don't have a lot of confidence in the
21 Governor's commission because if you look at the
22 composition of it, in discussion it's 10 Democrats, 10
23 Republicans. Well, did 10 Republicans lose their
24 rights to vote? It's just that the last time Florida
25 was involved in a situation like this, some hundred

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 and something years ago, that's how long it took for
2 African-Americans to get themselves reinstated. It
3 took 129 years.

4 And I represent the Third Congressional
5 District of Florida which encompasses Duval, Clay,
6 Flagler, Putnam, Volusia, Lake, Orange, Seminole, and
7 St. John's. Particularly, I represent the heart of
8 Duval. My district is the district in which 27,000
9 ballots was thrown out. Sixteen thousand of them was
10 in the African-American community that vote 98 percent
11 Democratic. And I can tell you that this election on
12 November 7th was not a close election, that Al Gore
13 won, not only nationally, but he won in Florida and he
14 won in my district.

15 Now, I have a written testimony that I
16 want to give you, but I listened to your hearing very
17 closely at 4:00 this morning, and so there are some
18 points that I want to make that I will make. For
19 example, on the question of the under-count, now, in
20 my district, the Third Congressional District, which
21 was a hotly contested race, well, 6,000 under-votes.
22 I can assure you that there was no one that lived in
23 7, 8, 9, and 10 was going to polls and didn't want to
24 vote in my race. Six thousand under-votes.

25 And so I learned from the hearings that

1 they had in Tallahassee that Duval County had the
2 second highest under-votes in 1998. Second to West
3 Palm in 1998. And so clearly people were trying to
4 vote in my race, but I found out that the machines
5 wasn't functioning. That was the testimony of the
6 people who owned the machines and said that if you
7 don't service them or if you don't check them that
8 they will just spit out the ballots. Sixteen thousand
9 ballots thrown out. The over-vote -- Let me discuss
10 the over-vote.

11 You all discussed the importance of
12 educating voters. What happens when you educate them
13 and what you print is not what you have once you go to
14 the poll, and that's what happened in Duval County.
15 The ballots that was put out was not the same ballots
16 at the polls, and if you read the instructions on the
17 sample ballot, you would have voted wrong. They asked
18 you to vote on every page. Well, if you voted on
19 every page, then you would have voted twice for the
20 presidential candidates in Duval County.

21 The Canvassing Board in Duval County, all
22 white males, Republicans, four... We're the only county
23 that have four. I don't understand how we got four,
24 but they are all white males. That is not
25 representative of Duval County. Duval County have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 some Democrats, we have some African-Americans, and by
2 God, we've got some women.

3 (Laughter.)

4 CONGRESSWOMAN BROWN: But the Canvassing
5 Board was all white male Republicans.

6 Another thing I want to point out is that
7 I had problems when I went to vote on November 7th. I
8 went to my precinct bright and early to vote, and I
9 was told that you requested an absentee ballot for the
10 primary. So we sent you an absentee ballot in
11 Washington, and so unless you have that absentee
12 ballot, you cannot vote. Now, I was going to vote.

13 (Laughter.)

14 CONGRESSWOMAN BROWN: In my race, I was
15 going to vote.

16 (Laughter.)

17 CONGRESSWOMAN BROWN: And so I had the
18 television crew there, and we stayed there for about
19 an hour and a half waiting for me to vote. They were
20 trying to call downtown. So I went downtown to vote,
21 and I was able to vote when I got downtown. I run
22 into two or three young men that was down there
23 outraged because when they went to their precinct they
24 were told that they were felons. These young people
25 had never been arrested, and they were going to vote.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 At my precinct one lady there had gotten
2 married. Her and her husband had gone to vote. He
3 was able to vote, but they were telling her she
4 couldn't vote because her name was changed.
5 Silliness. Other things, the motor voter. That, I
6 don't know is just a Florida problem or a national
7 problem, but thousands of people went and got their
8 driver's license, but to this date they have not
9 gotten their voter card, did not receive their voter
10 card.

11 Now, in other states where you go and get
12 your driver's license, they give you your card to
13 vote. Well, motor voter, that agency comes directly
14 from the Governor's office, and they control that.

15 Another point that was mentioned that I
16 watched was that in the communities, the cards that
17 you talked about was the Highway Patrol's. The
18 Highway Patrol have no reason to be in the community.

19 That is the local responsibility of the sheriff or
20 the person that is locally in charge. I was a state
21 legislator for 10 years, and so I know the roles and
22 responsibility of the government, and I want you to
23 know that everybody in this state don't feel like some
24 of the people that you've heard this afternoon. Some
25 of us are very upset about what happened in Florida,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 and unless something happens, it will happen again.

2 When you look at Seminole County -- I
3 represent Seminole County -- I can tell you that I
4 have gone into the office and I have never gone past
5 the desk. The idea that you would go into that office
6 and fill out forms, thousands of forms, it is
7 unbelievable.

8 What is very disturbing was after the
9 Supreme Court ruled, the supervisor of elections from
10 that office, if that person had been an African-
11 American, she would be in prison because that would
12 have been a felon. That person says she's been
13 vindicated. Now clearly you cannot have parties
14 coming into offices of supervisor of elections and
15 filling out forms. They're filling out those forms
16 against me, and I carried Seminole County.

17 Students registering. I registered, along
18 with Reverend Jackson, thousands of African-American
19 students. We started in Tallahassee at FAMU. We went
20 to Bethune-Cookman, we went to ... Waters College.
21 Many of those students on election days when they went
22 to the polls, they were told that your name is not
23 here and you cannot vote. That's unacceptable. We
24 registered those students. Those students, we carried
25 those forms down to the supervisors of election

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 offices. We traveled the state so we know that those
2 students was registered. We know that they fill out
3 those forms. directly.

4 Those are the major points that I wanted
5 to make sure that you understand, and it is so
6 important that you have hearings throughout the state
7 of Florida. Tallahassee, everybody cannot get to
8 Tallahassee. You need to have hearings in
9 Jacksonville, Hillsborough area where they really had
10 a lot of police violations, Seminole County where the
11 supervisor of elections had Republicans come in the
12 office filling out forms. What happened in West Palm,
13 and then Miami, the riot. I mean, clearly these
14 things need to be researched with a group that has
15 some kind of credibility with the community.

16 CHAIRPERSON BERRY: Congresswoman Brown,
17 do you mind if we ask you some questions.

18 CONGRESSWOMAN BROWN: Oh, I hope you do.
19 I hope you do.

20 CHAIRPERSON BERRY: Did I remember to
21 swear her in?

22 CONGRESSWOMAN BROWN:.. No. " " "

23 CHAIRPERSON BERRY: I didn't swear you in?

24 CONGRESSWOMAN BROWN: No, I was --

25 CHAIRPERSON BERRY: Can I swear her in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 retrospectively?

2 Can you stand up and attest to the
3 testimony that you've given? Raise your right hand.
4 I'm very sorry. I must be getting tired.

5 Do you swear or affirm that the testimony
6 you gave was truthful to the best of your abilities?

7 CONGRESSWOMAN BROWN: Yes, ma'am.

8 CHAIRPERSON BERRY: And do you swear or
9 affirm that your answer to the questions will be the
10 truth to the best of your abilities?

11 CONGRESSWOMAN BROWN: To the best of my
12 abilities, yes.

13 CHAIRPERSON BERRY: Be seated. Sorry.

14 Does anyone else want to ask her a
15 question?

16 COMMISSIONER WILSON: I have one question.

17 CHAIRPERSON BERRY: Go ahead.

18 COMMISSIONER WILSON: Thank you very much
19 for your testimony.

20 I think there are little mice above the
21 ceiling.

22 CHAIRPERSON BERRY: Mice in the ceiling?

23 COMMISSIONER WILSON: Anyway, my question
24 was, in the testimony earlier -- I think it was
25 earlier today, that -- oh, I think it was the voting

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 supervisor Sancho, who said that students who had
2 been -- students who had registered were given -- went
3 to the wrong place to vote. Instead of going to the
4 place where they were supposed to -- where they
5 resided, they went to the place -- I don't know where
6 they went, but they went to the wrong place. I just
7 want it for the record. Are you aware, in terms of
8 the students that you are talking about, do you know
9 that they went to the correct polling place?

10 CONGRESSWOMAN BROWN: No, I do not know
11 that, but I do know that many students went to one
12 precinct and they said, well, you've got to go to this
13 precinct, and you have to go to that precinct. That's
14 ludicrous. It just does not make any sense that you
15 should get your form in the mail saying this is your
16 card, this is where you go.

17 Let me tell you, in part of the package
18 that I'm giving to you is the statement from Jimmy
19 Carter. I have traveled the world monitoring
20 relations -- elections, and I think it is so awful
21 that the United States, who go around monitoring
22 elections, if we had an election where 27,000 votes
23 was thrown out, we wouldn't certify that country and
24 they would not receive assistance. So our whole
25 credibility is on the line. This is more than who won

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the presidency. This is about our democracy.

2 CHAIRPERSON BERRY: What I wanted to ask
3 too, what you are saying, Congresswoman Brown, is, if
4 I understood you correctly is that the students may or
5 may not have gone to the wrong place, but they were
6 told by the people there to go somewhere else.

7 CONGRESSWOMAN BROWN: That's right.

8 CHAIRPERSON BERRY: And they went to the
9 other somewhere else --

10 CONGRESSWOMAN BROWN: And they were told
11 to go somewhere --

12 CHAIRPERSON BERRY: -- somewhere else.
13 And they did not receive, according to your
14 understanding, the information in the mail, that I'm
15 familiar, that most places you receive in the mail,
16 your card that tells you where your polling place is.

17 Let me ask you this. You said that you
18 and Reverend Jackson had gone around registering the
19 students and that you had carried forms, or someone
20 had carried the forms to the supervisor's office?

21 CONGRESSWOMAN BROWN: That's correct.

22 CHAIRPERSON BERRY: ...So...there's no reason
23 for the supervisor's offices to say that they never
24 got the forms?

25 CHAIRPERSON BERRY: Oh, they didn't say

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 anything. They just said that students wasn't
2 registered or they didn't know where to go, as you
3 said, to what polling place. Whose responsibility is
4 that?

5 CHAIRPERSON BERRY: Right.

6 CONGRESSWOMAN BROWN: If you get the
7 forms, it's the responsibility of the supervisor of
8 elections' office to tell you where you go to vote.
9 And that place should be close to where you live, I
10 assume.

11 CHAIRPERSON BERRY: Right. Okay. So they
12 were delivered to the supervisor's office.

13 CONGRESSWOMAN BROWN: That's right. Not
14 mailed, hand-carried.

15 CHAIRPERSON BERRY: Okay. All right.
16 Well, we -- I think we have the point, and we will
17 continue to --

18 Have you got a question?

19 COMMISSIONER WILSON: I have one more
20 question about the motor vote.

21 CONGRESSWOMAN BROWN: Oh, yes.

22 COMMISSIONER WILSON: Can you elaborate --
23 How many people are you aware of who registered
24 through the motor vote who didn't get their voter
25 registration card, and let me also make a second point

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 to that -- or second part of the question. Did they
2 try and then get their registration card, and what
3 happened?

4 CONGRESSWOMAN BROWN: And could not. And
5 when you talk with the supervisor of Elections, in
6 fact, I will provide you with news stories that was
7 done in Duval County, but when they talked to the
8 supervisor of elections office they said, well, the
9 driving division didn't give it to them, and the
10 driving division -- you know, whose responsibility is
11 it? Whose responsibility is it?

12 If you go in and you get your driver's
13 license and you sign up for your voter registration
14 card and you do it before the cutoff date, then you
15 can assume that somebody is working together and that
16 you are going to be able to vote. Well, thousands of
17 people were not able to vote. Hundreds in Duval
18 County.

19 COMMISSIONER WILSON: Because they voted
20 through this -- because they tried to register through
21 the motor voting?

22 CONGRESSWOMAN BROWN: That's right. When
23 they went to get their driver's license renewed, they
24 signed up to also register. They was able to receive
25 their driver's license, but they did not get their card

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to vote.

2 COMMISSIONER WILSON: Did they keep -- I'm
3 sure they didn't, but did they keep a copy of their
4 application?

5 CONGRESSWOMAN BROWN: I'm not sure where
6 the breakdown, but that is a problem in Florida.

7 CHAIRPERSON BERRY: That may be one of
8 those supervisors had some of those today or was
9 talking about the fact that the Motor Vehicle Bureau
10 had never sent them.

11 CONGRESSWOMAN BROWN: That's right.

12 COMMISSIONER WILSON: Right.

13 CONGRESSWOMAN BROWN: Well, that comes
14 directly under the Office of the Governor.

15 CHAIRPERSON BERRY: Okay. Thank you very
16 much for your testimony and we will follow-up on this,
17 and we very much appreciate this because this is an
18 important issue and that's why we're here. .

19 CONGRESSWOMAN BROWN: Thank you, and I
20 have written testimony.

21 CHAIRPERSON BERRY: We will receive that
22 on the record. Thank you very much, Congresswoman
23 Brown.

24 Do you want to call the next witness?

25 ACTING GENERAL COUNSEL HAILES: The next

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 panel consists of six witnesses. Will Susan Caplowe,
2 Gail Marie Perry, Mary Stone, Reverend Richard Harris,
3 Cassandra Collins, and Glen Russ, please come forward
4 at this time.

5 CHAIRPERSON BERRY: And if you will take
6 places at the table and keep standing after the six of
7 you are at the table. There are six chairs. There
8 will be signs put in front of you so we can see who
9 you are.

10 I think there are six chairs. Aren't
11 there six chairs?

12 VOICE: There's one down on the end.

13 CHAIRPERSON BERRY: There's a chair down
14 there on the other end.

15 MR. RUSS: I want to sit by my attorney.

16 CHAIRPERSON BERRY: Oh, I see. Can the
17 people shift down one? He wants to sit by his
18 attorney or something.

19 Okay. Could you all remain standing and
20 raise your right hands?

21 Do you swear or affirm that you will
22 testify truthfully and to the best of your abilities?

23 CORRINE BROWN

24 SUSAN CAPLOWE

25 GAIL MARIE PERRY

1 MARY STONE

2 REVEREND RICHARD HARRIS

3 GLENDALE RUSS

4 were called as witnesses, and having first been duly
5 sworn, was examined and testified as follows:

6 CHAIRPERSON BERRY: Thank you very much.

7 Please be seated.

8 We will begin, Susan Caplowe is from the
9 Florida Chapter of the Sierra Club and the Florida
10 League of Conservation Voters.

11 WITNESS CAPLOWE: Yes.

12 CHAIRPERSON BERRY: You should each
13 restrict your testimony to no more than five minutes,
14 please.

15 WITNESS CAPLOWE: Can you hear me okay?

16 CHAIRPERSON BERRY: Yes, we can hear you,
17 Ms. Caplowe.

18 WITNESS CAPLOWE: Okay. Good evening, my
19 name is Susan Caplowe. I'm Sierra Club, Florida
20 Chapter, and the Florida League of Conservation Voters
21 representative here tonight.

22 I'm here because the Sierra Club, Florida
23 Chapter, voted following the November elections to
24 call for a re-vote in at least Palm Beach County
25 because our members there personally experienced the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 confusion of the ballot and were angry witnesses that
2 day, and subsequently we rallied, we had press
3 conferences, we stood with NAACP, we stood with NAACP
4 FAMU and FSU students, we stood with ASME, AFL-CIO,
5 the United Farm Workers, the Florida Council of Senior
6 Citizens, Florida Consumer Action Network, and the
7 ACLU, as well as others. And I will give you a copy
8 of my press statement and some other documents as
9 well.

10 We are grateful you are here for you are
11 the experts in the area of the Civil Rights Act, and
12 we are now able to share with someone the burden and
13 the pain many of us have been going through and living
14 with the past few months. So we thank you sincerely.

15 As you have heard from several citizens[]
16 groups, we have been preparing for this 2000 election
17 for over a year. Collectively we were all mobilizing
18 and organizing our base to register to vote and
19 exercise that right to vote. We did not realize that
20 we needed to educate them on how to vote. We did not
21 know that it was the norm for ballots to be thrown
22 out.

23 Who knew that votes get thrown out. We
24 did not know that a no vote meant the counting
25 machines couldn't read your vote. We did not know

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 there was another category called over-votes that also
2 carries with it a punishment that your vote is thrown
3 out. Had we all had this information, you can bet
4 that we would have said along the way, make sure you
5 punch through and see the light of day through the
6 other side.

7 Some folks who work in elections knew, and
8 had they been paying attention to the mobilization of
9 the masses, and if they were interested in the
10 philosophy of every vote counts, maybe we would not be
11 here today.

12 We encourage you to keep asking who did
13 know ahead of time that votes would be thrown out and
14 did not tell us.

15 On election night, as we heard the media
16 call the race for Gore and take it back and call the
17 race for Bush and take it back, we were monitoring the
18 numbers coming in on the state's election online
19 system. We heard the media calling it for Bush,
20 30,000. We were looking at 10,000 on the screen, then
21 5,000, then 2500, and so on. And I have here -- and
22 I'd like to get a copy of it to you. It's an article.

23 It was in the St. Pete newspaper. It says, it was
24 not the voter news service that first called the
25 election prematurely for George Bush, but Fox News'

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 election desk, was run by Bush's first cousin.

2 We began calling people we knew and one
3 thing led to another. Our calls educated us on how
4 strange and eery this election day had been. The next
5 thing we did was to ask our members, via phone calls
6 and e-mails, to tell us of any voting irregularities
7 they experienced and if they knew of anyone who did.
8 We received responses which I selected copies here for
9 you.

10 We learned of precincts running out of
11 ballots in Miami, Haitian-Americans denied their
12 interpreters to assist with language translation,
13 people in line at 7:00 p.m. told to go home, people
14 who thought when they got their driver's license and
15 signed the voter registration form they would be able
16 to vote, as you heard from Congresswoman Corrine
17 Brown.

18 Minority community precincts with
19 antiquated machines and no laptops to dial in for
20 voter verification versus the wealthier parts of town
21 and precincts with better machines and laptops, all in
22 the same county. Four ballot bags behind a dumpster
23 in Deland, Florida, Volusia County, located at a post
24 office precinct in a minority county. And the
25 dreadful butterfly ballot -- I'm sorry, a minority

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 community.

2 And a dreadful butterfly ballot where
3 holocaust survivors for the first time in their tragic
4 lives had the joy of voting for a ticket with a Jewish
5 boy, and the confusion of the layout and the
6 instructions of how to vote may have caused them to
7 vote twice, thinking they had to punch a hole for Gore
8 and a hole for Lieberman because their names were not
9 on the same line, but two separate lines with a series
10 of circles to the right.

11 My parents voted in Palm Beach County and
12 we will never know if their vote counted.

13 I'm Jewish and I felt joy, and I believe
14 that Jesse Jackson said it best, when Vice President
15 Al Gore selected Joe Lieberman all the minorities came
16 from behind the closed door. Not only the Jewish
17 seniors were disenfranchised that day, but so were
18 retired military, the Haitian-American community,
19 African-Americans, college students and disabled. Our
20 own members found the ballot confusing.

21 And I heard of those who did ask and try
22 to get a ballot that day and if you were assertive
23 enough, you got one, but if you were used to being
24 oppressed or you were not assertive and you were shy
25 and it was the first time you came out to vote, and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 you didn't know you could ask for another ballot or you
2 did try and you got no for an answer, you stopped and
3 you walked out and you were disappointed.

4 CHAIRPERSON BERRY: Please sum up and
5 finish.

6 WITNESS CAPLOWE: Okay. What we would
7 like to know if just who knew that these votes were
8 thrown out in this election time and why didn't they
9 tell us, and where does it trace back to, and the
10 unfairness within the whole state of Florida and the
11 different communities and who got better equipment and
12 such.

13 And there's more, and you'll have it in
14 the packet. Thank you.

15 CHAIRPERSON BERRY: Thank you very much.
16 We appreciate your testimony.

17 Ms. Gail Maria Perry, please.

18 WITNESS PERRY: Thank you very much. Can
19 you hear?

20 CHAIRPERSON BERRY: Yes.

21 WITNESS PERRY: Thank you very much for
22 allowing me to speak before you, Ms. Chairwoman, and
23 Committee, and my Congresswoman Corrine Brown back
24 there.

25 I've been a precinct person in Broward

1 County, Florida, since 1979. The duties of a precinct
2 person to assist the citizens in education of issues
3 and to help them navigate through a political system
4 if they are having a problem. I take my position very
5 seriously. I'm proud to have helped many citizens
6 throughout these years.

7 On election day my duties as precinct
8 person are varied. They go from GOTV to whatever the
9 situation calls for at the moment.

10 I also had a statewide organization. My
11 first two duties within that organization are to
12 educate the general public on issues and political
13 issues and to educate my membership. Therefore I'm
14 more often called upon to field questions from
15 citizens and members regarding political issues.

16 I received my first call on election day
17 at 11:00 a.m. I am from Broward County, Florida, and
18 it was quite busy at the polls on that day, which is a
19 little bit unusual. This citizen was calling from his
20 precinct. He was on his mobile phone.

21 He was talking rather fast because he told
22 me he was going to be thrown out of the precinct
23 because he was talking on his mobile phone, but the
24 problem that he had was, he made a mistake on his
25 ballot, not on the presidential issue, but on one of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the initiatives on his ballot, and he asked them for
2 another ballot, and he was calling me to say, they
3 won't give me one. So I told him, well, you know how
4 to argue, you tell them that under the law that you
5 are entitled to a replacement ballot. I received a
6 call on the next day and he said he only got the
7 ballot because he made a stink in the precinct. He
8 had asked for one before he called me.

9 The second call I received on election day
10 was from one of my members within the black community
11 in Miami, Dade County. They have a road block up at
12 Florida A&M University, she said, is that legal? I
13 asked her what the road block was for and she said it
14 was for insurance purposes and I thought for a second,
15 I said, well, it is legal for them to check car
16 insurance. However, it's something like when the INS
17 does a raid during a census. Is it right?

18 (Laughter.)

19 WITNESS PERRY: Is it right? She also
20 advised me that there was a road block -- I'm sorry. I
21 thought at first she said road block. I called her
22 today to make sure my facts were absolutely straight,
23 and she said, no, it wasn't a road block, but there
24 was random stopping of blacks in Opa-locka precincts
25 in Miami by Northwest 27th Avenue and 161st Street in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Miami. The only thing I could I ask her was, did you
2 call the supervisor of election office? She said she
3 had tried and she would try again and of course she
4 couldn't get through.

5 The third call came from one of my members
6 in Boca Raton. She had witnessed a brand new voter
7 that voted for the first time was given her ballot and
8 the top part of the ballot was folded over. It
9 normally would be straight and you'd put it in there,
10 but the precinct person had, probably by mistake,
11 folded it over and the girl jammed it in the machine
12 that way, and she did her voting, and she tried to
13 pull it out and she couldn't pull it out. She was to
14 the point of tears before she got somebody in the
15 precinct, because it was so busy, to help her to get
16 the ballot out of the machine.

17 When the call came in on Thursday -- I'm
18 sorry -- My recollection of the rest of the day is not
19 as vivid. My own duties were fast and furious as well
20 as the phone calls that I received on that day. As
21 close as I can recollect, I received at least three
22 more calls from Palm Beach County and Broward about
23 replacement ballots, being rushed in the ballot booth.
24 I received a call about the affidavits that were
25 going to be done in Palm Beach County. So this was

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 after the election. So I made sure that I was up there
2 helping.

3 I received calls until 9:00 on election
4 day about irregularities at the voting place. I have
5 been doing this for 22 years, and I can tell you that
6 the irregularities or the phone calls that I got
7 during election day were more than the last decade of
8 phone calls that I received on election day. I do
9 have more, and I do have a copy of my remarks.

10 CHAIRPERSON BERRY: Thank you. We will
11 take your remarks for our record and we thank you very
12 much.

13 Ms. Mary Stone.

14 WITNESS STONE: Hello. My name is Mary
15 Stone. I live in Gadsden County, Florida. On
16 November 7th my husband and I went to vote, early. I'm
17 reasonably certain that my vote counted. I was, later
18 that afternoon approximately between 3 and 3:15, I was
19 traveling in Liberty County, south of Bristol past the
20 Mystic Lake polling place, I observed two police
21 vehicles, probably county sheriffs, that was the
22 coloring. I thought they were voting or something. I
23 had to go south of there. On my return, which was
24 about 5 to 5:10, the police vehicles were still in the
25 same place. So it was approximately two hours, and

1 that concerned me, worried me. I didn't understand why
2 they would be there.

3 In the primaries, I had an experience, I
4 was married earlier in the year and changed my name.
5 I went to my polling place with my marriage license
6 and everything to make sure that I could vote either -
7 - under either name, and they had an official there
8 and they changed my name. I signed a paper. They
9 changed my name, and the next time I came back for the
10 runoff, they had my name changed. It was, you know --
11 I didn't experience any difficulties personally.

12 It was just my observation that I saw the
13 police there right in front -- it's a small road, and
14 it's like a little shed like I vote in. You know, we
15 call them voting sheds. And the vehicles were right
16 out in the road, one of either side of the road right
17 in front of the polling booths, and you could pull in
18 and park on the lawn in front of the shed to vote.
19 And there are people pulling in and out. That's all.
20 And I'm real glad you're here.

21 (Laughter.)

22 CHAIRPERSON BERRY: Okay. Thank you very
23 much and thank you for your testimony.

24 Reverend Richard Harris.

25 WITNESS HARRIS: Thank you, Madam

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Chairman, Commissioners.

2 A spiritual wickedness in high places is
3 what is going on now. After January 20th the thieves
4 will be in the temple. As a result of what happened
5 in November, we've all become acutely aware that we
6 have problems in our system in terms of electing a
7 president and others in this country. Our concern
8 right now is after this Commission gathers all the
9 information from here and other places -- and by the
10 way, I'm from Belle Glade, Florida, which sits on the
11 shores of Lake Okeechobee in Palm Beach County.

12 There can be and there has been denial
13 about so many public officials and candidates, et
14 cetera, that say that what we experienced in November
15 is not a part of any kind of general conspiracy or it's
16 not an intended act to have people disenfranchised to
17 the extent that we were disenfranchised in this
18 election. Around here we beg to differ with that.

19 The population where I live is about 80 to
20 90 percent African-American, and throughout the years
21 we've experienced firsthand the kind of police
22 intimidation that was witnessed by other parts of the
23 country this time. We have raised our voices to no
24 avail at the local, regional, state, and national
25 level. No one has come down and paid any attention

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 until now.

2 So even though we still have our doubts
3 about even a forum such as this, I could not afford to
4 sit back and miss the opportunity to once again try
5 and get someone to come down and see firsthand the
6 results of not just election violations and
7 intimidation, but just when you are so arrogant that
8 you can stand as a police in full uniform, and not
9 just outside a polling place, but inside a polling
10 place, which is a clear violation of the law, when you
11 can feel so comfortable doing that, that suggests to
12 me that somebody higher up has either tacitly or
13 actively condoned what you are doing.

14 No one would have the gall to stand up and
15 do something like that as an officer of the law unless
16 they had approval from higher up. How high up that
17 goes, only God and those individuals know. But I can
18 assure you if what happened in this country was the
19 beginning of the demise of this democracy as we know
20 it, and unless -- and I do mean unless all of us, and
21 I mean all of us, across the board stop being so
22 concerned about who's right, and start being concerned
23 about what's right, then we are all in for a very rude
24 awakening the next time around.

25 If what happened to us in South Florida,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 in particular where I live, can happen to anybody.
2 And supposedly the most Democratic country on this
3 planet, ladies and gentlemen, how can we in good
4 conscious get up in the morning and look in the mirror
5 and have the audacity to tell another country how to
6 handle their elections when we ourselves have fallen
7 short.

8 I say to you now that we have one last
9 opportunity, and I pray to God almighty that this
10 opportunity does not pass us by. We have to make a
11 change now in the system, but most importantly, people
12 say all the time that prayer changes things. That's
13 not my contention today. I say that prayer changes
14 people, and people change things. So it's time for us
15 to make some changes in the system, but mostly
16 importantly, it's time for us to turn inside, and
17 forget about political politics and just remember that
18 civil rights, it's okay for us to be concerned about,
19 but most importantly let's be concerned about human
20 rights.

21 CHAIRPERSON BERRY: Thank you very much,
22 Reverend Harris..

23 Mr. Glen Ruse -- Russ, I'm sorry.

24 MR. GARCIA: Madam Chairman, my name is
25 Armando Garcia. I'm an attorney practicing law in

1 Gadsden, Florida, and I have the privilege and honor
2 of representing Mr. Glendale Russ. I would inform the
3 Commission that Glendale Russ, a former city
4 commissioner in the city of Quincy, Florida, had been
5 arrested and prosecuted and removed from his office by
6 Governor Jeb Bush, and he was prosecuted for crimes
7 under the Florida statutes elections law. In my
8 practice of law for 23 years, this is a -- I could say
9 to you that this has been a very highly unusual
10 prosecution in my representation of him, and a very
11 unusual case.

12 Mr. Russ was prosecuted under Florida
13 statutes 1040515, Florida statutes 104061, those are
14 four counts covering those alleged violations in which
15 he did manage to win acquittal on one count, but not
16 all.

17 What I would like to tell this Commission
18 about is under these statutes -- and first, I'd like to
19 thank your counsel, Bernard Quarterman, who had called
20 me just an hour ago, and I'm here on very short notice.

21 I normally don't appear before such an august body in
22 bluejeans and a casual shirt, and I appreciate this
23 opportunity to speak to you, but under this
24 prosecution under 1040515, the charge of a criminal
25 violation is couched in these terms.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 That Commissioner Russ did intimidate,
2 threaten or coerce another person in their voting,
3 another person being Nancy Williams, an elderly
4 resident of Gadsden County, Florida. When faced with
5 these vague charges of intimidation, threaten or
6 coercion, our immediate response was to petition to
7 the courts and ask the courts to require the
8 prosecuting authority to tell us just what in the
9 world did Glen Russ do to intimidate someone. And the
10 example I shared with Bernard Quarterman, I know that
11 if I was sitting in my home and there was a knock at
12 the door at 7:30 at night, and it was the son of a
13 president who knocked on the door and came in and
14 solicited my support for his candidacy for presidency,
15 I would be intimidated. We didn't know what the state
16 contended the word intimidation meant.

17 We use examples when the prosecution of a
18 threat being made, immediately your mental image is
19 that someone threatened some sort of physical or
20 bodily harm, but I couldn't help but recall the
21 examples on the television screen that I was bombarded
22 with just last election season with George Bush
23 getting on the TV and telling me that under the
24 Clinton/Gore administration the military had suffered
25 decline with the implicit threat being that if Al Gore

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 and Joseph Lieberman are elected to office, my
2 personal security was somehow threatened. I wanted to
3 know what the word threatened meant in this
4 prosecution, and to no avail, my request to the court
5 to require the prosecuting authority to explain those
6 things. All those requests were denied. The word
7 coercion is a vague word. We didn't know what it
8 meant.

9 Needless to say, I would tell this
10 Commission that this morning we have filed notices of
11 appeal. We have requested that all proceedings be
12 transcribed so we have a record and that we could
13 bring up this particular case to a higher authority.

14 For your record I would refer you to the
15 Second Judicial Circuit in and for Gadsden County,
16 Florida, under the case number 99620 in which this
17 very real prosecution occurred. I will tell you that
18 under these particular statutes, to my knowledge there
19 has not been one single citizen in the entire state of
20 Florida ever prosecuted under these statutes. Glen
21 Russ is the only person. And I appreciate this
22 Commission allowing me to speak on behalf of my client
23 whose case is now pending on appeal in the First
24 District Court of Appeals of the State of Florida.

25 CHAIRPERSON BERRY: Does anyone have any

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 questions for this panel?

2 I have one and that is, what is the --

3 Do you have one?

4 COMMISSIONER REYNOSO: I was wondering
5 what Mr. Russ was accused of.

6 MR. GARCIA: Mr. Russ was accused of the
7 vague charges of interfering with the right to vote.
8 He was charged with the vague accusation of corruptly
9 influencing voting.

10 CHAIRPERSON BERRY: You are saying that he
11 is the first person to be prosecuted under that
12 provision
13 of --

14 MR. GARCIA: Yes, Madam Commissioner. As
15 I shared with your counsel earlier, these statutes
16 1040515 and 104061 were enacted by the State of
17 Florida legislature as a direct response to a mayoral
18 race in Dade County, Florida, in which there was an
19 extraordinary amount of absentee ballots cast, and
20 where opponents of people running for office or
21 elected for office were claiming there were
22 improprieties in the gathering of absentee ballots.
23 So these statutes were then created and went into
24 effect in October of -- I'm sorry, I believe in October
25 of 1998, and what the statute has, the vague words of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the statute is that it is unlawful to intimidate -- to
2 intimidate, threaten, or coerce one in voting.

3 CHAIRPERSON BERRY: All right. Counsel,
4 we've discussed this provision I think earlier today
5 in connection with another witness.

6 Isn't this the same provision we were
7 looking at earlier? And we had a discussion about the
8 difficulty in who should bring such suits. But I
9 understand your point. You are saying that this has
10 not happened before, and that there may be -- there
11 are all these allegations of voting rights abuses, but
12 there don't seem to be any other prosecutions but --

13 MR. GARCIA: But Mr. Russ.

14 CHAIRPERSON BERRY: -- Mr. Russ was
15 prosecuted. Is that your point?

16 MR. GARCIA: Yes, ma'am.

17 CHAIRPERSON BERRY: All right. We will
18 take note of that, and we will take -- and that the
19 race of Mr. Russ for the record is African-American,
20 is that so?

21 WITNESS RUSS: Yes.

22 CHAIRPERSON BERRY: Is that correct?

23 MR. GARCIA: That's correct.

24 CHAIRPERSON BERRY: All right, we want to
25 put that in for the record.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Yes?

2 COMMISSIONER LEE: I have a question. I
3 have a question for Ms. Perry. As the precinct person
4 you mentioned that based on your experience this
5 election experienced the most problems. Why do you
6 think that's the case?

7 WITNESS PERRY: Well, some people had
8 mentioned it was the volume of people that were out to
9 vote, but to be honest with you, in Broward County, we
10 brought out the largest plurality vote in the last two
11 elections, so I can't say that that's the case. I have
12 no -- I can't give you any reason why. I know that in
13 the black precincts in Fort Lauderdale, I got a lot of
14 phone calls.

15 CHAIRPERSON BERRY: Okay.

16 COMMISSIONER LEE: Did you want to
17 comment, Reverend?

18 CHAIRPERSON BERRY: Do you want to
19 comment, Reverend?

20 WITNESS HARRIS: The simple answer is,
21 there was a concentrated effort to stop the most
22 likely Democratic voters in this state. That's the
23 truth of the matter. When you look at the amount of
24 the people that were involved as a group, race, class,
25 all those factors come into play, and that's our

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 feelings as victims. It was certainly a concentrated
2 effort. We cannot go and tell you how many times the
3 sunshine laws were violated or whenever secret
4 meetings were held, but we know the results, and the
5 results say it was not a coincidence, and there was a
6 concentrated effort when you look at the pattern
7 across the state of Florida. Those votes were, you
8 know, African-American, Jewish, elderly senior
9 citizen, students, African-American students. So it
10 doesn't take a rocket scientist or a Ph.D. to come to
11 the conclusion that it was a concentrated effort.

12 WITNESS PERRY: I know that -- I know that
13 I had met a worker for the supervisor of elections
14 office. She was a Haitian worker, she spoke English
15 very well with no accent, and she had worked at a
16 precinct in Broward County on election day, and this
17 is what she said to me, I'm furious at what I saw in
18 the precinct on election day. She said, black voters
19 would come in, they had an I.D., their names were on
20 the rolls, it wasn't a picture I.D., and they were
21 turned away from the polls. Other voters would come
22 in and they had -- she said she knew of people that
23 had voted in the primary in March, and their name was
24 now not on the rolls. So they tried to call the
25 supervisor of elections office in Broward. She told

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 me from nine in the morning and they finally got
2 through at three in the afternoon, but they had sent,
3 she told me, hundreds of people to the supervisor of
4 elections office in Plantation. And at one o'clock,
5 one of those voters that they had sent over to the
6 Plantation office came back to the precinct and said,
7 don't send anymore people over to that Plantation
8 office, it's closed. Closed on election day.

9 And she told me that they had sent
10 hundreds of voters over to that closed office.

11 WITNESS HARRIS: I forgot -- One other
12 comment, Ms. Lee -- two actually, two incidences in
13 which she reminded me to help you understand the
14 pattern of what went on.

15 At least by my count, at least 15 to 20
16 people were left standing in line at quarter of seven,
17 our local time. The polls close at seven. The law
18 says if you're in line. They were turned away. That I
19 witnessed personally. And there were other instances
20 that were reported to us.

21 Secondly, this matter of not being able to
22 get through to the supervisor of elections office,
23 particularly in Palm Beach County, I was at the Orange
24 Bowl last week, and I noticed at the Orange Bowl, all
25 of the staff, anybody involved with the Orange Bowl

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 had a cell phone, and they were able to communicate
2 with each other. So when you ask that question, are
3 these individually, you put them collected together,
4 you have no other conclusion but to draw that it was
5 definitely, it was planned. I mean, we don't want to
6 think that, honestly we don't, but until we see some
7 conclusive proof to say otherwise, and I think what
8 will go a long ways to helping restore our confidence
9 in the system would be for this Commission to do your
10 job, obviously, and then for some action to be taken.

11 What frightens us is, after January 20th, then what?

12 CHAIRPERSON BERRY: We are going to have
13 to thank this panel --

14 WITNESS HARRIS: Thank you.

15 CHAIRPERSON BERRY: -- and move onto the
16 next one. Thank you very, very much. We appreciate
17 all the information you've given us.

18 WITNESS PERRY: I had a quick question. I
19 was wondering if the Commission, within your budget,
20 you have investigators that will be able to go out
21 into the community for those people who are afraid to
22 step forward like this and maybe talk to them. I don't
23 know if you have investigators or if it is within your
24 budget to do that?

25 CHAIRPERSON BERRY: Well, our lawyers were

1 here in Florida informally, and people were here
2 before this hearing going around to organizations and
3 the community and talking to people, and that's what
4 they'll do before the next one.

5 WITNESS PERRY: Thank you.

6 CHAIRPERSON BERRY: Could we have the next
7 panel?

8 ACTING GENERAL COUNSEL HAILES: Ms.
9 Cassandra Collins, Ms. Linda Ward, Moya Bugess --
10 Burgess.

11 MS. BURGESS: Good evening, Commissioners,
12 my name is Moya Burgess. I'm a first year business
13 student from Florida A&M University.

14 CHAIRPERSON BERRY: Okay, that's good, but
15 hold on just one second and we'll get the rest of
16 them.

17 MS. BURGESS: Okay.

18 CHAIRPERSON BERRY: Thank you. Just keep
19 standing there.

20 ACTING GENERAL COUNSEL HAILES: Napoleon
21 Bryant, Captain Chester Davis, and Brenda A. Holt,
22 Anita Davis, and Alvin Peters.

23 CHAIRPERSON BERRY: Please come forward.
24 Let's get everybody's name straight. I don't want to
25 have people being called by other people's names, if

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 that's possible.

2 Could you all please -- I know you just
3 sat down -- is there somebody who just arrived or --

4 ACTING GENERAL COUNSEL HAILES: Yes, Mr.
5 Peters.

6 CHAIRPERSON BERRY: Mr. Peters.

7 MR. PETERS: Where do you want me, right
8 here?

9 CHAIRPERSON BERRY: I guess, if there's an
10 empty seat, yes.

11 Is there somebody else?

12 Are you testifying too?

13 VOICE: No.

14 CHAIRPERSON BERRY: Could you stand and
15 raise -- I know you just sat down, but stand up,
16 please, and raise your right hand.

17 Do you swear or affirm that you will
18 testify truthfully to the best of your abilities?

19 Whereupon,

20 CASSANDRA COLLINS

21 LINDA WARD

22 MOYA BURGESS

23 CHESTER DAVIS

24 BRENDA A. HOLT

25 ANITA DAVIS

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

ALVIN PETERS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

were called as witnesses, and having first been duly sworn, were examined and testified as follows:

CHAIRPERSON BERRY: Thank you very much.

Please be seated.

Counsel?

ACTING GENERAL COUNSEL HAILES: The first witness is Linda Ward.

CHAIRPERSON BERRY: Ms. Linda Ward, could you please begin.

WITNESS WARD: Yes.

CHAIRPERSON BERRY: And take no more than five minutes to give your testimony, please.

WITNESS WARD: Yes, ma'am. First of all, thank you for allowing me to testify. I'm here for this very reason. I tender these documents in the spirit of preserving the uniqueness and quality of the system of this democracy set forth by the United States Constitution and all laws, mandates, acts and laws, and all other legal aspects that are utilized to ensure that all Americans are ensured to cast their votes under the system democracy established to be fair and equal to all. especially with all voting rights.

Democracy is the only hope our forefathers

1 had, and it is that same legacy of hope that we have
2 to survive on and it must be preserved and
3 safeguarded.

4 How I come into this picture on this, I am
5 a resident of Orlando, Florida, and on October 31st,
6 Halloween night, our local news station did a
7 broadcast on Seminole County, and what appeared to be
8 fraudulent activities with the Seminole County
9 absentee ballot applications raised my -- it got my
10 attention. A couple of hours later one of George
11 Bush's communication directors spoke of how Mr. Bush
12 had called individual election officials to Austin, to
13 the ranch, and he told them no matter how much money
14 it took, the absentee ballots were the way that Mr.
15 Bush had to win. So whatever amount of money it took
16 that's what they were going to do.

17 Being concerned about this, it just didn't
18 quite seem anything that I had ever been familiar with
19 in my voting history. I looked up the laws, I
20 contacted the television station and the radio
21 stations, and also contacted the voter fraud division,
22 Department of Elections here in Florida, and was told
23 that was quite contrary to what was being reported out
24 of Seminole County, that those activities should not
25 be occurring. So I contacted the Seminole County

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 supervisor of elections office. I asked that
2 supervisor to return the call to me as well as her
3 assistant. I did speak to an individual in that
4 office at that point in time. And I asked questions
5 of that individual and I was assured that, yes, in
6 fact they were allowing void absentee ballots to be
7 taken out of what should have been trash and run
8 through a Republican boss and sent back through the
9 system. When I asked her who made that determination
10 she became very guarded, did not discuss with me any
11 longer, took the information. The Seminole County
12 assistant supervisor of elections did return my call,
13 and what Mr. Joyner had to say was most astounding to
14 me. He did tell me in fact that they knew that they
15 were not following the law, that Tallahassee, not the
16 Republican Party, but Tallahassee was directing them,
17 they were making them, take those out and they were
18 following direction. It was also their understanding
19 that those ballots, Republican ballots, were the ones
20 that were to be ensured. Anything non-Republican,
21 don't honor it. And they weren't.

22 .. Further testimony did support what he was
23 telling me. I asked him if he understood what he was
24 doing was illegal. He said they understood that, and
25 that wasn't the way they normally did business, but

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 they were being made to do business that way. I asked
2 him if the Democrats and the independent parties were
3 being given that same process, he said no, they were
4 not being notified, no voter was being notified out of
5 those parties, but that the voided, absentee ballot
6 applications were being reworked. It's my
7 understanding from our conversations that the
8 Republican party boss was sent to the Seminole County
9 at the direction of those out of Tallahassee with a
10 master roll, not a computer system, but a master roll
11 of all voters, and that person was given space, time
12 and whatever he needed. I became more than alarmed,
13 needless to say. So I filed a complaint on November
14 9th to the Federal Elections Commission to the
15 attention of Mr. Joseph Rich. I also filed a
16 complaint and a request to the President of the United
17 States because at that point in time it became very
18 clear to me that our system of democracy was under
19 assault. And these conversations occurred with the
20 Assistant supervisor of elections on November 2nd,
21 five days prior to the election. November 14th I
22 filed my criminal complaint, request for criminal
23 complaint, with Bob Butterworth, the Attorney General
24 of the State of Florida. I have never heard any
25 response back from them, nor any acknowledgment that I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 filed a request as such. On November 14th I filed
2 with the Florida Division of Elections, through the
3 fraud unit, legal unit, requesting a criminal
4 complaint. These are serious issues. I was never
5 contacted by them. During this whole process when the
6 Seminole County and the Martin County cases were in
7 court, not once did Katherine Harris[] lawyers or anyone
8 of those divisions notify either courts that a
9 criminal complaint request had been lodged and that
10 criminal activity had gone on.

11 I also on November 14th requested
12 Katherine Harris to recuse herself. Ms. Harris took
13 no steps whatsoever to do so. Nor did she acknowledge
14 ever receiving my request, although my system is a
15 confirmed system.

16 Finally on January 10th I received a
17 letter from the Divisions of Elections. Keeping in
18 mind now on November 14th I filed with them. Finally
19 a letter dated January 5th arrived at my home, and it
20 said, oh, well, Seminole County was determined by the
21 courts so we[]re not looking into that. Needless to
22 say, I called the Divisions of Elections and I said,
23 I[]m sorry, the Seminole County case was a civil matter,
24 I have requested a criminal point. In this point in
25 time this should have been through a grand jury and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 indictments should have been placed out on the
2 streets, by now. I was told that nothing was going to
3 be done. For that whole time period they held that,
4 did nothing about it.

5 I also called Attorney General
6 Butterworth's office, and I said that I was more than
7 concerned and I requested to speak to him on six times
8 during the conversation that evening telling his staff
9 that this was confidential and quite sensitive, and
10 that I felt that his ears were the only ears that
11 should hear this complaint and the --

12 CHAIRPERSON BERRY: Ms. Ward --

13 WITNESS WARD: Yes?

14 CHAIRPERSON BERRY: Since the time is up
15 and your complaint is very interesting, we want to
16 pursue
17 it --

18 WITNESS WARD: Yes, ma'am.

19 CHAIRPERSON BERRY: -- to find out exactly
20 what happened.

21 WITNESS WARD: Yes, ma'am.

22 CHAIRPERSON BERRY: We need you to give us
23 the documents including the letter that you got back
24 and the rest of them.

25 WITNESS WARD: I prepared it for you.

1 CHAIRPERSON BERRY: And the staff will
2 investigate this, and we will get back to you.

3 WITNESS WARD: May I conclude with just
4 this?

5 CHAIRPERSON BERRY: Yes, you can, but it
6 will be investigated. Yes, go ahead.

7 WITNESS WARD: With Mr. Butterworth's
8 office I did speak with a Becky Crench, an assistant,
9 an administrative assistant. Ms. Crench informed me
10 that Mr. Butterworth is not here to serve the people
11 of Florida, even though we elect him. His purpose is
12 to protect the elected officials of Florida. In other
13 words, the complaints are not being processed.

14 CHAIRPERSON BERRY: Yes, we heard you, and
15 we would like to have those documents and we very much
16 appreciate you coming.

17 WITNESS WARD: Should I hand these to you?

18 CHAIRPERSON BERRY: When you get up and
19 are dismissed, the lawyer will take them from you.

20 WITNESS WARD: Okay. And thank you for
21 hearing me out.

22 CHAIRPERSON BERRY: Absolutely.

23 Now, Ms. Moya Burgess, please. You can
24 now start all over again.

25 WITNESS BURGESS: Thank you. Good

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 evening, Commission. I would first of all like to
2 thank you very much for coming to our state because I
3 am a first year business student at Florida A&M
4 University, like I said before, and I was not sure if
5 I would be able to vote during my senior year. The
6 moment that I realized I would be 18 and could vote, I
7 was excited because I do not take the right to vote
8 lightly. My -- I'm actually a first generation
9 American so that, even more, made me excited when I
10 found out that I would be able to vote in the November
11 2000 election.

12 The moment I stepped on FAMU's campus on
13 Saturday, August 19th, and got in line for
14 registration, I was proud of the fact that they had
15 dorm storms. They had people from sororities go up to
16 you asking if you were registered to vote. I told
17 them that I was, and they moved onto the next person
18 and asked them if they were. If they were not, they
19 handed them a clipboard with a pen and told them how
20 to fill out the voter's registration. They took it
21 from them and were able to hand deliver them to our
22 student government...so that our student government
23 could hand deliver them to the voting offices and get
24 that processed for people who were not already
25 registered.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 So since I've been at FAMU I've seen a
2 collective effort before the election to get people
3 who did not know that they could vote registered to
4 vote.

5 I received my absentee ballot in the mail
6 and so did my best friend who attends Florida State.
7 We were excited. We signed -- I had my roommate
8 actually sign mine as a witness, and I signed my best
9 friend's as her witness. I mailed mine in thinking,
10 okay, I voted for the person I wanted to vote for,
11 this is great.

12 Election night my roommate and I were
13 watching the TV. I seriously was embarrassed because
14 I am a born Floridian, and I was proud of the fact
15 that I was able to vote, but watching the news that
16 night, seriously, I was embarrassed because I felt
17 that our state was made a mockery of because of this
18 election, and when somebody says to me after the
19 election that, oh, your state screwed up on election,
20 I personally take that to heart because I was born and
21 raised in Florida. And I do not appreciate at all
22 that someone can ride on their former father's name and
23 come to our state and be elected by people from our
24 state, and then when it's time for their relative to be
25 elected as president, he gets it. In my heart I know

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 who I voted for, and when I see the numbers that the
2 person I voted for won the popular vote, to me -- I
3 understand how electoral college works, but in my
4 heart, when I see that number, and it's bigger than the
5 number of the person who's governor of our state, and
6 on January 20th will take the oath to become our
7 president, I seriously see something wrong with that.

8
9 And I thank you for letting me speak
10 tonight, and hopefully something will be done. I'm
11 going to write a complaint and file it with FAMU's
12 NAACP so that something -- I can try to investigate
13 what happened to my ballot. I don't know if I will be
14 able to find out, but at least I had the opportunity
15 to come here and say something and take action.
16 Although I'm not satisfied with how things turned out,
17 I am at least proud of the fact that I live here and
18 have the right to speak freely without fear, and never
19 more than last night after I was able to see the
20 documentary on Harry T. Moore and what happened 50
21 years ago with him. However, I believe that history
22 repeats itself, and people need to be aware of what is
23 going on, and if you can watch the Harry T. Moore
24 documentary on PBS, do that, because that will even
25 more reenforce your belief that history repeats itself

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 and something has to be done about the election and
2 what has happened in the state of Florida and the
3 nation.

4 Thank you.

5 CHAIRPERSON BERRY: Thank you very much
6 for your testimony.

7 Mr. Bryant.

8 ACTING GENERAL COUNSEL HAILES: I don't
9 think he's here.

10 CHAIRPERSON BERRY: Captain Chester Davis,
11 please, and Brenda Holt, you are together?

12 WITNESS HOLT: Hi, I'm sorry, I have a
13 really bad cold. I'm glad I'm here to bring some
14 information, and I beg of you, will you please, please
15 find out who purged our voting rolls. Was it a
16 company, was it a plan? There were too many people
17 that were -- they voted in October, they were not
18 allowed to vote in November. We have too many people
19 for that.

20 I'm from Gadsden County. I am the new
21 Democratic Chair for that county. This was my first
22 time monitoring all three elections in September,
23 October and November. We had so many problems in our
24 small county that you would not believe. I don't know
25 if you have a copy of our ballot, but on our ballot,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 if you have a copy -- it looks like this -- in the
2 first column it says presidential candidates, and they
3 have those people there listed. At the top of the
4 next column you'll see they changed the title. It
5 says general election. So several of the people in
6 our county thought that that was another category. It
7 was awful. It was very awful what was done.

8 Also they let them vote on both sides of
9 the ballot. See where that note is way down to the
10 bottom where it says vote on both sides? We're in a
11 rural county, and what happened with most of our
12 people, what they did was, they looked on the second
13 page -- if they looked on there -- and they saw all of
14 these amendments that were never explained by the
15 supervisor of elections, so they didn't know what those
16 amendments were. If you look at the judges' race down
17 there and it has another race right there for school
18 board member, there was enough room for these two
19 people on the front of the ballot. They put those
20 back behind those amendments, and a lot of people gave
21 up on the ballot after they realized that that was too
22 much, too many things on here that they did not have
23 an opportunity to study, those amendments.

24 So there were amendments on the ballots
25 that the people had no idea about what they meant

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 because they were never done. So the supervisor of
2 elections did not do their job in that case. That's on
3 the ballot.

4 The second issue I have is, the county
5 that is allowing to go into the polling places, and we
6 had one that did that, and they rotated from one
7 polling place to the other, going inside shaking
8 hands, doing those types of things, and that is
9 against the law under 102.101. The sheriff went into
10 the polling places, in and out, and I observed at one.

11 I also asked one of the people, I made a statement we
12 were monitoring the polls. Well, the sheriff is here
13 at the polls. I monitored the poll in November. He
14 was at another poll in September in the runoff. When
15 you look at that, and this is a small county, so
16 everyone knows everyone, that's a pressure point in a
17 small county. It may not be in a large city where
18 everyone doesn't know thought person, but that is a
19 problem in our county.

20 We would appreciate it if you have any
21 ideas or instructions or anything that you can let us
22 know, because, as I said, that's a large issue in a
23 small county.

24 Another one was that the supervisor of
25 elections put in the window of the supervisor's office

1 a hand posterboard, two of those posters that said,
2 you can't, as he says, you can't vote in this office on
3 election day. Well, there were people that could not
4 get to their polls by the time the polls closed
5 because they work in outlying areas. So if they
6 stopped by there, he refused to let them vote. I went
7 inside and I asked him, why can't they vote here? He
8 said, they can't vote here, I want them to vote in
9 their polling places, and I asked him, I said, but
10 what does the state statute say, and he said, they
11 don't look disabled to me. I said, it's not disabled,
12 it says unable.

13 (Laughter.)

14 WITNESS HOLT: And maybe you should check
15 Webster's.

16 (Laughter.)

17 WITNESS HOLT: But he still refused to let
18 them vote, and that's the bottom line. In a rural
19 county you do not know what happens to these people
20 when they leave the townships in their county. If
21 they are very frustrated, they are not going to go to
22 another polling place, if they don't have a ride or
23 something like that. We are a working county.

24 One other thing we had was, a seal on our
25 precinct box was not there, coming out of one of the

1 precincts, and I would not have known this. A lady
2 called me, I was on my way to a poll to monitor a
3 poll, and she called me and asked me -- made sure I
4 identified myself, and she sounded like she was an
5 elderly Caucasian lady. She said, I don't want to get
6 in any trouble, but you need to monitor precinct poll's
7 box because it didn't have any locks on it before.
8 See, I'm so new at this, I didn't know to check them
9 before. Well, I went in that night, and I waited and
10 I checked the seals on all boxes, and that particular
11 box, just as she said, did not have a red seal on it.
12 That was one of my other points.

13 Our county is too small to have a large
14 number of percentage of votes that were thrown out.
15 We had 2124 ballots that were over-ballots due to the
16 fact of the way the ballot was set up with the two
17 different columns and two different titles. Also, for
18 the young man in Seminole County that went in and put
19 those I.D. numbers on those ballots, he was in our
20 county last Friday when the Republicans inside did do
21 a recount. He and I had -- we had words, we had
22 issues, and I did say to him, there are certain things
23 you don't do, sir, and that is one of them. And I
24 asked him to please leave and go back to his county.

25 But what I am saying to you is that there

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 are very few people in my county that would even speak
2 up now, and we need all the help we can get. I don't
3 know -- this is the best thing that could have
4 happened to us because these people are very arrogant,
5 they are very rude, and they are very dictatorial.
6 But we do have some good people in our county and we
7 need some help. That's all I had to say.

8 CHAIRPERSON BERRY: Thank you very much,
9 Ms. Holt.

10 Captain Davis, do you wish to...

11 WITNESS DAVIS: I'd just like to say I'm
12 Captain Davis, United States Air Force, retired. I'm
13 just a little amiss, embarrassed about the whole
14 incident, national as well as the local aspect of the
15 election because when I went to Southeast Asia and
16 other parts of the world, I went to come back to make
17 a better county, better state, better nation, and then
18 to see all of this happen at this point. I'm just
19 totally embarrassed because even with a college
20 degree, the voter confusion that I encountered, you
21 know, I just -- I had to read very carefully to
22 understand what was going on in our particular county
23 in our particular precinct, and in a county that has a
24 lot of old people in it, and a lot of people that are
25 sort of illiterate, you're going to have a lot of voter

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 confusion. Was it intended to be like that? I don't
2 know, but I don't think it had to be like that. I
3 would like to see things gotten better, started at the
4 local level and going up through the national level.

5 CHAIRPERSON BERRY: Thank you very much
6 for those comments.

7 Ms. Anita Davis, please.

8 WITNESS A. DAVIS: Thank you,
9 Commissioners. I am glad to have this opportunity to
10 speak to you. I am now the newly elected president of
11 the Tallahassee branch of the NAACP. I am a Democrat.

12 I have worked as a Democrat since I registered to
13 vote when I was 21 years old, and I believe what has
14 happened here, you know, when you have a plan and plan
15 A doesn't work, then you go to plan B. On the night of
16 election we were told that Gore had won the election.

17 Not long after that, about an hour and a half, we
18 found out that he didn't win, that the other person
19 won. So it was back and forth. And then that night,
20 I had calls from all over the state of Florida. They
21 were talking about the improprieties that happened in
22 their particular counties. This is an opportunity for
23 us to straighten out something. They always say,
24 well, the fat lady hasn't sung. She still hasn't sung.

25 It's not over, and I believe with you all being here

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to take this information into consideration, what is
2 given here, I believe that -- I know the election is
3 over, but there'll be another election in 2002, here
4 in the state of Florida, and those of us who work
5 closely with the election process -- I've been an
6 elected official myself serving as a county
7 commissioner for six years, and I know what the
8 process is.

9 Sometimes when you have a plan and it
10 doesn't work, they go to the weakest link in that
11 chain, chain of command, and probably -- and this is
12 from my own personal observation. I've written
13 letters to the editors, I've written letters to the
14 NAACP, I've written letters to people who could feel
15 the conscious of the people who voted. I feel that my
16 vote counted because in my county, which is here in
17 Leon County, we have an excellent supervisor of
18 elections, who is a watchdog for those of us who are
19 the electorate. But the other part of it is, when
20 you have a weak link and you missed out on plan B -- I
21 mean, missed out on plan A, you go to plan B. Well,
22 you go to those weak links, and the weak links were
23 the African-American communities, those precincts
24 around the state. I had calls from Duval County from
25 friends of mine who I work closely with over the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 years. Palm Beach County, Seminole County, Gadsden
2 County -- I went over to Gadsden County when they
3 called me to come observe, and I was glad that I had
4 that opportunity to go. So what we are now is in the
5 fix-it-up part, and I'm hoping that you, as our
6 commissioners, can take this information that we are
7 bringing to you and use it in a proper way.

8 I don't know what I can do as a citizen,
9 but I know that I can influence others, and every year
10 when there is an election, I take time to go around to
11 my precincts and check and see if everything is all
12 right. I go out of courtesy to see if things are all
13 right, and this is just what you do when you are a
14 precinct watcher.

15 Some people don't understand what the
16 ballot is all about, and I have to back up because
17 those of us through the NAACP. Here in Leon County,
18 we registered over 8,000 new voters, but the missing
19 link was their ability to understand the ballot. Now,
20 there's an understanding that can go beyond our means,
21 and then there's an immediate understanding. But what
22 I am hoping that will happen is that we go back and
23 censor these ballots that have been thrown out,
24 manipulated -- what do you call it -- chads to death,
25 worry about the fuzzy math that we keep talking about.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 I think we can make the difference. I know we can't
2 do it now, but we can do it with your help, and what I
3 am asking you to do is to make sure that you take the
4 information that has been given to you by the common
5 people. It's not in the pulpit, it's in the pews, and
6 that's where we need to go.

7 So thank you for letting me come. I
8 didn't think I was going to last this long. I was at
9 the Orange Bowl and caught all that other stuff.
10 Thank you.

11 CHAIRPERSON BERRY: Thank you very, very
12 much.

13 Mr. Peters.

14 WITNESS PETERS: I'm Alvin Peters. I'm an
15 attorney in Panama City, Bay County, Florida, a
16 community in the panhandle of Florida. For the better
17 part of November and December I litigated with Barry
18 Richard and Katherine Harris and others in a case that
19 remains pending before the Florida Supreme Court. The
20 Florida Supreme Court has as yet not ruled on the
21 challenge that we filed out of Bay County regarding
22 the enormous number of absentee ballots that were
23 received by our supervisor of elections in Bay County.
24 Contrary to the experience apparently of Gadsden
25 County, Bay County had the policy of anybody who could

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 walk, roll, crawl, or otherwise get to the supervisor
2 of elections Office at any time could vote absentee.
3 And there were long lines at the Bay County courthouse
4 in the days and weeks -- at least a week or so before
5 the election of people voting absentee.

6 Of the 38,000, roughly, votes for George
7 Bush in Bay County, approximately 9,000 were votes
8 that were cast absentee for George Bush. Of those
9 votes for Al Gore, about 18,000, roughly 3,000 were
10 absentee.

11 What happened in Bay County was a part of
12 the same program that you've heard somewhat about
13 through the Seminole and Martin County cases.
14 Governor Bush of our state basically sent out a
15 letter, and you've got a poster blow-up there of the
16 vote-by-mail letter. And it was sent out by him under
17 his signature with the seal of the State of Florida
18 attached to it, and it was specifically created for
19 each county. It endorses the Republican slate of
20 candidates. And what it did was, it offered certain
21 select citizens the opportunity to vote by mail. Now,
22 Florida is not a mail-in balloting state under our
23 laws. Oregon may be. But in our state, throughout
24 the state, certain citizens were offered the special
25 opportunity to vote through the convenience of what

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Governor Bush described as the mail-in ballot. If you
2 look at that it says, from the desk of Governor Jeb
3 Bush, and it says, vote from the comfort of your own
4 home.

5 Now, in the litigation that we had,
6 Secretary of State Harris's lawyers pointed out, well,
7 there was an opinion from the Division of Elections,
8 you know, that was just Clay Roberts's predecessors, and
9 from 1990 this says that certain parties are permitted
10 to mail out absentee ballot forms that give people the
11 opportunity to fill it out and send it back to the
12 supervisor of elections, who then sends the ballot.
13 That opinion specifically says a voter needs to be
14 aware that when he returns his absentee ballot, he
15 must state under oath that he is entitled to vote
16 absentee. Under Florida law this is the form that has
17 to be signed this year. It was under Florida statute
18 10164, and it says, I, so-and-so, do solemnly swear or
19 affirm that I am a qualified elector in this election.

20 That I am unable to attend the polls on election day
21 and I will not vote more than once.

22 This 10164 is the version that existed
23 before 1998 when the Florida legislature met and made
24 certain changes as a result of the massive mayoral
25 Miami mayoral absentee ballot fraud. They made

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 changes. Those changes apparently were never pre-
2 cleared by the Department of Justice under the voting
3 rights act which applies to the State of Florida
4 because at least four counties fall under the
5 jurisdiction of the voting rights act. And so,
6 correspondence back and forth between Katherine Harris
7 and the Department of Justice never got pre-cleared by
8 the time of the 2000 election. So there is an opinion
9 issued by Clay Roberts's office that says that we're
10 going to go back to the 1996, or 7, law, which is this
11 version of 10164, where you have to swear under oath
12 that you are unable to attend the polls on election
13 day. And there is long-standing Florida case law from
14 the Supreme Court of Florida. It defines what unable
15 to attend means in terms of being out of town or
16 otherwise having some problem that prevents you from
17 getting to the polls. But what happened in this state
18 is that the Governor, in conjunction with the
19 Republican party, over-wrote the federal voting rights
20 act law. He basically changed that single-handily
21 without pre-clearance, and offered a select group of
22 citizens -- primarily the Republicans are the ones
23 that go this particular mailing, and didn't offer that
24 to everyone. And one of the things that may help you
25 understand why the Governor is somewhat reluctant to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 investigate the absentee ballot issues in this state
2 and to otherwise investigate voting fraud in this
3 state is that he really isn't -- he's up to his neck in
4 his own conduct, which basically invited voters in
5 this state to disregard the law, and to vote absentee
6 when they otherwise were not entitled.

7 And it may be that one day Florida becomes
8 a mail-in ballot state like Oregon, but certainly at
9 this point, we're not. And it seems a basic question
10 that all Florida citizens should have the same process
11 and should have the same opportunity to vote.
12 However, the Governor of this state essentially abused
13 that responsibility and offered certain select
14 citizens of his party to help his brother, the
15 opportunity to vote through the convenience of the
16 mail. No where in that letter does it say, by the
17 way, you're going to have to swear under oath that you
18 can't get to the polls. All it says is, vote from the
19 comfort of your own home. Detach this card, send it
20 to the supervisor of elections, which is what happened
21 in Bay County, and again in Bay County, what happened
22 there was the same thing that happened in Seminole.
23 The card didn't have the right number on it. And I've
24 been over there and looked at these little green
25 cards, and there are roughly 1200 of those cards that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 were sent to the Bay County supervisor of elections,
2 many of them had missing the voter ID number, missing
3 all that that was apparently overlooked by the
4 supervisor of elections office or fixed. They sent
5 the ballots back to voter who then was permitted to
6 vote by mail.

7 CHAIRPERSON BERRY: Okay. Thank you very
8 much. I think we got it. Thank you for your
9 testimony.

10 Does anyone have any questions for any of
11 these witnesses?

12 COMMISSIONER LEE: Can I ask a question? *

13 CHAIRPERSON BERRY: Sure, go right ahead.

14 Commissioner Lee.

15 COMMISSIONER LEE: I have a question for
16 Ms. Davis. I understand the national NAACP had
17 launched a really big national campaign on voter
18 awareness. What was its presence in Florida of this
19 effort?

20 WITNESS A. DAVIS: The presence of --

21 COMMISSIONER LEE: Yes, the effort, the
22 NAACP effort in Florida.

23 WITNESS A. DAVIS: Oh. Well, we increased
24 our percentage by, in some counties, as much as 77
25 percent. And I think it was the first time this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 effort has ever been done statewide, and those of us
2 who worked on that were very much aware of those
3 persons who weren't voting, but we went after them, and
4 we registered them to vote. So it varies from county-
5 to-county, the percentages.

6 COMMISSIONER LEE: So is it public
7 knowledge that the NAACP has done a really good job --

8 WITNESS A. DAVIS: Yes.

9 COMMISSIONER LEE: -- and there are a lot
10 of African-American new registered voters?

11 WITNESS A. DAVIS: I figure -- When we
12 started analyzing it, we found that because we turned
13 out so well that there were too many people and we --
14 the votes weren't going in the right places. So -- I
15 mean, everybody is saying it was a conspiracy because
16 when you do the exit polls, which the media does
17 often, they are usually right. So what happened is,
18 what I told is they said, let's back up and look at
19 this because the election was promised to a person by
20 any means possible. So we don't know what happened.
21 There are too many things. I even have the report
22 that I wanted to leave to you regarding the check
23 point problem here in Leon County, which was in my
24 district and I asked the commander to give me a full
25 report on what happened on election day with those law

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 enforcement officers who had stopped people going to
2 three of the polls that were in my district, and he
3 said he would. And the report is dated December 5th.

4 So it did happen, but according to the information
5 year-end, it's saying they felt like it wasn't breaking
6 any laws, that they were doing what they normally do,
7 that they do this. But on election day if I were a
8 person -- If I had to drive down there and somebody
9 stopped me and a whole slew of cars -- when they first
10 called me they said it was 14 cars. The second call I
11 had was 30 some cars in a line that were waiting to
12 get to the polls, but were stopped. So you don't know
13 if was an intentional method or poor management on the
14 part of highway safety. So we challenged it, and I
15 did get the report that I asked for.

16 CHAIRPERSON BERRY: Thank you.

17 Does anyone else have a --

18 WITNESS HOLT: I wanted --

19 CHAIRPERSON BERRY: Oh, you wanted to
20 comment on that though? Did you want to comment on
21 the question that has already been asked?

22 WITNESS HOLT: No, I wanted to mention
23 once more that if you would, if it's possible to find
24 out if a company purged our voting rolls because it is
25 so widespread, and it's very, very unusual. Also in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Gadsden County I petitioned the State for someone to
2 be over our election starting in September because
3 there were so many irregularities in our county. They
4 sent someone over and they were to make out a report.

5 He said he would make out a summary report. I said,
6 no, sir, I want a report on each election, September,
7 October and November so that we can find out what the
8 problems are, and I have not received that report yet.

9

10 CHAIRPERSON BERRY: Commissioner Wilson?

11 COMMISSIONER WILSON: Thank you, Madam
12 Chair.

13 My question is for the gentleman -- I don't see your
14 name so ---

15 WITNESS PETERS: Alvin Peters.

16 COMMISSIONER WILSON: Mr. Peters, thank
17 you very much.

18 Mr. Peters, am I correct in saying that
19 you said that these -- there were 1200 of these
20 invitations that were sent out?

21 WITNESS PETERS: In Bay County there were
22 probably thousands more. From my understanding, what
23 happened statewide -- and this was watching Fox
24 Television -- this Todd Schnick who was the Republican
25 person who organized the absentee ballot campaign, I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 heard him testify that he spent \$500,000 to put
2 together this mail-out where the Governor invited
3 people to vote absentee. Those letters went out.
4 They all had detachable pre-printed cards on the
5 letter, and so the voter was invited to tear it off,
6 put in the last four digits of the social security
7 number and mail it back to the supervisor of
8 elections. Supervisor of elections, if legally
9 receiving the probably completed form, got it, then
10 mailed the ballot back to the voter. In the Seminole
11 case was that those cards didn't have the right voter
12 I.D. number on them, and so they invited the
13 Republican party in to fix them.

14 What happened in Bay County was the cards
15 were received, many of them had blacked the I.D.
16 number, and apparently that was either overlooked by
17 the supervisor of elections Office or fixed by the
18 supervisor of elections office and they then mail the
19 ballot back. From my own observation, we've gone
20 through the absentee ballot list of voters who
21 actually vote in Bay County, and of the roughly 9000
22 votes for George Bush, approximately 1200 were
23 directly in connection to this green card. Now, there
24 probably were others that did so in response to other
25 manners of getting absenteeism ballots, but there were

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 at least 1200 of them that were connected to this
2 green card that was the result of the Governor's and
3 the Republican party's campaign to increase voter turn
4 out by offering the method of convenience voting or
5 voting from the comfort of your own home.

6 COMMISSIONER WILSON: Thank you. I'd be
7 interested if we can find out more about this mailing,
8 a) if it was strictly to Republicans, and b) the cost,
9 given everything that we've --

10 WITNESS PETERS: Yeah, I spoke to staff
11 and I urge you, at least staff, and I realize y'all are
12 doing this on a last minute basis, to try to subpoena
13 the Republican party's of Florida literature on who
14 they -- what mailing list they chose, and then
15 subpoena from the Republican party a sample of each of
16 the letters they sent to each county, and we were on
17 the edge of actually getting the deposition before
18 Judge Smith in Leon County dismissed the lawsuit at
19 the request of Secretary Harris and basically said,
20 look, if a crime occurred, you know, file a criminal
21 complaint, go arrest somebody, prosecute somebody, but
22 he didn't contemplate the thought of possibly
23 invalidating all these absentee ballot votes because
24 the law was essentially abused or manipulated.

25 COMMISSIONER WILSON: Thank you. My

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 second question to Ms. Davis. Could you tell me --
2 you said you registered about 8000 voters. These were
3 people who weren't going to vote, right?

4 WITNESS A. DAVIS: These were -- we did
5 all three campuses and people within Leon County.
6 This is just here in Tallahassee.

7 COMMISSIONER WILSON: Well, that was
8 wonderful. Can you just tell me what it was that you
9 said to people that made them want to vote?

10 WITNESS A. DAVIS: Well, I emphasized that
11 voting is your responsibility as well as your right,
12 and for those of us who were freedom fighters for
13 years understood the reason for the ballot, and when
14 you present yourself and let them understand that all
15 the processes that we deal with in life come through
16 the political arena. So therefore, you must join in
17 this effort to be a registered voter, and also that
18 every time the ballot comes up, your voice is heard.
19 So when you talk to -- most especially young people,
20 that they understand the purpose of voting. So some of
21 us from way back, we remember the time we couldn't
22 vote, and then we secure a ballot and vote and it
23 doesn't count. We need to fix what's wrong.

24 CHAIRPERSON BERRY: If there are no other
25 questions --

1 You wanted to make a comment?

2 WITNESS BURGESS: I would actually like to
3 comment on the documents that Mr. Peters brought and
4 make a comment on what she said. When I was in line
5 and people approached me, they were very nice and they
6 basically made it convenient for someone who was not
7 planning on voting to register right there. And after
8 seeing those documents, it makes me sick to think that
9 my taxpayer money, our taxpayer money was used by our
10 Governor to basically send out an infomercial to his
11 party because I registered with the other party and
12 did not receive anything like that in my P.O., Box at
13 FAMU. I did, however, receive things from my local at
14 home, in Pinellas County, people running for
15 commissioner and things like that. I received
16 information from them, but I never received anything
17 that looked like that in my P.O. Box. That should
18 say, dear fellow citizen, from our Governor here is an
19 offer from the convenience of your home in our state
20 to vote. It should not say, to my fellow party
21 member. That should be to everyone and it personally
22 makes me sick to think that our Governor used our tax
23 money to advertise for him and his family. Thank you.

24

25

CHAIRPERSON BERRY: All of these matters

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 that you have discussed with us will be followed-up
2 on, and we very much appreciate you coming here to
3 talk to us about them, and witnesses are dismissed.
4 Thank you very much for coming.

5 That concludes this hearing on the voting
6 rights -- the allegations of voting rights abuses here
7 in Florida, and as is customary with our hearings, the
8 record will remain open for 60 days during which any
9 of the witnesses can submit any written statements
10 that will aid in our interpretation of the testimony
11 received. Any member of the public may also submit
12 information helpful to us in our proceedings.

13 This hearing is adjourned.

14 (Whereupon, the hearing was concluded at
15 7:37 p.m.)
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

This is to certify that the foregoing transcript in the
matter of: Hearing on Allegations of Election-Day
 Irregularities in Florida

Before: U.S. Commission on Civil Rights

Date: January 12, 2001

Place: Tallahassee, Florida

represents the full and complete proceedings of the
aforementioned matter, as reported and reduced to
typewriting.


