

U.S. COMMISSION ON CIVIL RIGHTS

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HEARING ON ALLEGATIONS OF ELECTION DAY

IRREGULARITIES IN FLORIDA

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FRIDAY

FEBRUARY 16, 2001

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MIAMI, FLORIDA

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The Commission convened at 7:30 a.m., in the Wyndham Miami Biscayne Bay Hotel, 1601 Biscayne Boulevard, Miami, Florida, Chairperson Mary Frances Berry, President.

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
- RUSSELL G. REDENBAUGH

LESLIE R. JIN, STAFF DIRECTOR

*This is an unedited transcript of the full and complete proceedings of the U. S. Commission on Civil Rights in the matter of its "Hearing on Allegations of Election-Day Irregularities in Florida." The hearing was held in Miami, Florida, on February 16, 2001. This is not a verified copy of the hearing 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.*

Staff Present:

KIMBERLY ALTON  
DAVID ARONSON  
TERRI DICKERSON  
BOBBY DOCTOR  
PAMELA A. DUNSTON  
MICHAEL FOREMAN  
GEORGE HARBISON  
EDWARD HAILES, Acting General Counsel  
JENNY PARK  
BERNARD QUARTERMAN  
PETER REILLY, Parliamentarian  
KWANA ROYAL  
JOYCE SMITH  
AUDREY WIGGINS  
AUDREY WRIGHT

Commissioner Assistants Present:

PATRICK DUFFY  
ELIZABETH OUYANG  
CHARLOTTE PONTICELLI  
SCOTT SCHREIBER  
KRISHNA TOOLSIE  
EFFIE TURNBULL

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(8:50 a.m.)

CHAIRPERSON BERRY: This hearing of the United States Commission on Civil Rights will now come to order.

May I please have all of the court reporters, clerks, interpreters and signers come forward. Court reporters, clerks, interpreters and signers, please come forward. Everyone is forward who's a clerk, interpreter, and signer.

If you would please raise your right hands.

(Whereupon, the court reporters, clerks, interpreters and signers were duly sworn to perform their responsibilities to the best of their abilities.)

CHAIRPERSON BERRY: Also, before returning to your seats, everyone else can, could a sign interpreter ask if anyone is in need of interpretation?

Not at this time.

I see one additional interpreter just came in. Could you please come forward to be sworn in.

(Whereupon, the interpreter was duly sworn to perform his responsibilities to the best of his abilities.)

CHAIRPERSON BERRY: Thank-you very much.

Good morning everyone and welcome to this public

hearing of the U.S. Commission on Civil Rights in Miami, Florida.

I am Mary Frances Berry, Chairperson of the Commission and I will be presiding over this hearing today.

Scheduled testimony will commence at 9:00 a.m. and will conclude at 5:45 p.m. as indicated on the Agenda.

Before I detail the purpose and scope of this hearing, I would like to introduce myself further and then allow the other members of the Commission to introduce themselves.

I am the Geraldine R. Segal Professor of American Social Thought and Professor of History, an adjunct Professor of Law at the University of Pennsylvania in Philadelphia, Pennsylvania, where I teach courses in History of American Law.

Joining me today are Commissioners Christopher Edley, Jr. -- well, I'll introduce Edley in a minute -- Commissioner Yvonne Lee.

Commissioner Yvonne Lee, would you like to introduce yourself further?

COMMISSIONER LEE: Good morning. I'm Yvonne Lee from San Francisco. I'm a Public Experience Consultant specializing in Asian community affairs.

CHAIRPERSON BERRY: Commissioner Meeks, would you like to introduce yourself further?

COMMISSIONER MEEKS: Yes. I'm Commissioner Meeks. I'm from the Pine Ridge Indian Reservation in South Dakota and I've been involved in community and economic development locally and nationally for about the last twenty years or so.

CHAIRPERSON BERRY: Commissioner Russell Redenbaugh, please introduce yourself further.

COMMISSIONER REDENBAUGH: I am Commissioner Redenbaugh from Philadelphia, Pennsylvania. I'm an Autonomist and professional investor.

CHAIRPERSON BERRY: Commissioner Abigail Thernstrom, please.

COMMISSIONER THERNSTROM: I'm Commissioner Abigail Thernstrom. I'm a Senior Fellow at the Manhattan Institute in New York and member of the State Board of Education in Massachusetts and I've been writing on issues of race and ethnicity for about too many years to count.

CHAIRPERSON BERRY: Commission Victoria Wilson.

COMMISSIONER WILSON: I am Victoria Wilson from New York. I'm a Senior Editor and Vice President at Alfred Canoff Publishers (Phonetic).

CHAIRPERSON BERRY: Vice Chair Reynoso, Cruz Reynoso.

VICE CHAIRPERSON REYNOSO: Yes. I'm the Vice Chair of

the Commission, retired Supreme Court Justice of the California Supreme Court, and presently teaching full-time at UCLA School of Law. I'm also associated as special counsel with the law firm of Kaye, Schuler, Fareman, Hace and Handler (Phonetic).

CHAIRPERSON BERRY: And I would also like to introduce our Staff Director, Les Jin, and our General Counsel, Edward A. Hailes, Jr., and I would also like to give Commissioner Christopher Edley the opportunity to further introduce himself.

COMMISSIONER EDLEY: Christopher Edley, Professor at Harvard Law School and co-director of the Civil Rights Project at Harvard.

CHAIRPERSON BERRY: Okay. Today this Commission, which is an independent, bipartisan Agency in the Federal Government, with eight members who half of them are appointed by the Congress and half by the President, today the Commission continues its formal investigation into allegations by Floridians of voting irregularities arising out of the November 7, 2000 Presidential Election.

This hearing is the second that the Commission is conducting in the State of Florida to examine whether eligible voters faced preventable problems at the polls in casting ballots and having ballots counted in a closely contested election.

We are here to seek reliable information about the experiences of registered voters on Election Day and the specific steps elected and State officials took or should have taken to insure that all registered voters had equal opportunities to vote and have their votes counted.

This hearing will help the Commission to find out whether allegations of irregularities at the polls are supported by facts, and if so, we hope that these facts will help us in allocating responsibility for these irregularities and that they will also help us in formulating recommendations that will form the basis for decisive reforms.

The U.S. Commission on Civil Rights has the Statutory authority and responsibility to investigate written complaints alleging that the right to vote and have votes counted has been denied.

The history of voting in the United States is the history of barriers erected and erased. The struggles to gain the right to vote by those who were locked out have taken place in court, on the battlefield, within the family, in the streets, in State Legislators and in Congress. The right to vote makes all persons, rich and poor, weak and strong, educated and uneducated, equal before the ballot box.

As Barbara Jordan, the unforgettable conscious of Congress once stated, citizen participation is the author of democracy's legitimacy. Voting is the individual citizen's highest act. This highest act should not be compromised by administrative inefficiency, intimidation or discrimination.

In Tallahassee this Commission heard sworn testimony from the Governor the of the State, the Secretary of the State, the Director of the Florida Division of Elections and other Florida State and County officials. We also heard the sworn testimony of registered voters and experts on election reform issues, election laws and procedures and voting rights.

Most importantly, we received scores of relevant documents to assist with this investigation.

This hearing will focus attention on many of the allegations that have been reported to the Commission. Our staff has obtained sworn affidavits, conducted interviews, reviewed documents that were secured at the Tallahassee hearing, and continued its research to assist with this investigation.

In Miami we will attempt to examine such allegations as the use of erroneous information to remove eligible voters from the official voter registration list. The use of defective and complicated ballots that may have produced over-votes and under-

votes, polling places closing early, polling places that were moved without notice, improper processing of voter registration applications, out-dated election equipment in poor precincts that may have led to racial gaps and voided votes, lack of language assistance when required and requested, accessibility difficulties for persons with disabilities and other concerns that the scale of witnesses will present at the hearing.

As required by law, notice of Commission Hearing for Florida was first published in the Federal Register on December 13, 2000, having been previously made publicly available electronically on December 11, 2000. A copy of this notice will be introduced into the Hearing record and has been supplied to all persons scheduled to appear here today.

The authority of the U.S. Commission on Civil Rights to conduct hearings emanates from the 1957 Legislation that established it as an independent, bipartisan Federal Agency of the United States Government.

Among the Commission's duties are to appraise the laws and policies of the Federal Government, to study and collect information, and to serve as a national clearing house for information, all in connection with discrimination or the denial of equal protection of the laws of this Nation, because of race, color,

religion, sex, age, disability, national origin, or in the administration of justice.

In the area of voting rights the Commission is authorized to investigate allegations of deprivations, quote, "As a result of any pattern or practice of fraud of the right of citizens of the United States to vote and have votes counted."

To enable the Commission to fulfill its duties, Congress has empowered the Commission to hold hearings and issue subpoenas for the attendance of witnesses and the production of documents. Consistent with Commission practices, all witnesses within its jurisdiction have been subpoenaed to attend this Hearing.

The Commission has scheduled approximately forty witnesses for this Hearing. These witnesses have been selected due to their knowledge of and/or experience with the issues on which this Hearing will focus.

We will hear sworn testimony from witnesses about their personal accounts in seeking to cast ballots on November 7th in Miami, Dade County and surrounding Counties. The Commission shall also hear testimony today from State and local officials, including the Director of the Division of Driver Licenses, County Commission officials, the Supervisor of Elections for several counties, law enforcement personnel, a State's Attorney and a representative of

Database Technologists, Inc., Choicepoint, a firm contracted by State officials to assist in the removal of felons from the voter registration rolls.

In addition to the scheduled witnesses there will be a limited opportunity for concerned persons to testify during an open session scheduled for this evening.

Many of the selected witnesses have been compelled to turn over relevant documents to the Commission to assist with this investigation. The Commission will examine the subpoenaed documents and the sworn testimony for the purpose of making findings and recommendations that will form the basis for our recommendations for action.

Before we proceed, I want to stress the functions and limitations of this Commission. As the Supreme Court of the United States explained, quote, "This Commission does not adjudicate, it does not hold trials or determine any one's civil or criminal liability, it does not issue orders nor does it indict, punish or impose legal sanctions, it does not make determination depriving anyone of life, liberty or property."

In short, the Commission does not and cannot take any action which will effect an individual's legal rights, but we take very seriously however, our mandate to find facts which may be used

as a basis for legislative or executive action. And we've had a pretty good experience in recommendations being turned into legislative action.

I am certain that my colleagues join with me in the hope that this fact finding Hearing will spotlight voting rights, responsibilities, remedies, practices and procedures and will educate our Nation on existing problems at the polls, encourage urgent remedial efforts to resolve these problems, and aid generally in guaranteeing the right to vote, to have votes counted and to secure the maximum participation of our citizens in this democracy.

Now let me address very briefly some technical aspects of the hearing.

First of all, let me say that Kim Alton, who is standing in the back and will now raise her hand, will take care of the care and feeding of the press. So if anyone in the press needs care or feeding or anything, Kim will take care of that.

First, the record of this Hearing will remain open for sixty days for inclusion of material sent to the Commission at the conclusion of this Hearing. Anyone who desires to submit information relevant to these proceedings may do so during this time period in accordance with the Commission's rules.

Second and most important, you may notice the presence

of Federal Marshals in the audience. The Commission's procedures require their attendance at all of its Hearings. These Marshals have developed security measures that will help to preserve the atmosphere of dignity and decorum in which our proceedings are held.

Federal law protects all witnesses before this Commission. It is a crime, punishable by a fine of up to \$5,000.00 and imprisonment of up to five years, or both, to interfere with a witness before this Commission.

I would also like to commend the staff for its work thus far in preparing for these hearings. I want to thank you for your attention and indicate that I intend to adhere strictly to all the times set forth in the Agenda.

Now please direct your attention to Vice Chairperson Reynoso who will read the Statement of the Rules of this Hearing.

Vice Chairman Reynoso.

#### **STATEMENT OF RULES**

VICE CHAIRPERSON REYNOSO: Thank-you, Madam Chair.

At the outset, I would like to emphasize that the observations which are about to be made concerning the Commission's rules constitute nothing more than brief summaries of significant provisions. The rules themselves should be consulted for a more full understanding. Copies of the rules which govern this Hearing

may be obtained from a member of the Commission staff upon request.

Scheduled witnesses appearing during the course of this Hearing have been supplied a copy. Staff members will also be available to answer any questions that arise during the course of the Hearing.

The Commission is empowered by Statute to hold hearings and act at such times and places as it deems advisable. The Hearing is open to all and the public is invited and urged to attend.

As Chairperson Berry indicated, all witnesses appearing today within the Commission's jurisdiction have been subpoenaed for this Hearing. Everyone who testifies and submits data or evidence is entitled to obtain a copy of the transcript on payment of costs.

In addition, within sixty days after the close of the Hearing a person may ask the Commission to correct errors in the transcript of his or her testimony. Such request will be granted only to make the transcript conform to testimony presented at the Hearing.

If the Commission determines that any witness' testimony tends to defame, degrade or incriminate any person, that person or his or her counsel may submit written questions which, at the discretion of the Commission, may be put to the witness. Such person also has the right to request that witnesses be subpoenaed on his or her behalf.

All witnesses have the right to submit statements

prepared by themselves or others for inclusion in the record provided they are submitted within the time required by the rules.

Any person who has not been subpoenaed may be permitted, at the discretion of the Commission, to submit a written statement in this public Hearing. Any such statements will be reviewed by the members of the Commission and made a part of the record.

The Chair has already advised that the Federal Law protects all witnesses at a Commission Hearing. These witnesses are protected by Federal Law which makes it a crime to threaten, intimidate or injure witnesses on account of their attendance at Government proceedings. The Commission should be immediately informed of any allegations relating to possible intimidation of witnesses.

Finally, I should note that these rules were drafted with the intent of insuring that the Commission hearings be conducted in a fair and impartial way. In many cases the Commission has significantly -- has gone significantly beyond Congressional requirements in providing safeguards for witnesses and other persons. We have done so in the belief that useful facts are best developed in an atmosphere of calm and objectivity. We trust that such an atmosphere will prevail at this Hearing, but we stress

however, that with respect to the conduct of every person at this Hearing room, whether testifying or not, all orders by the Chairperson must be obeyed. Failure by any person to obey an order by Chairperson Berry or the Commissioner presiding in her absence will result in the exclusion of that individual from the Hearing room and criminal prosecution by the U.S. Attorney when required.

As previously noted, unless otherwise indicated, each session of this Hearing will be open to the public. Are all welcome and urged to attend.

Thank-you very much, Madam Chair.

CHAIRPERSON BERRY: Thank-you very much, Vice Chair.

In the first four panels of our Hearing we will hear from persons who experienced difficulties during the voting process. We will hear allegations of voting irregularities of various sorts.

**Allegations of Voting Irregularities: Panel One**

CHAIRPERSON BERRY: I would like to ask our General Counsel Mr. Hailes to call the witnesses who are here today.

MR. HAILES: Thank-you, Madam Chair.

Would Rabbi Richard Yellin, Dr. Frederick Shotz and Marlene Bastien please come forward?

CHAIRPERSON BERRY: Please remain standing and all of you raise your right hands please, while I give you the oath.

Do you swear or affirm that you will testify truthfully to the best of your abilities?

(Whereupon, the witnesses were duly sworn.)

CHAIRPERSON BERRY: Counsel, please proceed with the questions you would like to address to the witnesses on this panel.

MR. HAILES: Thank-you again, Madam Chairperson.

Each of you has identified to us the specific experiences and difficulties you personally experienced and/or members of the communities you represent. We have also been informed that you prepared opening statements and we would like each of you, beginning with Dr. Shotz, to present those statements at this time.

DR. SHOTZ: Thank-you, sir.

Madam Chairperson, members of the Commission, I want to thank you for the opportunity of being here today. I am speaking to you on my own behalf and on behalf of the Florida Membership of the Association of Disability Advocates, the Florida Paraplegic Association and Access Now.

Many of our members are active voters in the State of Florida, but few of our members, myself included, have had the opportunity, the equal opportunity, to vote in elections held in the State of Florida and limited opportunity at best to vote in the

election this past November of the year 2000.

I've been a resident of Florida since 1972 and a Florida registered voter since that year. I used to go to the polls on crutches when I was able to. It's been many years now that I've had to go in my wheelchair as I do most things.

The Florida Legislature some years ago passed a law requiring the polling places in Florida be accessible to people with disabilities. Unfortunately, nobody enforces that law. When the ADA got passes, Title 2 of the ADA required that all Government programs be accessible to people who were disabled, required every Government agency, local and State agency, have a plan for accessibility.

In my home County of Broward County, Florida the Supervisor of Elections decided the appropriate plan for accessibility for the voting process was for us to use absentee ballots. No efforts have been made in my County for accessible polling locations for people who are disabled to vote.

Absentee ballots, while they may give people some access to the voting process, do not provide equal access for people who want to vote on the election day. We are deprived of the opportunity of hearing the last of the advertising by candidates. We're deprived of the opportunity of waiting to decide until we have

to cast a vote on election day. We're deprived of the opportunity of reading the editorials and the recommendations of our media, recommendations of civil organizations about how to vote because we're required to vote ahead of time by absentee ballot if we want to have access.

The President of the Florida Paraplegic Association commented to me last night in a phone call, that to vote by absentee ballot costs the price of a postage stamp, thirty-four cents today.

That may not seem like much money unless you're one of those people who has to take your medication every other day because you can't afford the pills every day that your doctor wants you to take. Now thirty-four cents may be your medication today for your diabetes or the pain medication for your arthritis. If we had a tax at the poll for each person voting to pay twenty-five cents or thirty-four cents, it would quickly be declared unconstitutional and illegal. Poll taxes are forbidden in this country.

And yet in order for a person to vote in my home County in Broward County, Florida, a person who's disabled, if we're to follow the plans and guidance of our Supervisor of Elections, those plans tell us we must pay a poll tax in the form of postage stamps just to cast our equal vote or our equal right to vote.

You need to understand my personal experience as a

voter in this election. I went to the same polling place I have gone to for a number of years, a polling place I had complained about to my Supervisor of Elections every year. None of my complaints, with one exception, has ever been taken care of by the Elections Supervisor.

When four years ago I could not get in the door of the polling place because of a pool table blocking the width of the door so a wheelchair couldn't get through it, they did move the pool table. But my complaints about inadequate accessible parking have not been addressed. My complaint about the step at the door to get into the building has not been addressed.

And so when I went to vote this past November, I entered the parking area to find that the disabled person's parking space is occupied, not by cars or people who are disabled, by cars with no permit to park there. But nobody at the poll cared about that.

I was confronted with the same step at the door that I have been confronted with before, requiring that I either jump over the step in a wheelchair or get assistance to get in. I was confronted with crowds to get to the table, crowds of people standing, and I'm only three and a half feet tall sitting in my chair. Signs as to where to get in line I couldn't see because they

weren't where the ADA says they're supposed to be. And then, much to my surprise, the accommodation I've been given in the past to have the voting platter placed on a table for me where I could actually see to vote was denied with the excuse being, "We have no spare tables and we are too busy today." But there was a voto-matic machine with a wheelchair symbol taped to the machine. And somebody had actually lowered two of the legs to make it at wheelchair accessible height, but the machine has four legs, not two. So the front of the machine was higher than the back of the machine causing it to tilt away from me and making it almost impossible to see the ballot. The legs were not wide enough apart for my wheelchair and so I could not sit close to the machine.

I fortunately was able to use my arms to lift myself up and attempt to read the ballot and to cast my vote. I have the strength in my arms to do that. Many people that use wheelchairs do not.

I went from there to Palm Beach to help my parents vote. My parents are both in their 70's with limited vision. My mother is blind in one eye. My father is less than five feet tall. And I was confronted with a voting machine with no lowered legs, one that I could barely see to help them, and with the interesting Palm Beach butterfly ballot. So I lifted myself up to read the

ballot for them and when sat back down so I could use a hand for the pin to punch the holes I could no longer read the ballot. All I could do is count down the number of lines, count down the holes and punch the holes.

And so my father, the past president of the Florida Intedefamation League, probably cast a vote for a person who is known to be an anti-semite in our Country, not by intent on his part, not by intent on my part, but because the voting process discriminated against people who are disabled.

Florida can cut taxes year after year but will not buy accessible voting equipment. Florida can cut taxes year after year but will do nothing to remove barriers at our polling places.

Thank-you very much.

CHAIRPERSON BERRY: Thank-you very much, Dr. Shotz.

MR. HAILES: Ms. Bastien.

MS. BASTIEN: Good morning, Madam Chairperson, the Commission. My name is Marlene Bastien and I'm here on behalf of my compatriots from the Haitian/American community and from the other communities as well.

I've worked several months to get out the vote in the Haitian/American community and in the other communities surrounding Miami-Dade County. We've been to the radio and on November 3rd I

did have a sense that things were going to be very hard when I, together with hundreds of people, went to downtown to vote early. The lines were on the street. People were waiting for up to three hours to vote. There were only two clerks there to assist the voters. Many of them, especially the elderlies, had to leave, and many Haitian/Americans who were there on November 3rd to vote early left. They told me they could not wait.

When I was there I met a group who was voting for the first time, a group of Haitian/American women. They told me, "Marlene, this is my first time. Please help me."

I approached the clerk and told her that here, there is a group of Haitian/American women voting for the first time and needing assistance. I was very startled by her response to me. She threw a bunch of forms, request for assistance forms at me, and told me that she hoped that I would not hold her line forever. I knew then that it was going to be a very hard process, not only for first-time voters, but all voters in Miami-Dade County.

On November 7th early in the morning I went to the Creole radio station to get out the vote. By mid-day I started getting calls from people who went to different precincts to vote. I was taking complaints from people who could not vote because they didn't get assistance, even in precincts where there were volunteers

who could speak Creole and who were willing and able to assist the voters. I had calls from voters who told me that they realized that they made a mistake and they requested a new ballot which was refused to them. They did not know that they had the right to get a second ballot.

I had a call from people whose names were purged from the list and what was supposed to be a proud day for many, many voters, some of them voting for the first time, some voters in their 70's, 60's, from Haiti, who witnessed family members being killed with the voting cards in their hands who came here in such freedom and justice, and they came here and then they wanted to vote for the first time and this was supposed to be a proud day for them, but it turned out to be a nightmare, a lot of confusion.

What I'm here to say on behalf of all of those who could not vote, all of those who were turned away, all of those who were denied the chance to vote, is that this is what we call in French, (speaking in French), the chance that passes and the chance to take, to make sure that we make the reforms in the voting process so that we can uphold the sanctity of the voting rights, which is a sacred right, to we can uphold the sanctity and the principal, the basic principals that this Country was based on, which are the principals of fairness and justice for all.

I think this is a chance that we have to take. This is an opportunity that we have to seize to make sure that changes are developed and changes are implemented so that no one in America feels or is left behind, so that no one in America feels as disenfranchised that they felt doing election day on November 7th.

That's my message here this morning.

CHAIRPERSON BERRY: Thank-you very much, Ms. Bastien.

MR. HAILES: Thank-you.

Rabbi Yellin, please proceed.

RABBIT YELLIN: Thank-you, Honorable Commissions for coming to Florida and listening to our testimony.

I came to my voting precinct at the St. Thomas Moore Church in Boynton Beach at 6:30 on election day and I saw what took place and it was overwhelming. I voted at all previous elections as a registered voter.

CHAIRPERSON BERRY: What county is this?

RABBI YELLIN: Boynton Beach, Florida.

CHAIRPERSON BERRY: County?

RABBI YELLIN: County, Palm Beach County.

I then returned. I thought something was out of order and I came back to my synagogue which also houses a precinct. I'm a Rabbi of a synagogue which is probably the largest retiree synagogue

in Florida, maybe in the United States, 2800 people. I came there at 7:45 and there was a beehive of activity and the precinct was in the facility's auditorium. All this was in a sworn affidavit to the Democratic National Committee some time following the election.

At exactly 8:20 I was delivering a sermon and interrupted by people who came out of the voting precinct saying, "Something is wrong," and it seemed to match what I had felt when I had voted in the church in my own precinct. I entered the precinct ahead of the lines. I summoned the supervisor and I told her that the precinct should be closed until an announcement was made to all of those voting that the butterfly brochure was problematic. There were three or four people around and she agreed and she made the announcement.

We summoned the media at about 8:30, 8:45 that morning and we couldn't get through to the supervisor. The lines were all tied up.

That Friday night when I had about 500 people in the synagogue, I asked them what was their voting experience and they shared their experiences, many of them saying they think they voted for Buchanan. In my synagogue there's more than 100 Holocaust survivors. There's no way that anybody in my congregation would have voted or cast a vote for Buchanan. I took a referendum on

that. I asked each group, those who had the problems, to describe their experience, and the other group who didn't have a problem, simply laughed. We stopped the laughing. The group that had the problems explained their situation. The other group who had an easy time of it explained their situation. What happened? The conclusion, there were two different butterfly experiences, either misprints in the butterflies or the machines.

The tabulation, with the 500 on Friday night and the 600 people who showed up at the service the next day, I did the same thing, twenty percent of them had the same misprinted, misaligned experience in their voting booth.

The conclusion of the Town Hall sermonic discussion, two different systems or an imprint -- a misprint of the butterflies used by many voters in various precincts of Palm Beach County.

The Buchanan factor surfaced. It's my understanding in checking around black African/American pastor friends of mine, that the Buchanan factor surfaced most within Jewish and African/American areas and precincts. As an African/American pastor friend of mine said, "There is no one in this congregation who would for a moment think of voting for Pat Buchanan." Buchanan subsequently went on air saying he knew that these exaggerated votes, close to 3500 in Palm Beach County, should not have gone to him.

Now these are the issues in my overall testimony: One, the question of voting machine irregularities and misalignments and possible misprinting. According to my sources a number of the machines are misaligned. At least twenty percent of the 1000 people present in my elderly Jewish democratic population community service indicated that their arrows did not line up with the holes. Several precinct people saw the problem and can testify to that.

I have subsequently learned that some of these precinct workers have refused to testify about what they saw because they want to drop the issue. Maybe they were afraid to get involved. Some people did not know from actually voting because of the misalignments.

The second point. A purposeful distribution of machines with irregularities into precincts with near unanimous numbers of registered democratic voters who are either elderly, African/American or Jewish. I could explain that if I have time.

Third point. The negligence of the Palm Beach County Election Commission. If all the machines were inspected, the sample ballot and butterfly brochures approved, then how could the Commission permit obviously misprinted equipment to be used in the first place? This is misprinted, the booklet that I'm holding here. This is the official sample. They call it the official sample

ballot. It's a total mistake in the instructions.

The fourth point is, were elderly Jews in some precincts in Palm Beach County subjected to anti-Semitism? I believe the reasoning is as follows: In the middle ages Jews were subjected to blood liables and charges of poisoning wells. Jews were persecuted by authorities because of these fallacious charges.

Because of negligence of the Palm Beach County election authorities who permitted the use of tainted machines and brochures to confuse the electorate, the Nation ridiculed Palm Beach County citizens. In effect it could be said that the Nation stereotyped Palm Beach County elderly Jews as ignorant because of the voting mechanism devised by negligent election officials, or so it seems to me.

The people were put on trial by the Nation. Anti-Semitism is defined as official hostility or discrimination against Jews as a religious, ethnical racial group. The election officials may also be obliquely guilty of this, or at the very best are participating in this stereotyping of their elderly Jews. African/Americans have similarly condemned elections and Government authorities. Any knowing complicity whatsoever by a Government official in disenfranchising a single voter should be punished to the full extent of the law. Equality under the law in the Constitution is the only bond and seal of these United States and

its citizenry.

I made other suggestions together with a African/American pastor of what should be done. All this was turned over to the FBI. All of this was -- I approached the Attorney General -- not the Attorney General -- the Attorney for Election Fraud for the District of Miami with all this information. I turned to the Florida Department of Law Enforcement, gave them a whole scenario of what should be investigated with all the machines subpoenaed, all the brochures subpoenaed, and measure to see the misalignment.

Suffice it to say I've been told or I understand, for instance, that the machines from my precinct couldn't be found. There's much more to be said.

CHAIRPERSON BERRY: Okay. Thank-you very much.

MR. HAILES: Thank-you, Rabbi Yellin. And I'd like to ask you, if you will, to submit that sample brochure for our records.

CHAIRPERSON BERRY: We already subpoenaed it anyway, but we need it for here today.

RABBI YELLIN: This is the only one that's left?

MR. HAILES: No. We will get it but we would like to have it because we will have officials this afternoon and we would

like to ask questions about it.

RABBI YELLIN: I understand that there are \$150.00 bounties placed on these official sample mistaken ballots.

MR. HAILES: Yes, well we will certainly return it to you.

I would like to ask each of you, I understand that each of you is a registered voter in the County in which you reside and you actually cast ballots in the November election; is that accurate?

RABBI YELLIN: Correct.

MS. BASTIEN: Yes.

DR. SHOTZ: Yes.

MR. HAILES: So you may -- you experienced difficulties at the polls but each of you voted in this past election?

RABBIT YELLIN: Yes.

MR. HAILES: You are aware of persons who experienced the same difficulties who did not vote in this past election, and if so, will you tell us about those persons?

DR. SHOTZ: Yes, sir, I'd be happy to.

There was one group of people that I met while petitions were being signed regarding this election, a day or two

after the election in Palm Beach. This group of people are all disabled and they had arranged for a bus to transport them to their polling place. When they arrived at their polling place they discovered that the polls were on the second floor of the building with no elevator. Those people who were disabled, therefore, one by one, using the wheelchair left in the bus, got back on the bus, went back to their condominium association buildings without ever casting a vote.

I watched people in the polling place where I vote get to the same step I got to, but without being in a lightweight manual wheelchair that I'm in, but rather in heavy power chairs. Their chairs couldn't get up the step. They turned around and they left.

In past elections there have even been the willingness of election supervisor employees and volunteers to bring the voting platters outside to people that couldn't get in. There's a loss of dignity in doing that but at least a chance to vote. But as we were told, as I was told, others were told, in this election they were just too busy and too short-staffed to do that. And so if you couldn't get in the door you just couldn't vote.

After the election was completed I was involved with some people that were considering litigation over this issue. I talked to people all over Broward County, all over Dade County,

people who were disabled. I heard dozens and dozens of stories of people sitting in wheelchairs staring at steps, staring at twenty-six inch wide doors in their thirty inch wide wheelchair, looking at polling machines, voting machines they could not reach, and who one by one turned around and went back home. People with disabilities in Florida when it comes to voting appear to have no rights.

MR. HAILES: Ms. Bastien?

MS. BASTIEN: Yes. I did vote for the first time in a Presidential election on November 7th. Well, I voted on November 3rd. I voted early. Whether my vote was counted, I don't know.

On November 7th though, as I said, as I indicated in my statement earlier, I went to WLQY, the Creole radio station that has twenty-four hour Creole programming, and then when I went there, after the interview, by mid-day I started getting calls from voters who were either at the polls or still in the precincts trying to vote and could not get assistance, from people who had left the polls after trying to vote and then realized that they made a mistake and were asking me if they could go back and vote again, from people who went to vote, they did not have -- they were registered to vote but they did not have their voting cards with them and they were prevented from voting. We learned after -- they learned afterwards, after we told them, that they should have

insisted to vote. But they did not know that they had the right to vote even though they did not have their voting cards.

Some people's names, peoples who have been voting in the same precincts for years and years, went there to vote on November 7th and they told me that they were told that their names were not on the list. By mid-afternoon I physically went to three different precincts. One of the precincts that I went, I presented myself to the supervisor, the election supervisor there, very nicely, very kindly, and I told her that I've been getting a lot of phone call from that precinct from voters who could not vote. When I went there physically, personally, I saw some ballots on her table from people, first-time voters and some of them not first-time voters, who could not vote. They just left their ballots on the table. And she told me, "We don't have any problem. We don't need you here."

I said, "Ma'am, I'm here representing the community and I'm here because I've been getting a lot of phone calls from this precinct."

And I was almost physically assaulted as a result. When I went there, there was a volunteer, Creole speaking volunteer sitting there, and I said, "This woman has been here since this morning. Why hasn't she been allowed to help the voters who are

obviously in need of help?"

She ignored me. She said, "No one should be able to go to the booth with the voters."

I said, "You're wrong."

I went to my car and I got a form, the voter's assistance form which I presented to her and I told her that by law these voters can and should get assistance to go to the booth.

MR. HAILES: Do you have a copy of that form with you?

MS. BASTIEN: I do have a copy that I'll bring to you.

MR. HAILES: Could you just briefly describe it?

MS. BASTIEN: This is a form that the titles says, Request for Assistance Forms. This is a form that the voter fills out if he or she feels that she needs help to go to the booth, and it has the voter's name and the reason for requesting assistance and it has the name of the person who is going to provide the assistance. And this supervisor was arguing with me, telling me that no one has the right to get assistance to the booth. Had I not had those forms, which were thrown at me remember on November 3rd, I would not have been able to show her the proof that indeed these voters can get assistance.

And some of the voters realized, called me -- and not only on November 7th, afterwards, they kept calling my office, my

agency, telling me what can they do, that they could not vote, they missed the opportunity. And unfortunately, a lot of them are scared to death. They are afraid. There is a very strong sense of powerlessness, of hopelessness among many of the voters. Many of them didn't want to come forward today and probably will not come forward today because they are scared.

On November 7th there were groups of people in front of some of the precincts, especially the precincts where there are a lot of Haitian/Americans telling these people that they will be deported if they voted for such and such candidate. And then some forms were distributed to them saying that voting for such party means voting for the evil. These forms I gave to the NAACP who, they have a copy of that form. There was a lot of confusion. A lot of people told me, reported to me that they couldn't even get in because they were so intimidated by the commotion, people telling them that they would be deported. And one volunteer told me when he asked them why they were doing that, they said they were just making a buck.

In one of the precincts that I visited the --

MR. HAILES: Ms. Bastien, do you know -- can you tell us the specific precinct where that type of commotion occurred?

MS. BASTIEN: The one on 119th Street, and I do have a

list with all the addresses that I will bring to you in a few minutes, because unfortunately I left -- I was rushing to get here and I left it in my room.

MR. HAILES: We would like to have that, Ms. Bastien.

Let me just move to Rabbi Yellin.

You have been reported in the press as saying that elderly and Jewish voters were disenfranchised. Can you give us specific examples of persons you either know or have heard about that were disenfranchised in this last election?

RABBI YELLIN: Yes, I can give you names of at least half a dozen people who came out of the polls not knowing who they voted for. If people that you're talking about had come into my precinct and gotten in the door, they wouldn't have had a system of voting that would allow them to vote for whom they wanted to vote for. So they didn't vote. You can't vote if the system doesn't work, if the brochures don't fit and don't match, and some of the machines are misaligned.

So I can, absolutely, if I re-translate the question, it's did our people vote? The answer to that is no, they couldn't vote because the machines were false. Holocaust survivor who comes out and says, and with tears in her eyes, "I think I voted for Buchanan. My God, I can't believe this."

Did she vote? Of course she didn't vote. The machines didn't let her vote.

I hope to God the apportionment of these faulty machines, these misaligned machines was a random act of God, because if it wasn't a random act of God, my own mind leads me down a very, very negligent path.

MR. HAILES: Okay, thank you.

One final question, Madam Chair.

Dr. Shotz, our staff has interviewed the former Supervisor of Elections for Broward County, Ms. Jane Carroll, who was the Supervisor of Elections for the November 7, 2000 election. She informed us that the County provides curbside voting as an option for those individuals who may be unable to easily access the regular polling site.

Are you aware of that policy and can you tell us whether that in fact has been made available to persons you know about?

DR. SHOTZ: That policy is a wonderful fantasy which has never come true, especially not when there is a busy election as this last one. In most polling places there is no curbside location to pull up to get that assistance. There's nobody assigned outside the polling places to let you tell the person, to notify that this

is needed. It just doesn't happen.

The Broward County Supervisor of Election's office has told me on four different occasions, both verbally and in writing, that their transition plan required by Section 504, Rehabilitation Act, and required by Title 2 of the ADA for equal access to voting process, is absentee voting. There has never been anything published in Broward County to notify people with disabilities that we have the right to curbside surface. I have never seen it provided. I have seen machines brought out of the door when a person gets to the door and then can't get in the door and can get somebody's attention and cooperation to bring a machine platter out to them. That's been very rare.

I must tell you that at this time a group of lawyers that I am working with are drafting litigation against every Supervisor of Election in the State of Florida for violations of Title 2 of the ADA, because we at this point recognize while your Commission will do everything you can to help our equal rights, you lack enforcement power and the enforcement power has been given to us by Congress through the Federal Court system under the ADA.

We hate to see the money spent on legal fees. We hate to see the time of judges taken up by this, money that should be spent on buying election machinery and removing barriers from

polling places. But we will sue each of the sixty-seven Supervisors of Elections in the State of Florida, demanding our rights to equal access to the polling place.

Voting at the curb, again not provided although spoken of. Voting by absentee ballot is segregation. It is not letting us vote with the public. The ADA prohibits segregation in Government programs and services.

MR. HAILES: Thank-you very much, Dr. Shotz.

Madam Chair, I have no further questions.

CHAIRPERSON BERRY: All right. Keep in mind, Commissioners, that we have another panel to tell their story between now and 10:00. There will be three more witnesses to tell their stories. So if you have a question that you need to ask, but limit it to only one question, please do because we're already behind schedule.

Commissioner Wilson.

COMMISSIONER WILSON: Thank-you, Madam Chair.

Rabbi Yellin, I have actually two questions, but I'll say it's one question with two parts.

You said that you had passed along this information to various authorities, from the FBI to the attorney. You weren't quite sure which attorney. The attorney who was in charge of --

RABBI YELLIN: United States Attorney for Election Fraud in South Florida.

COMMISSIONER WILSON: Okay. When did you pass that information on to them and have you heard from them or have you gotten any response from them? What was your response?

RABBI YELLIN: The FBI wouldn't report on the status of the investigation. The Florida Department of Law Enforcement shared with me the information. He said I may not disclose it, the results of the investigation. Terry Lindsay, who is the Assistant United States Attorney, said, "Go right on. Go ahead with this. We have to follow through."

I've tried to keep in touch. We did a Dateline NBC program. For five hours, three hours of raw footage and three minutes appeared. We gave the testimony of misalignments and irregularities. They cut everything out. We were made to look -- edited down to looking stupid.

COMMISSIONER WILSON: Okay, the second part of my question and then I'll stop. You mentioned something that I find surprising, which was you said that the machines could not be found. Could you clarify that point?

RABBI YELLIN: They tried to find the machines and they're looking for them right now. There were about thirty

machines in my synagogue precinct. They cannot be located. Prima facia that doesn't mean anything. If you amplify the investigation, of which I'm not privy, it might be significant. I find it highly unusual.

COMMISSIONER WILSON: Thank-you.

CHAIRPERSON BERRY: Yes, Commissioner Thernstrom.

COMMISSIONER THERNSTROM: First, thank you very much for appearing this morning. I would kind of like to apologize in advance of my questions for being quite unprepared since I didn't know the names of the witnesses that were coming before us and what they would be talking about until just now. And so I have a very elementary question to Rabbi Yellin.

You did describe what you said was the negligence of the Palm Beach County election officials, either deliberate or inadvertent. Do I remember correctly that the Palm Beach County officials are, a majority of them at least, are democratic? Please refresh my memory on that. And if so, when Jews are a by and large predictable democratic voting block, how would you explain an effort to disenfranchise such voters?

RABBI YELLIN: Well, all you have to do is take a look at this official sample ballot, open the page and you see the instructions saying, "Place your punch hole to the right of the

arrow."

Well, the Presidential page for the candidate have arrows pointing to the left. Now this is understood as a conflation. Biblical scholars and printers understand it. A conflation means you take a lot of different stories and you lump them together, but you synthesize them. What this represents is previous editions of this ballot were used, changed around and nobody bothered to edit the instructions. And anybody, democratic or republicans, you don't pay that much attention to it. So if they can make a mistake on this official sample ballot, I think other mistakes could have been made and were.

COMMISSIONER THERNSTROM: Well, again -- so now you're saying, look, it was simply a mistake. I mean as the newspapers reported at the time, Theresa LePour was responsible for the design of the butterfly ballot, you know, was a democratic, was concerned about democrats voting obviously. So what you're saying precisely is look, something -- an error occurred. I mean you did make a larger charge it seems to me, possible anti-Semitism even.

RABBI YELLIN: Well, the results of what happened produced a discriminatory image of people in Palm Beach County. When you turn on the television, national television, you see jokes being made about the elderly down here and elderly Jews, and you use

the expressions that they might use and people laughing at you from around the world, around the world, that we can't get our act together and what is it with your people?

I have given -- my response to my people is, this is the most educated group of people in America. They've retired well, they're well educated, they know that this might be their last vote, they don't waste it on philosophy. They want their vote to count. These people vote eighty, ninety percent plus. They all turn out to vote. They don't make mistakes. They're experienced. And when you have machines that have been loaded into our areas, either randomly or negligently or with malice of forethought, you don't allow people to express their intent.

COMMISSIONER THERNSTROM: And wasn't there a suit involving the butterfly ballots that got no traction whatsoever, and why was that?

RABBI YELLIN: I'm not familiar. I can't speak to that. Thank-you.

CHAIRPERSON BERRY: Commissioner Thernstrom, I asked that you ask only one question.

COMMISSIONER THERNSTROM: I'm sorry. I apologize.

CHAIRPERSON BERRY: In the interest of time.

Is there anyone who absolutely has to ask another

question?

Yes, Commissioner Lee.

COMMISSIONER LEE: I have a question for Ms. Bastien.

Can you tell me whether language assistance is required in that County that you mentioned?

MS. BASTIEN: There was supposed to be bilingual ballots in forty-seven different precincts. So far no one has seen one.

I understand that Mr. David Leahy indicated that they were available. So far since November 7th, no voters, no volunteers. None of the volunteers who were there to give assistance to the voters have seen the bilingual ballots. They only people who have indicated that they were made available is Mr. Leahy. So I guess he's the one to give that information.

CHAIRPERSON BERRY: Let me just say -- Commissioner Wilson, please.

COMMISSIONER WILSON: Ms. Bastien, I just want to ask you one quick question. You mentioned that there was a great deal of commotion outside of the voting places and that there were people who were threatening to deport people who were -- voters who were standing in line.

When someone said to you -- was it to you that someone

said, "I'm just trying to make a buck"?

MS. BASTIEN: No, to one of the volunteers.

COMMISSIONER WILSON: And did the volunteer inquire as to who was paying him the buck or her the buck?

MS. BASTIEN: No. He indicated that these people boarded a car and left, because the police was called at that precinct that I'm talking about. And there was a police report made and I gave a copy of the police report to one of the lawyers who was working during the election. There was a report made and then it seems like they were forced to leave. As they were leaving, they said, "No bad feelings folks. We're just making a buck."

COMMISSIONER WILSON: Thank-you.

CHAIRPERSON BERRY: Let me just say that, and I need to say this for our record while you're sitting here, that the Commission has jurisdiction over issues concerning people who are the subject to age discrimination, as well as religious discrimination. So that to the extent that there are issues related to the elderly being discriminated against, those would be of concern to us, in addition of course, to disability, and all the rest is outlined our jurisdiction from the beginning.

Also, that in the area of voting rights, we're concerned about intent as well as results, either one. Even if it's

negligence that has the result of discriminating against people, we're as concerned about that and the law requires that one be concerned about that.

Also, finally, we know that courts decide issues, but because a court decides something one way or the other doesn't end the discussion. The courts may decide all sorts of things, depending on who the judges are and how well argued the case is. We all know this from our experience. So that doesn't preclude this Commission from taking seriously allegations and complaints.

And let me just finally say that for this panel, you are aware that you were under oath as you gave your testimony and that you swear that the testimony that you gave is truthful to your best knowledge, information and belief; is that correct?

(A chorus of ayes.)

CHAIRPERSON BERRY: All right.

DR. SHOTZ: Madam Chairperson?

CHAIRPERSON BERRY: Yes.

DR. SHOTZ: May I very briefly, a comment regarding Commissioner Thernstrom's question to the Rabbi a moment ago on the butterfly ballot? I'll make it very, very brief.

The Supervisor of Elections in Palm Beach County stated that the ballot was printed that way so as to provide a larger type

face for people who had visible disabilities. That larger type face did not benefit people in Palm Beach County, as the Society has told me, did not benefit people who are blind. And while that was supposedly a benefit that resulted in tremendous discrimination to the ballot irregularities, nothing was provided in an excessively large print format for people with limited vision, as required by the ADA. No braille ballots were provided either.

I feel and many people who are disabled feel as though we were given the blame for the Palm Beach County problem with the statement that, "Well, we did this for people who have trouble seeing."

That was not what was done. A magnifying glass provided at each polling location or the perfectly printed ballots people who have visual disabilities would have helped them to vote.

CHAIRPERSON BERRY: Dr. Shotz, we had testimony in Tallahassee from an expert on the problems of the visually impaired who testified to just what you just said. So we had extensive testimony about the fact that that ballot had nothing to do with and would not in any way help, and we even had him give us an example of how that would work. So we do have that in our record.

DR. SHOTZ: Thank-you, Madam Chairman.

CHAIRPERSON BERRY: And the last thing I'll say as I

release you is that -- do you absolutely need to say something, Ms. Bastien?

MS. BASTIEN: Yes.

CHAIRPERSON BERRY: Go ahead.

MS. BASTIEN: I'm going to go to my car to get the requested assistance form and also testimonies that were given to me by people going to vote on November 7th and who were chased through the precincts with insults. I have these affidavits. When I come with them should I come and present them to you?

CHAIRPERSON BERRY: Absolutely. You should give them to the staff.

And the last thing I will say to you is that we are equal opportunity investigators and we don't really care whether democrats, republicans or independents or nothing did something to somebody. We're interested in who did what to whom and how and why, and we're also aware that while County officials have responsibility, that according to Florida law and repeated in the case of Bush v. Gore by the U.S. Supreme Court, the Secretary of State of the State of Florida has overall responsibility for making sure that elections are carried out fairly and the people are not discriminated against.

And so we will keep all that in mind as we proceed with

these discussions.

So let me thank you very much for coming and say that there are some sign-out procedures that you must go through with the attorneys and we appreciate that and thank you very much.

(Whereupon, the witnesses were excused.)

CHAIRPERSON BERRY: Now, just for the information of the Commissioners. We have three more witnesses, a couple who are going to come in this period and you should adjust the schedule that you have to understand that each hour has two separate panels in it.

It's not that there are three people for one whole hour, but for half an hour, and that's why we're behind now. And so we will proceed with that regard.

I also will say to the media that Kim Alton, who's standing right there, is responsible for the care and feeding of any media who have concerns or questions.

**Allegations of Voting Irregularities: Panel Two**

CHAIRPERSON BERRY: Would Harold Cousminer, Genevieve Cousminer, Donnise DeSouza and Margarita Green please come forward.

One, two, three. There should be a fourth person. Is there a fourth person?

MR. HAILES: Margarita Green.

CHAIRPERSON BERRY: She's coming, I think.

Could you all please stand and raise your right hands while I give you the oath?

Do you swear or affirm that you will testify truthfully to the best of your abilities?

(Whereupon, the witnesses were duly sworn.)

CHAIRPERSON BERRY: Counsel, please proceed with questions you'd like to address to witnesses on this panel.

MR. HAILES: Thank-you very much, Madam Chair.

Will each of you please describe your experiences on election day, November 7, 2000, beginning with Ms. DeSouza?

MS. DeSOUZA: Good morning. My name is Donnise DeSouza. I'm a registered voter since 1982 in Dade County, Florida.

On election day of 2000 I took my son with me to the polls, he's five years old, and we had talked about the election prior to that time and he was going to help me pick a president. He was very excited about learning about the process.

So we got to a polling place at 6:30 after work and after school and we found a long line of cars parked out on the street waiting to gain access to the parking lot of the polling place. This was a brand new precinct. This was the first time it was being used for a major election, a fire station with a small parking lot.

So we sat in our car for about twenty minutes waiting to get into the parking lot. There were police officers from Metro-Dade County that was directing traffic. They would let some cars in as other cars went out.

At ten minutes to seven, after being very nervous about whether or not we were going to be able to make it in on time, we did gain access to the interior of the fire station and we went to the roll desk. I presented my identification to the poll worker and he took it and he compared it to the roll and he looked at me and he told me that I had a problem, that my name was not on the roll. And he told me that I needed to immediately go to this other line which was the problem line. And what they were doing in this line is they were calling downtown to the elections department, the main office, to try to work out some of the problems of the individual voters.

And I stood in this line with about fifteen people, some ahead of me, some behind me, and we waited there until 7:00. The line didn't move. We were just basically standing there. At 7:00 when the polls closed I noticed they started rolling down the doors from the fire station, basically closing up the poll. And at that point a lady came over to us, who I assume was the Supervisor of that area, and she told us collectively in a group that she was sorry but if our name was not on the roll that she could not let us

vote and that there was nothing that she could do. At 7:00 they stopped calling downtown, they stopped any efforts of trying to help the people that were in this problem line.

I asked her about an absentee ballot, because I had heard the term absentee ballot, and she said there was nothing we could fill out that would allow us to cast a vote and then find out the problem later and she said that there was nothing that we could do.

At that point I had to explain to my son that we weren't going to be allowed to vote and he didn't understand this and he got very upset and he started to cry. So at that point people started leaving and I took him over to the polling booth and I showed him, "Well, this is what we would have done if we had been allowed to vote." And I took the pin and showed him how we would have stuck it in the hole. And he was very upset and he cried all the way home and we were not allowed to vote.

The other thing I observed while I was there is that because of the poor access to the voting place, the parking lot, that there were people outside who had been in the vicinity before 7:00 who were likely still in their cars when they started closing down the polls. So that there were people that should have been able to vote outside, but because they were not physically in the

building by 7:00, they were not allowed to vote as well.

What I did the next day was, I woke up. I was very agitated. I turned on the news to see who won, found out about the fiasco, and went to work and was listening on the radio as people called in complained and they started giving out numbers and phone numbers and addresses to call. So what I did was, I immediately wrote a letter to Kendrick Meeks, State Senator Kendrick Meets Organization, and I faxed it also to the democratic parties, the Miami Herald, and to the Supervisor of Elections to let them know that I was deprived of my right to vote and I was very upset about that.

I never received a response back from the Supervisor of Elections. So about two and a half weeks later I was downtown for a hearing, I'm an attorney, and I was downtown and I decided to walk over to the building to talk with somebody personally, and I found out while I was down there that number one, the poll workers were supposed to continue calling to the main office until everybody who was in the precinct had an opportunity to be serviced and had their issue investigated. That was not done in my precinct.

The other thing I found out is that my name was actually on the roll. I showed my voter's registration card. They confirmed that I was a registered voter and one of the people that

worked there went and pulled the actual book with the signatures on it and she showed me this sheet with all of these signatures on it and there's my name with a blank line, where I should have been allowed to sign on election day but was not allowed to sign. And at that point there was nothing they could do and I was deprived of my right to vote.

MR. HAILES: Can you tell us approximately how many people were in the so-called problem line at the time the poll workers stopped calling the central office?

MS. DeSOUZA: My estimate is about fifteen. There were more people ahead of me than behind me, but in total about fifteen people.

MR. HAILES: And approximately how many people were outside, not allowed to get in, before the polling place closed?

MS. DeSOUZA: That's harder for me to estimate. It took me twenty minutes to get from, you know, Point A up into the parking lot. I do know that when I turned into the parking lot the line was farther down the road than where I joined it. So it's hard for me to say how many cars, but there were cars out there.

MR. HAILES: Okay. Thank-you very much.

Mr. Cousminer?

MR. COUSMINER: My name is Harold Cousminer. I'm a

retired geologist. I'm going on seventy-six years old. In December, 1999 I became legally blind so I couldn't read or drive any more. So this is the first time I had an experience being disabled and trying to vote.

We went to the primary to vote and when I got to the point where I had to sign, they seemed to be very disturbed because they didn't know what to do with me since I'm visually impaired. At first they gave me a sheet like this which is of no value to me at all, in addition to which you have to hold it four inches over the ballot and that obscures the ballot so you can't use the stylus.

Another thing was, of course, I couldn't read the ballot. So they decided I had to sign an affidavit. They finally got a supervisor who said I had to sign an affidavit to get someone to help me vote, which I did. And then the person said that they had to go in with me, one person has to go in with me to help me vote. They wouldn't let my wife help me. She said that was against the law. So this person came in with me and helped me vote so I did cast my vote, but I find out subsequently that was illegal for her to do that. It had to be two people go in with me or someone of my choice, like my wife.

Then when the presidential election came around, it was a similar kind of thing. At that point they did allow my wife to go

in so she helped me. But you know, I felt very demeaned and discriminated against. This is the first time I had any experience like that in my life, because I've never been disabled before. I couldn't imagine being treated that way. I held up the line. Everybody was looking at me. I was embarrassed. I felt like I was a second-class citizen, like I was doing something wrong. And they seemed to be totally ignorant to the process.

Thank-you.

MR. HAILES: Thank-you.

Ms. Cousminer.

MS. COUSMINER: Thank-you.

Chair and Commissioners. My name is Genevieve Cousminer. I'm married to Mr. Cousminer and so my voting experience is similar. I accompanied him.

We moved to Florida in 1995 and we've been registered voters since then and we vote in Precinct 148J which is at the Boynton Health Care Center in Boynton Beach, which is Palm Beach County.

As my husband stated, when we went to the primary election this was the first time which he appeared at a polling place and needed assistance. The polling workers appeared to not know what to do. They were very flustered. Finally they figured

out that he needed to sign an oath stating that he's disabled and needs assistance, and then I said that I would assist him, and they said, "No, that's against the law, you can't do it. We have to do it."

One polling worker when in with him and voted for him.

Of course Florida law states that two polling workers must accompany the person, the voter, or a person of the voter's choice, and any other assistance is illegal under Florida law. And the poll workers were not aware of that.

When we went for the presidential election, they offered him -- first when he told them he was visually impaired and needed assistance, they offered him an enlarged stylus with a large handle which is designed for a person with arthritis, which is obviously not the appropriate accommodation for a person with a visual impairment or one who's legally blind.

Then they offered him a magnifying screen similar to this one, which as he stated is useless because if you have to hold it above the booklet, you can't use the stylus any longer and in addition, if you have a cane or a walker and you're holding on to the walker, supporting yourself with a cane or the walker and you're holding the screen with your other hand, you no longer have a third hand in which to use the stylus.

Also, I wanted to say I'm the coordinator of Advocacy Services at the Coalition for Independent Living Options and I'm also a member of the California Bar and the Florida Bar. So I hear a lot of complaints from people and I also deal with disability issues on a day to day basis.

The remaining part of my statement I want to address more systemic issues. I've been aware that voter participation among people with disabilities is at least fifteen to twenty percent below that of the general population at large, depending on which survey you look at.

Now we've got laws out there which are designed and which address the situation of making polling places accessible. The Voting Accessibility for Elderly and Handicapped Act of 1984 was passed to insure that elderly and disabled people can vote in private and at a polling place. But the polling places are still not accessible.

Also, many of the issues in Palm Beach County are overlapping among the people who previously testified here. You've got the elderly. You've got the disabled. You've got overlapping populations. The demographics of Palm Beach County have a very high number of disabled and elderly voters.

Now we've got the Americans with Disabilities Act that

was passed in 1990 that requires that public entities provide auxiliary aids and services when it's necessary to provide a person with a disability an equal opportunity to benefit from the program or service that's being offered. And yet this is the only auxiliary aid or service that was offered to a person who's legally blind. Clearly, that's not adequate.

In my mind the goal has to be to provide voters with disabilities similar conditions of space and privacy that are offered to every other voter, and I think that people with, especially people with visual impairments, have had to give up their right to a secret ballot that the rest of us enjoy.

I have certain recommendations that I'd like to make because I see that my time is coming to an end.

The Voter Accessibility for Elderly and Handicapped Act does not define accessible voting place nor does it place responsibility for making a voting place accessible with any particular agency or official. I recommend that there should be a disability advisory group. The purpose of the advisory group would be to assess whether the entire voting process is accessible and to determine what makes a polling place or ballot inaccessible. They would also define standards and so on.

The Americans with Disability Act standards for

accessible design put out by the U.S. Architectural and Barriers Compliance Board should be consulted because a lot of problems could be answered by consulting the resources that are already out there.

The National Task Force on Election Accessibility has published a polling place access guide which was mailed to every election official in the Country. This should be used. Apparently it wasn't used in Palm Beach County.

Responsibility for making a voting place accessible must be assigned to an agency or an official. We should have a study of which states have standards to determine whether polling places and ballots or other polling methods are accessible to people with disabilities. We need a nationally recognized standard that we can rely on.

We need to answer the question: How will election officials insure compliance with those standards?

We need to establish a method of insuring compliance with those standards.

There will be costs incurred to bring polling places into compliance, but that expense is already accounted for and required by the 1984 Voter Accessibility Act.

Now those are certain systemic issues.

On a very basic down to earth issue, some low cost

measures that can be used: relocate polling places to accessible buildings. There should be signs directing people to accessible entrances. The voting booth should be accessible for people in wheelchairs. People with visual impairments should be provided with larger type ballots, perhaps tape recordings of ballots. There are many high tech solutions which I'm sure you've heard testimony on. Computerized and touch screen voting procedures and so on. And basically ballots should be provided in alternative formats.

MR. HAILES: Thank-you very much.

MR. COUSMINER: That works. This thing, it works.

MR. HAILES: And will you describe that for the record?

MR. COUSMINER: It's a small magnifying glass that was issued to me by the VA. It's quite reasonable in price and it magnifies anything that I need to read so I can read it, a menu in a restaurant or a ballot.

MR. HAILES: Thank-you very much.

Ms. Green?

MS. GREEN: Hi. I came to this country in 1960 and I became a citizen in '66. Since then I subscribe to the -- I became a voter. I'm very nervous. And I voted since then in every election, you know, that they had.

The date of November 7th that we went to vote, my husband and I went to our voting place, the precinct that we always went, which was the Fire Fighters Memorial -- Fire Fighters Memorial something. I am seventy-five years old and I'm very nervous.

CHAIRPERSON BERRY: That's okay. We are too.

(Laughter.)

MS. GREEN: Well, we went to the -- we approached the table where, you know, they keep the book that has all the names. We had our cards, registration cards. So we gave our names. So the fellow looked and he said, "You're not in the registry."

And I said, "What? We always vote here."

He said, "Well, for some reason you're not. Go and see the lady that was, you know, in charge of any problems that they had."

So we went to her and we showed our cards and we said, "We're not in the roster."

So she said, "Let me call" -- I don't know where she called. I guess she called the elections supervisor or something. It took her a long time because they were very busy. There was people kept coming, you know, with things, problems and things like that. So she finally go a hold of somebody there.

So she talked to -- it was a lady that she talked to,

that much I know, and she hung up and she told me -- she had my card. She said, "I'm sorry, but the lady just informed me that in 1998 you called and you erased yourself from the voter's, you know, list."

And I said, "What? I've never done that."

In the first place, my daughter was stricken with cancer in 1997 and she died in May last year. So my mind was far from anything but, you know, being with her. I said, "I never called. I wouldn't even know where to call."

She says, "Well, that's what they say and unfortunately you cannot vote because you're not registered."

I said, "You have my card, you know. I'm registered."

She said, "No, this is not valid because you already signed yourself out."

So my husband then told her -- you know, in that moment I didn't ask her name or ask her how did that lady knew that it was me that was calling. I mean on the phone anybody can call and say, "I'm so and so," and you don't have any proof.

Anyway, my husband also was not on the list. So he called -- she looked and then she looked at some papers and said, "Oh, you've been transferred. You are on the Doral Place or Doral Plaza," near where we live.

So he said, "So how come they didn't send me a new registration card with a new address or anything?"

She didn't know. So anyway we went over there and we voted, but I was, you know, I was not allowed to vote.

MR. HAILES: Thank-you.

MS. GREEN: She never returned my card. I didn't have, you know, the proof because she kept the card since I wasn't going to vote.

MR. HAILES: Do you remember the address or the intersection where this precinct was located?

MS. GREEN: That is on Northwest 82nd Avenue and it's about two blocks south or west of 25th Street.

MR. HAILES: Okay. Thank-you.

MS. GREEN: Northwest 25th Street.

MR. HAILES: Thank-you very much.

And Ms. DeSouza, can you tell us where your polling site was located?

MS. DeSOUZA: Yes. It's on -- the precinct number is 814, it's the Richmond Fire Station on Southwest 152nd Street.

MR. HAILES: In Miami-Dade?

MS. DeSOUZA: In Miami-Dade.

MR. HAILES: Thank-you very much. I have no further

questions, Madam Chair.

CHAIRPERSON BERRY: Does any Commissioner have any questions?

Commissioner Redenbaugh?

COMMISSIONER REDENBAUGH: Yeah, I have one question that I'd like to put to both Ms. Green and Ms. DeSouza.

Is it your view that you were prevented from voting as a consequence of mismanagement or inefficiency, or is it your view that it was in some way intentional and discriminatory?

MS. GREEN: No, I can't say because, you know, why should they have anything against me? I'm not against somebody else, you know. I don't think so.

COMMISSIONER REDENBAUGH: You view it as an inefficiency?

MS. GREEN: Yeah, I think, you know, people -- there's a lot of people that are on jobs that really don't fit them or they are not fit to be in, but --

COMMISSIONER REDENBAUGH: I have some of them who work for me.

(Laughter.)

COMMISSIONER REDENBAUGH: Thank-you. And Ms. DeSouza?

MS. DeSOUZA: I can't speak to the initial action of

the poll worker in him telling me that I was not on the roll when in fact I was. In light of everything that's come out it's kind of hard for me to say whether or not it was discriminatory or whether or not it was just an inadvertent mistake.

However, the second aspect of it of all of the fifteen people being told as a group that we couldn't vote and the fact that they stopped calling at 7:00, that I think is a breakdown in the system, an error in the system.

COMMISSIONER REDENBAUGH: Thank-you.

CHAIRPERSON BERRY: Any other questions for the panel?  
Commissioner Lee and then Commissioner Thernstrom.

COMMISSIONER LEE: Mr. Cousminer, I have a question.

You mentioned that the poll worker told you that you could not bring your wife with you into the booth, so instead the worker went with you inside to vote?

MR. COUSMINER: One person went with me and directed me how to vote. She said they couldn't bring my wife in.

COMMISSIONER LEE: Why was that? What was the reason given?

MR. COUSMINER: It was against the law.

COMMISSIONER LEE: That's what they said?

CHAIRPERSON BERRY: Commissioner Thernstrom.

COMMISSIONER THERNSTROM: This is really a point of information directed more to you than to the panel. It is, as you and I would agree, normal procedure for the Commissioners to know who the witnesses will be so that we can adequately prepare. If I had known the subjects they were going to talk about I would have done some research on them.

And you explained this morning to us in our previous meeting that these were witnesses that needed the protection of anonymity, but in the two panels that we've listened to so far I have not heard any witnesses that have not publicly been quite forthright in their criticisms of the voting process and therefore I am confused as to why any of these witnesses would need anonymity and why I couldn't adequately prepare to ask them probing questions.

CHAIRPERSON BERRY: Commissioner Thernstrom, the Commission does not identify individual witnesses who need protection for obvious reasons, and therefore you may have some witnesses who are subpoenaed -- that's why we subpoena everybody, because we don't want to distinguish people who need protection from people who don't need protection, even when they come forward in the Hearing, and that's one of the things we do not do.

And so I'm not in any position to tell you and to distinguish for you who needed protection, who didn't need

protection, as they come before us. That's part of our procedure.  
Is that right, counsel?

And you are as informed as every other Commissioner up here. I told you this and we discussed it at our meeting this morning. And so you know as much as everyone else up here who is a Commissioner about the witnesses and who they are and their purpose in coming here is to tell their story, these particular witnesses, and we are to question them if we wish about their story and counsel has interviewed them and there are documents and there will be more investigation that will be presented to us. But we don't identify particular witnesses at a Hearing as these are the ones that needed protection, or in writing to you, for obvious reasons that have to do with security. But you know as much as everyone else up here knows about the witnesses.

If you would like to make a general statement about your concern, you may do so so that you will not have to do it every time we have a panel to make the same statement over and over and over again, even after it's been explained to you.

COMMISSIONER THERNSTROM: Right. Well, I think I've made a general statement right now. Thank-you very much.

CHAIRPERSON BERRY: Commissioner Lee.

COMMISSIONER LEE: Can I ask a follow-up question to

Ms. Cousminer?

When the poll worker went inside the voting booth with you, how did the poll worker assist you?

MR. COUSMINER: She read off the people who were on the ballot and I indicated my choice and she voted for me.

COMMISSIONER LEE: So are you pretty confident that the person you wanted to be -- the person you wanted to vote for was indeed the candidate that poll worker voted on your behalf?

MR. COUSMINER: No, I'm not. She could have voted for anybody for me. I wouldn't have known the difference.

COMMISSIONER LEE: Thank-you.

CHAIRPERSON BERRY: Commissioner Meeks?

COMMISSIONER MEEKS: Yes. This may be a question I'll have to ask later of some of the official panel, but Ms. DeSouza, you know the fact that you weren't allowed to vote even though your name was on the list -- it was on the list, right?

MS. DeSOUZA: Right.

COMMISSIONER MEEKS: So do you know, is there no remedy for that then, the fact that you didn't get to vote?

MS. DeSOUZA: Apparently not. I feel, especially when I went down there and she showed me the list, you know, she offered an apology but what I really wanted her to do is offer me a ballot,

you know. The matter was still in dispute at that time. It could have been remedied, at least as far as I was concerned.

CHAIRPERSON BERRY: The only question I have is to ask whether Ms. Green or Ms. DeSouza was offered the opportunity to fill out an affidavit saying that you were registered when you were at the polling place when they couldn't find your name. Did they say, "Well, State law permits the filling out of an affidavit attesting that you are registered to vote and then we'll deal with that"?

Did someone offer that to you?

MS. GREEN: No. She was very curt. She said, "You can't vote because you took yourself out of, you know, you resigned to that privilege."

CHAIRPERSON BERRY: Okay. Were you offered?

MS. DeSOUZA: I was not. And I specifically asked if there was something that we could fill out in order to vote and I hadn't heard of an affidavit until after the fact. I did specifically say an absentee ballot or something and she said, "No," there was nothing that we could fill out.

CHAIRPERSON BERRY: Okay. All right, if there are no other questions then this panel is --

MS. COUSMINER: May I make one quick statement which is relevant to this?

My mother and father live at Kings Point Development in Delray Beach and they both registered at the same time. When they went to the polling place my father was able to vote and my mother's name was not on the list. And she wasn't able to resolve the situation at that time on election day so she couldn't vote.

The other things is, I know this afternoon you're going to be talking to some Palm Beach County officials. One of the members of the board of directors of my agency who is legally blind told me several times that he and another member from my agency went to the elections officials in Palm Beach County and offered to provide advice to them and assistance in providing accommodations and advice on different kinds of accommodations that would be meaningful to people, and they were told that the elections office would handle everything in-house and they didn't need any advice.

CHAIRPERSON BERRY: And the panel is absolutely -- you absolutely understand that you gave your testimony under oath and that you swore that the testimony that you gave is true? I just want to be clear about that.

(A chorus of ayes.)

CHAIRPERSON BERRY: All right. Well thank you very much for taking the time to be with us. You are excused, but there are some sign-out procedures for witnesses and a member of our staff

will assist you through them.

(Whereupon, the witnesses were excused.)

CHAIRPERSON BERRY: Counsel, we need to call the next set of witnesses.

**Allegations of Voting Irregularities: Panel Three**

CHAIRPERSON BERRY: We'll continue with the third panel. The third panel -- and there will be two panels for this hour. There are going to be three people for half an hour and then three people for half an hour, for information of the Commissioners.

Felix Boyle, Cathy Jackson and Angenora Ramsey, please come forward, and could the sign language interpreter please come forward and ask if there is anyone in the audience who is in need of assistance.

Could the witnesses please stand. I know you just sat down, but could you stand up please. Please remain standing and raise your right hands while I give you the oath.

Do you swear or affirm that you will testify truthfully to the best of your abilities?

(Whereupon, the witnesses were duly sworn.)

CHAIRPERSON BERRY: Thank-you very much. Please be seated.

Counsel, Ms. Jenny Kim Park, could you please proceed

with questions you would like to address of the witnesses on this panel?

MS. PARK: Thank-you, Madam Chair.

Good morning. Thank-you so much for joining us this morning. Please state your full name and the County of your residence for the record.

MS. RAMSEY: Angenora Ramsey, Palm Beach County.

MS. JACKSON: Cathy Jackson, Broward County.

MR. BOYLE: My name is Felix Boyle and I live in Miami-Dade, Dade County.

MS. PARK: Thank-you. Starting with Mr. Boyle, please describe for the Commission your experience of voting on the day of the election.

MR. BOYLE: Okay. Do you want a little background or do you just want that day?

MS. PARK: If you would like you can start from your background.

MR. BOYLE: Okay, good. I came from New York in 1998 and I moved to South Beach, and that's a neighborhood in Miami Beach. And I registered that year to vote and subsequently I moved within South Beach to another Congressional District. And I reported that to Miami-Dade Elections and I was sent a voter's card.

So the first time I actually voted in Florida was in September, 2000, and that was really a primary election. And it sort of served as a test for me, because I had had some problems voting in '99, so I wanted to make sure I was familiar with this precinct and knew where I was going.

And it was very busy. It was very active. It was clean, well lit, easy to find. It was in Flamingo Park, which is a park in Miami Beach. And I had really no problems. I remember showing my identification and my voter's card. We had a little discussion about my middle name which is Jaberne (Phonetic) and it's pretty, you know.

(Laughter.)

MR. BOYLE: So I remember it. It was a nice experience.

When I went back to vote on November 7th it was very different. My precinct, in the adjacent landscape, had become a construction site. So it looked like a medieval labyrinth. It was sulfuric odors from standing water, orange cones, barriers, deep pits, broken concrete. It was a real problem getting there. I couldn't find where I was supposed to vote. I searched for it for about five minutes. For some reason -- is this coming through?

MS. PARKS: Yes.

MR. BOYLE: Oh, okay. I searched for it for about five minutes and I thought, well, this is like trying to rearrange the chairs on the Titanic. I can't find this place. And I started to leave. I wanted to go home. I wanted to call Miami-Dade Elections. I thought it had been moved.

And a gentleman approached me in the parking lot and he said, "You look lost. What are you looking for?"

And I said, "I'm looking to go vote."

And he said, "Well, they're voting over there."

So I went around the corner and there was this kind of a smashed cardboard box with "Vote Here" written in green color crayons. And it was at a different site than what was given on my voter registration card. And I went in and my last name begins with a B so I went to the B section. And I said, "Hi, I'm Felix Boyle."

And I could see she saw my name. I saw it upside down because it was facing her. And at no point did I ever show voter registration card or identification during this process. And I was never asked for it. So I was given this ballot and then I was asked to sign for it. And when I looked down she was pointing to a name that wasn't mine. And I said, "I can't sign for this because this isn't my name."

And she goes, "Sign for it."

And I said, "But I can't. I'm not this person."

Somewhere up in here I found it, found where I was and I wanted to sign in ink but I had to sign in pencil. And I took the ballot and I believe I voted. Does that cover it?

MS. PARK: Yes, thank you.

Cathy Jackson?

MS. JACKSON: Hi. My name is Cathy Jackson. I moved to Broward County in 1996 from Dade. On the previous elections I did vote. On November the 7th I went to Lake Forest Reserve Park to vote. I went up to the table and showed them my name on my driver's license because I did not have my voter's registration card. They told me my name was not there.

So they told me, "Well, maybe you need to go back to your other County, in Dade. Your name might be there."

And I'm like saying, "Okay, I'm going to go there."

But I already had previously voted at this County before. I went back to Dade County, waited there forty-five minutes. They told me no, I have to go back to Dade -- go back to Broward. "You have to go back to Broward because you're there."

So I went back to Broward, and this was like -- my first time I was there like 7:55. I went to Dade, came back. That was like 8:45. From 8:45 until 11:30 at this time, I went back to

them and told them, "They told me I was here."

They looked again. They tried to help me. They told me, "Have a seat, we're going to call and see if we can get through and see if you're registered, a registered voter."

I said, "Okay." So I waited.

At this time, when I do go back there, when you first approach the building it splits in two, two districts. One is my district and the other district is on the other side, two Counties.

So I go back to my district and they told me, "Have a seat."

So I took a seat between both districts. At this time I'm sitting at a table where the other district, where the lady was helping someone else. She was trying to help me at the same time to ask me all these questions. "Are you a registered voter?"

And I'm saying, "Yes." And she was helping me.

She said, "Well, we're going to call and see what has happened."

And I said, "Okay." At this time I'm like only a few inches away from her. There was an elderly lady come in. She never voted I think almost in eight years and she's not on the list. She gave her her name. She took her name down, wrote it in pencil on this little notebook, took her name, her social security, she signed a pink paper, an affidavit, telling her that she can vote. She gave

her her card. She went and voted and she left. And I said, "Well, can I do the same thing?"

She said, "Well, really this is not your district. Maybe you need to go ask the supervisor over there."

So I went over there and asked them, "Can I sign that pink paper just like she did so I can vote?"

She told me, "Well, you can fill it out but, you know, you still have to wait and see."

Now at this time, this is like nine something, and I'm still waiting for the phone call to go through. She said, "Well, the lines are busy."

This is the lady who was helping at the table. The next thing you know, she tells me, "Well, have a seat and you're going to have to wait. It's going to be a while."

So I said, "Okay, I'm already here. I might as well do it. I'll go over there and wait."

And at this time I'm observing all this commotion. Since it's split in two, there kids next door over there in the school building. They come and observe how it takes place to vote.

At this time they're walking in between voters trying to look at, you know, the way things are and the box and they was observing so everybody was being cluttered.

Then at the same time while I'm waiting, I decide that I'm going to go back on my side because it was a lot of commotion. First of all, the supervisor said, "I'm not here to help anyone. I'm just a supervisor. I'm here just to eat that doughnut."

(Laughter.)

MS. JACKSON: So at this time my mind's running through like, "Okay." So there was one elderly woman. She was legally blind. She could not read the form to where she needs to vote. So I'm sitting here while she's waiting and like well, is anyone going to help her, you know, read the form? So she was like -- she just kept going, the supervisor, she was running around like a little busy bee.

Next thing you know, well I said, "Well, I'm going to help her." So we finally found someone to read to her because first she wasn't going to help her. She says, "She's going to have to wait." That was one incident.

Then the next incident happened. There was a man that was in a stretcher. I mean he came from a disabled, a nursing home. He was disabled. He was in a stretcher with the paramedics and everything. He was here to vote. They turned him away because they said they could not take the booth to him. So he had to go back.

Then I had another one. She was in a wheelchair. She

could not get to the booth because it did not fit and every time she sat -- like put it over her and leaned forward, so she still had to look over to try to get it, and she was just frustrated.

Then my brother came. I told him his name was on the list, first time voting. He did not know what to do, how to vote, and she said, "Okay, there's someone here at the front desk that will show him how to punch the hole and put the card back in the envelope and this is how you do it," but at the time there's no one there. Everybody's over there trying to get a doughnut.

I'm like, "Okay." So by this time I'm mighty hyped up, getting upset. And I said, "Well, I'm going to help you." And I told him, I said, "I cannot help you vote, like pick the one you want, but I will show you how to slide it in, puncture it deeply, make sure it goes through."

Next thing you know the supervisor comes out. "No, no, no, no. No one can help nobody vote. No one's not supposed to do anything. This is illegal. Everybody step away from the booth."

And by that time I was like, "You're not going to make me move no where. I'm going to help him vote. You're not helping him so I'm going to help him vote."

So at this time things are going on and I'm showing him. So she wouldn't tell me to move. So I'm helping him. And at

the time while I'm still waiting for the phone call, this is hours gone by, several people still couldn't vote got turned away. She was like, "Oh, whatever, you're going to have to wait or come back."

So I'm just looking at all the stuff going on. But then the next -- the other side was helping all of their voters. I mean they had the same problems. Couldn't speak English. They didn't have no Spanish version. So they said, "Okay, since you don't have the different version you can go and help them just by telling them what this thing says and what this says."

VICE CHAIRPERSON REYNOSO: They didn't have any --

MS. JACKSON: No, none at all, none at all. And I'm just amazed how one side was helping everybody, even if it's very difficult, but then my side, she wasn't helping nobody. She was like, "Forget it. I'm eating my doughnut and you can just get over it."

So I left. This was about 11:30. I go back to work. And I had to call my supervisor and tell her, "Hey, I'm late."

She said, "I know you're supposed to have one hour before and one hour after while at work so you can go vote, but now you're co-worker is behind and she's busy." So I had to go back to work.

Then I decided I had to leave work another hour early

just to go reach the polls by 6:55. By this time I had my young daughter, my infant, with me. At 7:00 the door closes. I gets there. It's like twenty-five other people. It was a total of thirty. But when the doors closed five left, they just gave up. It was like, "I've been waiting here three hours. We can't get through. She won't let us vote. Forget it."

So twenty-five of us were still sitting there waiting for this person to get through. And she shut the door. There was no one else outside. They shut the door and we waited another hour and forty-five minutes. By the time I got home it was like 9:30 and we still couldn't vote. She took our names. She finally got through. She was still on the phone. She finally got through and then she took our driver's license one by one. She said, "No, you can't vote. You're not in the system. No, you've got to go to this district. No, you can't vote."

And I said, "Well, what about the paper that I had, you know, that I signed? I could not sign that paper?"

"No. I could just turn it in and say, you know, this information is correct and then next time you can go vote."

But I say, "The other lady on the other side, she did the same exact thing and she voted. Why couldn't I do the same thing?"

And she said, "No."

And that was the end of it. We left. All of us just got up and just left.

MS. PARK: Thank-you, Ms. Jackson.

Ms. Ramsey, can you please tell us what happened?

MS. RAMSEY: I arrived at the polling place approximately 3:00 on the election day. Being a former poll worker, I had moved to a new area and being a former poll worker I knew that I had to go directly to the clerk. So that's what I did when I arrived.

I went to the clerk to do what is called a change of address affidavit. I proceeded to fill out and sign the change of address affidavit and she said she had to call to verify my eligibility to vote, which I know that's part of the procedure.

Well, when she made the phone call the lines were busy and they stayed busy for the following three and a half hours. So the call was made but we never got through to verify my eligibility to vote.

MS. PARK: Thank-you, ma'am.

Mr. Boyle, I believe you have some photos that you've taken since the day of the election that you would like to share with the Commission?

MR. BOYLE: This is a blow-up that I made of my precinct and I went back and photographed it a few days after the election. Basically it's a souvenir of the Florida vote.

(Laughter.)

CHAIRPERSON BERRY: So that's a picture of your polling place?

MR. BOYLE: That's right. And actually it was muddier the day I voted.

CHAIRPERSON BERRY: We have some blown up ones apparently.

MR. BOYLE: That's right.

CHAIRPERSON BERRY: Are those the same?

MR. BOYLE: I took those photographs. And the reason I -- can I get up? Ms. Park? Can I get up and go talk about them? Is that okay?

MS. PARK: Yes.

MR. BOYLE: Okay.

MR. HAILES: Please describe them for the record as you go through.

CHAIRPERSON BERRY: Slide it over and take the mike. Peter, slide the thing over closer so he can get the mike and take the mike off the thing.

MR. BOYLE: I can't chew gum and walk at the same time.

Okay. Well, this is where I voted and this is in Flamingo Park, and as I said that's in Miami Beach. This is 12th Street and that's my precinct. However, I think I actually voted in September in another building. And you know, you can't get to it. So I had to go through the parking lot. And this is, you know, standing water.

And my father was in a wheelchair so I was particularly sensitive when I see sidewalks like that. You know, it's not wheelchair accessible. It's a mess. And I didn't see anybody there for five minutes and that bothered me because this is Miami Beach.

MS. PARK: So what is the precinct name listed on your card, voter registration card?

MR. BOYLE: It's called the Flamingo Park Teen Center.

MS. PARK: And what is the name of the place where you voted?

MR. BOYLE: The Boys and Girls Club of Greater Miami.

MS. PARK: Now when you were inside and told -- sit down sir, please.

When you went inside to vote and you told the poll worker who you were.

MR. BOYLE: Yes.

MS. PARK: They never asked for your identification?

MR. BOYLE: Never. Never.

MS. PARK: Did you see anybody else being asked for their identification?

MR. BOYLE: Well, when I walked in I believe someone else was voting. They were at the polls. And I think they were having trouble fitting the ballot in. So they had already been in there. But there was no one else at the polls after they left. So no, I never saw anyone else.

MS. PARK: Now when you voted for the primary, did you -- were there a lot of people voting?

MR. BOYLE: Oh, yeah. It was busy. It was very busy.

MS. PARK: And on the day of the presidential election, how many people did you see voting at the polling place?

MR. BOYLE: Well one, after I got in there. But as I said, I looked for it for five minutes and it was deserted.

MS. PARK: And what time of the day was it?

MR. BOYLE: 11:00 in the morning, on or about.

MS. PARK: Do you have any opinion as to why there were less people voting on the presidential election day?

MR. BOYLE: Well, the night before there had been a

huge rally on the beach for Al Gore, and Stevie Wonder and Jon Bonjovie were there and Glen Cutclose spoke. But that broke about noon, but that was to get people to vote. So I don't -- at first I thought well people must have overslept, you know.

(Laughter.)

MR. BOYLE: I think it's due to the way it looked. I think I was just stubborn, you know, because I decided I was going to go home. It's a construction site, it's been moved.

MS. PARK: When you told us that you had to take off your shoes because you were not able to walk through the muddy area; is that correct?

MR. BOYLE: Oh yeah, you remembered that. Yeah. I had these like plastic shoes in my bag I use for Miami because it rains. So if you have good shoes on sometimes you have to wade home. So they're earth shoes.

MS. PARK: Thank-you, sir.

Ms. Jackson?

VICE CHAIRPERSON REYNOSO: I wonder if the record might show that there are four photographs, one showing the building, three showing access to the building. The building shows no sign that it's a precinct and the three photographs showing access to the building show a portion of soil which is muddy and a

sidewalk that is broken, clearly a construction site, in such a way that no wheelchair or other such possibility of going successfully through the sidewalk.

CHAIRPERSON BERRY: Okay, proceed counsel.

MS. PARK: Thank-you, Madam Chair.

Ms. Jackson, do you have your voter registration card today?

MS. JACKSON: No, I do not.

MS. PARK: Why not?

MS. JACKSON: Okay. When I first moved to Broward I registered to Broward. I moved from Dade so I had to get another voter's registration card saying I was in Broward. I got that one. They told me that it was something wrong with the card, send it back. So I sent it back and I asked them, "Will I have a problem voting?" They said "No, as long as you show your driver's license you shouldn't have a problem."

So I figured okay. I went and voted. I had a chance to vote. It's done, it's done. Then the second time I didn't have a problem but since this big hype about voting for this election, I figured that since I had the last -- the last time I had a problem like this, let me go call this number that they were saying over the radio. If you have any problems or have any questions about your

card, give us a phone call. I called them. They were closed so I left a message. They called me back and they said, "Well, we still have a problem with your card." And this was with my sister. She had a problem with her card and she sent her's back. And we never got our cards.

So I figured when I go there and vote show my license and I wouldn't have a problem because I voted here twice already. Gets there, nothing done.

MS. PARK: Did they tell you what was done with your voter registration card?

MS. JACKSON: They never told us what was wrong. We checked the address. We checked the precinct. There was nothing wrong with it. Because we matched them up and they still said something was wrong with it.

So I mailed mine in like the weekend of Labor Day weekend. So I figured that they deadline they said was October the 10th. So I figured by Labor Day weekend that's good enough time before November the 7th. I still didn't get my voter's registration card.

Four weeks later after voting I get this letter stating, "Mrs. Danielle C. Jackson." That is not my name. My name is Cathy D. Jackson. Then I opened the letter up and they tells me

I'm not no longer Dade voter's -- registered voter, which I'm not. I'm Broward. So how did they get this one saying that I'm Dade and I'm at Broward? So when I called they told me they couldn't give me no answer, just reinstate your voter's registration, fill out this card and we'll send you another one. I still haven't gotten a reply yet.

MS. PARK: Now what is the name of the facility that was used as the polling place for your district and another district I believe?

MS. JACKSON: Lake Forest Reserve.

MS. PARK: And what is the name of your district?

MS. JACKSON: 52Z.

MS. PARK: And the other district?

MS. JACKSON: 53Z. It was split right in half. The building was like, all you had to do was just walk one way and the other way and it was all together.

MS. PARK: And now you say you observed a woman going up to the other district's poll worker and being allowed to sign an affidavit ballot; is that correct?

MS. JACKSON: All she did was go up there and say, "I haven't voted in so many years. I know I'm not in the book. I'm here to vote."

She took her name, took her social security number. She signed in pencil. She signed this affidavit saying that, "I'm here to reinstate that I'm going to vote," and that was it and gave her the card and she went and voted.

MS. PARK: And what is the race of this woman?

MS. JACKSON: White. But then also there was other several people that was Hispanic that had the same problem. They just let them go ahead and they signed the paper and they went on ahead and voted. So I went back to mine and asked her the same question and she told me no.

MS. PARK: Thank-you.

Ms. Ramsey, how long have you been a poll worker?

MS. RAMSEY: Sixteen plus years.

MS. PARK: When you're working as a clerk for the Supervisor of Elections office, what procedures were you instructed to follow for voters who changed their address?

MS. RAMSEY: They were allowed to fill out a change of address affidavit and I would have to make a call to the main office to just verify eligibility to vote. And once that was done then they were allowed to vote in the new polling place.

MS. PARK: Did you notice any other voters having similar problems?

MS. RAMSEY: Yes. It was fourteen to fifteen people, maybe fourteen or sixteen people that had the same experience where they were trying to have their eligibility to vote clarified, but the line at the main office, the main election office, was tied up.

MS. PARK: What is the racial composition of your district?

MS. RAMSEY: African/American.

MS. PARK: Do you feel that you were treated differently because of your race?

MS. RAMSEY: Well, I would say my past sixteen, experience of working the elections and my last position held was a clerk, I had never experienced three hours of the phone being tied up.

MS. PARK: Thank-you. I have no further questions.

CHAIRPERSON BERRY: All right. Commissioners, any Commissioner have a question for the witnesses? If you do please keep it brief because we are behind schedule.

Commissioner Redenbaugh?

COMMISSIONER REDENBAUGH: Thank-you. I have a question for Mr. Boyle.

MR. BOYLE: Yes.

COMMISSIONER REDENBAUGH: Do you happen to know if the

actual vote turn-out in your precinct was lighter than usual or lighter than expected?

MR. BOYLE: Do I have that type of information?

COMMISSIONER REDENBAUGH: Uh-hmm.

MR. BOYLE: No, I don't. Observably, it would have been from the time I was there, because I voted on or about the same time for both elections. It would be interesting to see the difference if there was in fact one. I just don't have that information.

COMMISSIONER REDENBAUGH: Is it your view that the location of the polling place may have been intentionally selected to discourage turn-out, or was this construction site --

MR. BOYLE: Do I think that someone intentionally did this to suppress the vote? Is that what you're saying?

COMMISSIONER REDENBAUGH: Yes.

MR. BOYLE: Yes, I do. Yes, I do. Oh, absolutely. I have no doubt. And the reason why I could say that is because South Beach is very democratic.

CHAIRPERSON BERRY: Commissioner Thernstrom.

COMMISSIONER THERNSTROM: I have a question for Ms. Jackson.

You have made a charge of racial discrimination at the polling place, which is obviously a very serious charge, and yet the overall figures for Florida indicate that African/American voting was up about sixty-five percent from the previous election.

Do you believe that in general black voting was suppressed in the State of Florida, and if so, how do you square your own story with the huge and, you know, very welcome turn-out?

MS. JACKSON: Well, I can't speak for the whole State of Florida, but I can speak for what happened to me. I don't think it was a racial situation because even if I was sitting on the other side, they were still trying to help me and they was mostly white and they were still trying to help me. And on the side that I was, they were mostly black, but on my side they were just not -- she was not informed on how to do her job or she just insisted that she did not want to do her job. It was just not equipped to handle the load that we had over there. It was a lot of people that were turned away, was misinformed and was not being helped. It was not about racial.

It was just that it was another situation, as I'm not going to do this, I'm not going to do that, and then also we was not equipped with the things that need to be done over there like for the handicapped, the disabled, people who are first-time voters.

Then we had the kinds that came in bundled up with the ones who had to vote and it was like a big chaotic place over there. It was not about a racial thing.

COMMISSIONER THERNSTROM: Thank-you very much.

CHAIRPERSON BERRY: Ms. Jackson, do you know this person whose name was on the envelope, the person's who name is on that envelope. You said it's not you, it's somebody else. Do you know that person?

MS. JACKSON: No.

CHAIRPERSON BERRY: Okay, so it's not somebody that's in your family, that lives in your house?

MS. JACKSON: No. I think they just put my middle name first and my first name in the middle.

CHAIRPERSON BERRY: They got messed up.

MS. JACKSON: But they got the correct address.

CHAIRPERSON BERRY: The only question I have for you is if it were shown that officials in the State of Florida were responsible for elections, which I understand from the case of Bush v. Gore is the Secretary of State, and from the Statute, if it were shown that officials in the State of Florida knew that there was going to be a heavy turn-out and in your precinct and all over the County and that they did not make sufficient preparations to address

the problems that people might have, including phone lines and hours and assistance and all that in the particular precincts where there were large number of African/American voters, would you personally consider that unfair?

MS. JACKSON: Yes, very unfair.

CHAIRPERSON BERRY: Okay. So not that we've established that, but I'm saying that -- and you are in no position, and I appreciate what you said to conclude about what happened to other people. And my only point is that even if no one in your precinct did anything to you because of your race, if there were an overall approach that made the resources not available in those particular precincts so that you got treated the way you got treated, you would consider that unfair as I understand your testimony?

MS. JACKSON: Yes.

CHAIRPERSON BERRY: Okay. All right, I don't have any further questions for the witnesses and therefore, we're going to thank you for coming and ask you to sign out with the attorneys, and you are excused and thank you very much for being willing to come forward.

(Whereupon, the witnesses were excused.)

**Allegations of Voting Irregularities: Panel Four**

CHAIRPERSON BERRY: We will proceed counsel, with the next witnesses, and we have six people this time for the next hour, if I understand that correctly; is that right or am I wrong? How many witnesses do we have for the next forty minutes? Is that correct? Until 11:40; is that right?

MS. SMITH: Correct.

CHAIRPERSON BERRY: So we have between now and 11:40 to -- although we are behind -- two panels; is that correct?

MS. SMITH: Yes.

CHAIRPERSON BERRY: All right, counsel.

Would Joanna Carbone, Joy Cohen, April Pierre and Marcia Seamans please come forward. Lavonna Lewis, could you please come forward?

Lavonna Lewis, Joanne Carbone, Joy Cohen, and Marcia Seamans, those are the names.

Could you please not sit down, Ms. Seamans. Could you all stand up so that I can swear you in?

(Whereupon, the witnesses were duly sworn.)

CHAIRPERSON BERRY: Thank-you, please be seated, and Ms. Smith will proceed with the questioning of the witnesses, Ms. Joy Smith.

MS. SMITH: Thank-you, Madam Chair.

Good morning. Thank-you for joining us.

Ms. Lewis, would you please explain for the Commission what happened to you on election day?

MS. LEWIS: When I initially went to vote I went with my sister and my mom and I didn't know where I was supposed to go because this was my first time voting and I had graduated. And I asked the precinct that she went to in Miami Lakes, "Where do I go?"

And they was like, they don't know.

I said, "Do you have a telephone number?"

They was like, "No, you just have to find it on your own."

So when my mom went to vote, she was at a different precinct, so they were able to help her where I was supposed to go.

So when I went it was like, what was it, 7:45, 7:50, a couple minutes to 8:00, and a older, like he was like in his 60's or 70's, an old white gentleman came out and he was like, "You can't vote. It's too late. The polls are going to close."

I'm like, "The door is still open." It was at a fire station.

And he was like, "No, it's too late. You've got to go."

I said, "Well, can I at least see if I'm on the list

because this is my first year voting?"

"No, it's too late. You've got to go. You need to come back another time next year."

So I was like, okay. So I turn around and walk away and another white gentleman walked in and he was already closing down the doors and the police officer was like, "Everybody need to clear out," and I say, "Well, how come he get to go and I don't?"

It was like, "I don't know. Everybody need to clear out." And they closed the doors.

So I sat outside a little bit. The white gentleman who went in, he didn't come back out, so I assume he got to vote and I didn't.

MS. SMITH: Did you see that gentleman actually enter the polling area?

MS. LEWIS: Uh-hmm.

MS. SMITH: And when he entered the polling area where did he go, if you know?

MS. LEWIS: He was in line.

MS. SMITH: In line where?

MS. LEWIS: Like the fire -- these are the doors and he was the last one in line and they closed the doors.

MS. SMITH: That is in line to vote?

MS. LEWIS: Uh-hmm.

MS. SMITH: Okay. Now if I understand you correctly you said it was minutes to eight when you arrived?

MS. LEWIS: Uh-hmm.

MS. SMITH: Were you advised the closing time of the poll before you arrived?

MS. LEWIS: No.

MS. SMITH: Okay. Do you now know what the closing time of the poll should have been that day?

MS. LEWIS: Uh-hmm.

MS. SMITH: When should it have been?

MS. LEWIS: 8:00.

MS. SMITH: 8:00 p.m.?

MS. LEWIS: Uh-hmm.

MS. SMITH: Okay, and what precinct was this? You said it was a fire station. Do you remember the exact address or the street?

MS. LEWIS: It's on Miramar Parkway and I believe Douglas Road.

MS. SMITH: And who informed you that the poll closed at 8:00 p.m.?

MS. LEWIS: The police officer.

MS. SMITH: That was the police officer who was outside of the polls?

MS. LEWIS: Uh-hmm.

MS. SMITH: Okay. And this is the same individual that you questioned about the gentleman who walked in after you?

MS. LEWIS: Yes.

MS. SMITH: Do you have any reason or any opinion regarding why you were not permitted to enter at that time?

MS. LEWIS: I personally thought it was because I was black and he just let him walk in and close the door, and I don't feel it was fair. So I called the next day, Broward County District, whoever I needed to call about seeing if I was registered and they told me that I wasn't so I asked them could they send the application. So they took my information. I still haven't received anything. So I called Channel 4, Channel 7, Channel 10, left messages. Nobody called me back but you guys.

MS. SMITH: So if I understand you correctly then, the poll worker who was outside of the poll or who did not permit you to enter did not know that you were registered or not registered at that time?

MS. LEWIS: Right, because when I -- I was able to go through the door and right as I got in the door he told me, "No, you

need to leave. You need to go." And as I was in there, there was another young lady, she was arguing with another poll worker because her address had changed and I know my mom had a problem with having to sign an affidavit. So she was like, "I have proof but my address just changed."

It was like, "Well, I don't know what to tell you."

I was like, "Well, she has a piece of paper she could sign. I think it's an affidavit."

They was like, "I never heard of that."

So I don't know if she was able to vote.

MS. SMITH: If you recall, what was the race and/or ethnicity of the poll worker?

MS. LEWIS: The poll worker was white, the lady was black.

MS. SMITH: Okay. Thank-you, Ms. Lewis.

MS. LEWIS: You're welcome.

MS. SMITH: Ms. Carbone, good morning.

MS. CARBONE: Good morning.

MS. SMITH: Would you summarize for us your experience on election day?

MS. CARBONE: On election day I took my children to the polls with me. My son stayed by the poll worker by the voting

box and my daughter went into the poll booth with me. My daughter is fourteen now and she's been going to every election with me since she was two years old. I'm trying to teach my children that it's important to vote because supposedly every vote counts.

My daughter and I went into the poll booth. We placed our ballot into the little slot, lined up the red pegs and proceeded to select our candidates. At first glance it looked like Al Gore was the second hole to be punched, so we punched the second hole. We proceeded to select our other candidates for other offices held.

As we've done in every election, we always take a second look at all the candidates chosen.

Upon a second glance, a third look, a fourth, "What have I done," I realized that the second hole was for Pat Buchanan.

I didn't really know up until that moment that Pat Buchanan was even on the ballot or running for president. I don't watch television.

I took my ballot out of the slot, brought it to the poll worker, asked him for a second ballot. I told him I had made a mistake.

He said, "No, just take that ballot and place it into the box."

I had no reason to question him. I thought he knew his

job. It really bothered me so for the next two days it was eating me alive. Two days after the election I saw a phone number on the television that said if you had any problems at the polls or you would like to file a complaint, call this phone number. Couldn't get through to the phone number but it turned out that it was the Democratic Party Headquarters in Delray Beach, Florida, five minutes from where I live.

I went there, filed a complaint, and that's when I found out that I was allowed up to three ballots to place that one vote and that my civil and Constitutional rights were violated. I went from being upset to angry to outraged.

I have taught my children that voting is important and as an American citizen it's a privilege to be able to vote because not everybody in every country has that right. My children and I watched the election unfold and after listening to the comments, especially from my fourteen year old daughter, I have taught her that the election should be done on fairness and accuracy.

After watching weeks of what went on with this election, how the Republican Party did whatever they could to prevent those ballots being counted, out of the mouth of my fourteen year old, it is no longer a game of fairness and accuracy, but a game of whoever has the most toys, lawyers, money or friends in the

highest places can win the election. She now feels that, why vote?

My son is sitting there. I brought him here today to let him see that I'm trying to do the best I can for the next generation of voters so they can hopefully watch as the mistakes will be corrected.

I witnessed from becoming politically active for the first time in my life just a mess of the election. I actually flew to Tallahassee twice to go before the Legislative Committee on selecting the Florida -- twenty-five electors for the State of Florida and supposedly they wanted to have a committee on Florida voter irregularities. I watched the cover-up unfold.

We went there and that morning when they found out that there was a lot of people coming in to testify about voter irregularities, they changed the agenda to Florida -- the Florida twenty-five electors, that they wanted to speak on that instead of listening to what we had to say.

Their agenda was one thing and my agenda was they were going to hear me and they did.

It's important to me that hopefully somebody will be listening to all these allegations, because this election was a disaster. There's millions of American children, including my own children, that are watching this, and to watch a president get into

the White House by not counting all the votes is wrong. And I just hope that before my daughter votes in the next presidential election, if I can get her to vote, that a lot of this will be straightened out from speaking to different people at the legislative hearings and different demonstrations and different rallies. I spoke to poll workers who admitted that mistakes happened because of lazy, uneducated, tired poll workers.

When I went there at 6:30 in the evening, apparently they had had enough.

MS. SMITH: I'm sorry to interrupt, Ms. Carbone. So is it fair to say then that you feel the fact that you did not receive a third or a second ballot based on your error committed in the first ballot, that your vote didn't count?

MS. CARBONE: My vote counted but apparently for the wrong candidate.

MS. SMITH: Okay. Thank-you very much.

Ms. Seamans, could you summarize for us what happened to you on election day?

MS. SEAMANS: Well, our problem started before the election. When my husband and I moved from New Hampshire to Florida in August, we registered to vote at different times at the Motor Vehicle Department where we also got our license for Florida at that

time.

We voted in September and I voted on August 1st, and I have my receipt from that day. When election time came around we went to the polls at St. Alucious High School in Boynton Beach. We were told that we were not on the list, and we argued that fact because we knew we had registered to vote. We have always voted. My husband has voted since Harry Truman and I have voted since Kennedy. We have never shirked our responsibility or our right to vote.

As an educator I have always taught my students that it's very important to vote, that every vote counts. I've taught my children the same thing.

However, when we got to the polls they looked at us as if we were trying to pull a fast one and vote without being registered. They did verify our address. They made phone calls to the State Voting Commission or to the Registration of Voters. But the telephone line was busy for, I don't know how long. We waited for an hour until they could finally get through.

When they did get through we were told that we did not in fact register or that our names were not registered in Florida. We had been registered in Connecticut, always voted. We were registered in Maine, always voted. And we were registered in New

Hampshire. Never once in those three states were we given a voter's card. So we didn't realize that we were supposed to have a voter's card.

But a couple of days before the election they were talking about voter's cards. So my husband made a phone call to see what they meant by voter's cards. He was told, "Well, you don't really need a voter's card as long as you have a picture I.D.," which we did have on our driver's license. And we voted -- we tried to vote at noontime and we were told not to. So he's the one that started calling the State Attorney General's Office and the State Voter Registration Bureau to find out where in fact our registration disappeared to, so at least some point during the day before the polls closed we could have gone to vote.

It never came to pass. They never found our registration. So in fact we didn't vote.

I have some recommendations, however, for the Department of Transportation where we did get our licenses. That when you register to vote at the Department of Transportation, when you get your license, to have a similar card like this made up. The facilities are there. They're in place. This black band on the back probably stores a lot of information. Voter information can be stored on this card or on a similar card that can be developed at

the time that you register to vote so you don't have to wait for this thing to come in the mail, and there's no indication and we weren't told to expect it.

MS. SMITH: I'm sorry, Ms. Seamans, Madam Chair, the record can just reflect, was that your driver's license that you were holding up?

MS. SEAMANS: Yes.

MS. SMITH: And was that what you received at the time that you went to the Department of Transportation?

MS. SEAMANS: Yes, it was.

MS. SMITH: Thank-you. Please continue.

MS. SEAMANS: Just as an educator I feel that it's very important that every vote count, and was absolutely appalled as this election unfolded that there were so many ballots that were thrown away.

MS. SMITH: I have one quick question for you, Ms. Seamans.

If at the time that you registered to vote and at the time that you were taking care of your driver's license responsibilities you were given an answer or a response -- were you given rather any answer or response regarding the status of your registration at that time?

MS. SEAMANS: We went to another counter in the same room, in the same building, and we filled out a paper and registered with the party, and we were told that we were registered. So I had never had any doubts that we weren't registered.

MS. SMITH: And subsequent to that, the only thing that you did to confirm whether or not you were registered was make a phone call, if I understood your testimony correct.

MS. SEAMANS: That's correct, and the phone call was made on election day.

MS. SMITH: Do you think that there's anything else that you might have done in an effort to confirm your registration status?

MS. SEAMANS: We never had to do anything in the other three states that we had ever registered to vote. We never were given a card.

In hindsight, however, candidates never showed up at our doorstep to try to get us to vote for him or her, so in that way we should have probably made some kind of a phone call, but we had no reason to doubt that we were not registered.

MS. SMITH: Thank-you, Ms. Seamans.

And Ms. Cohen, if you could briefly summarize what happened to you on election day:

MS. COHEN: Yes. I have never missed an election since I was twenty-one, when I was allowed to. I came down here thirty-five years ago, never had any problem with going to vote, always did.

The last eight, nine years have been a little difficult for me because unfortunately I developed osteoarthritis which I inherited and it became painful to walk stairs. To get into my voting area you had to climb steps in and then a staircase down. Up until last year I was able to manage. But this year it put me in a wheelchair.

When we got there we knew we couldn't go in the front - my nurse's aid was with me. We knew we couldn't get in the front way, so we looked for a back entrance which I figured they had all set up. We went there and found the terrace doors open but there was a large step to get up to the area of the terrace and then you had to go over the frame, which I couldn't do with this particular chair. I didn't know what to do, and the gentleman who has been on watch there through all of the twenty-six years that I voted at that particular area came over, physically picked up my chair with me in it and brought me in. I was very grateful to him. I was worried he shouldn't get a heart attack. He wasn't a young man. And I can't tell you how embarrassed I was.

When I went to the registrar I explained to her what had happened and I said, "Why don't you have a ramp out there for handicapped people?"

And she looked at me blankly and said, "No one mentioned it."

And I noted there was no one there who seemed to be as handicapped as I was, and during the almost hour that I spent there I didn't see another person in a wheelchair. I can only think that perhaps during this time people had come there before and haven't found it easy to get in and just didn't come to that particular area. This was in a place called Valencia Village and it's the playhouse, and I was really surprised that no one thought, since many of us work very hard on civil rights all our lives and work very hard on getting the rights for handicapped people, that the one time I needed it, it wasn't there for me.

And of course when we went to go out, we had to ask him to carry me out again. It's a very demeaning thing to have to do and when I couldn't get anyone's attention at the polls, when I went home I called several of the headquarters, both republican and democratic, of people who were running, told them about it, and then I couldn't get through to the republican headquarters but I got through to the democratic, and I told them what happened and thank

heavens someone got to you and let you know that this kind of a situation existed.

MS. SMITH: Thank-you. Madam Chair, I have no further questions.

CHAIRPERSON BERRY: Does any Commissioner have any questions for these witnesses?

Okay. I only have one, which is, were you, Ms. Lewis and Ms. Seamans, were you offered the opportunity to fill out an affidavit?

MS. COHEN: No, I wasn't.

CHAIRPERSON BERRY: Did you know you could have filled out an affidavit?

MS. COHEN: No, I didn't.

CHAIRPERSON BERRY: And no one said anything about it?

MS. LEWIS: He just rushed me out the door.

MS. COHEN: I asked if there was any way in which we could sign something or do something in order to be able to vote and they said, "No. If your name isn't on the registration list you may not vote."

CHAIRPERSON BERRY: Okay. All right, Commissioner Edley?

COMMISSIONER EDLEY: I guess this is just for Ms.

Lewis. Have you spoken with any investigators from any -- from the Justice Department or from the Florida --

MS. LEWIS: Democratic party?

COMMISSIONER EDLEY: No. Any official investigators, from the U.S. Justice Department or the U.S. Attorney's Office?

MS. LEWIS: No.

COMMISSIONER EDLEY: No one has contacted you?

MS. LEWIS: Only people from the democratic party came to my house and took my statement and had me sign it.

CHAIRPERSON BERRY: And none of you have been contacted by the Florida State Department? We established in Tallahassee that the Governor of the State has the responsibility to take complaints about voter allegations.

(Laughter.)

CHAIRPERSON BERRY: Now there will be order in the hearing room, please.

None of you have heard from anybody there?

(All answered no.)

CHAIRPERSON BERRY: One of the reasons why we had these panels was because when we were in Tallahassee we were told by some officials that they were not aware that there had been complaints about the voting process in Florida. So one of the

reasons we had you here is so that we could have some discussion of those and have people who have had problems come forward to explain them, and we appreciate your coming forward.

Is there something you absolutely need to say, Ms. Carbone?

MS. CARBONE: As for what you just said, I actually wrote to every single legislator and to the Governor of the State of Florida and I notarized the statements and sent them to them. So as for them not knowing anything about it --

CHAIRPERSON BERRY: Okay. All right. Thank-you very much, counsel, and thank the witnesses for taking time to be with us. You may be excused. We have some sign-out procedures for witnesses. A member of our staff will assist you through them. Thank-you very much.

(Whereupon, the witnesses were excused.)

CHAIRPERSON BERRY: And we will now call the next panel.

**Poll Worker Observations: Panel Five**

MR. FOREMAN: I would like to call Marilyn Nelson, Barbara Phoele, Marvin Rickles, Jr., Maria DeSoto, and Millard Suid.

CHAIRPERSON BERRY: We'll wait just for a moment until Ms. Marilyn Nelson, who was here a moment ago, is found. Could the

Marshals please see if they can find Ms. Marilyn Nelson somewhere in the vicinity? Ms. Marilyn Nelson.

Thank-you, Ms. Nelson.

And Ms. Maria DeSoto, we understand, has just phoned to say that she's about a block away from here and stuck in traffic. By the time we get everybody introduced and swear people in we may be able to have her here, depending on the traffic.

Could the rest of you -- and we appreciate your situation, Ms. Nelson. We appreciate that all of you came here.

Could you please stand and raise your right hands so that I can give you the oath?

Do you swear or affirm that you will testify truthfully to the best of your abilities?

(Whereupon, the witnesses were duly sworn.)

CHAIRPERSON BERRY: Thank-you very much. Please be seated.

Counsel, could you please proceed to question the witnesses?

MR. FOREMAN: Mr. Suid, you are here pursuant to a subpoena; is that correct?

MR. SUID: That's correct.

MR. FOREMAN: Did you bring any documents with you in

response to that subpoena?

MR. SUID: What you sent me, I got it.

MR. FOREMAN: Okay. Did you bring any other documents with the exception of what we sent you?

MR. SUID: No.

MR. FOREMAN: Do you have any documents in your possession that are responsive to that subpoena?

MR. SUID: No.

MR. FOREMAN: Okay. Ms. Phoele, you're here pursuant to a subpoena?

MS. PHOELE: Yes.

MR. FOREMAN: Did you bring any document in response to that subpoena?

MS. PHOELE: Yes.

MR. FOREMAN: Do you have them with you?

MS. PHOELE: Yes.

MR. FOREMAN: Madam Chair, we would like to offer the documents into evidence and have them numbered sequentially.

CHAIRPERSON BERRY: All right. The documents will be entered into evidence and numbered sequentially, without objection, so ordered.

Please proceed, Mr. Foreman.

MR. FOREMAN: Mr. Rickles, you're here pursuant to a subpoena?

MR. RICKLES: Yes.

MR. FOREMAN: Did you bring any documents in response to that subpoena with you today?

MR. RICKLES: Yes, sir.

MR. FOREMAN: Madam Chair, we would like to offer these into the record at this point.

CHAIRPERSON BERRY: Without objection -- and they will be numbered sequentially -- without objection, so ordered.

MR. FOREMAN: Ms. Nelson, you're here pursuant to a subpoena today?

MS. NELSON: Yes, I am.

MR. FOREMAN: Do you have any documents that are responsive to that subpoena?

MS. NELSON: No, I do not.

MR. FOREMAN: Okay. Thank-you.

Before you make your opening remarks I just want to clarify for the record, you are all poll workers who are paid by your respective county; is that correct?

(All answered yes.)

MR. FOREMAN: And you are not paid by any political

party for your duties on election day; is that correct?

(All answered yes.)

MR. FOREMAN: Mr. Suid, starting with you, would you share with us your observations as a poll worker. We would ask that you limit your comments to no more than five minutes, and where you were a poll worker.

MR. SUID: I was a poll worker in Boynton Beach, Florida at the Water Works Department on John Road. The two main problems were, that if you had a particular problem -- I was the clerk, I was the one running the poll -- that you could not get into the Palm Beach County for any particular problems. I may have got in once in about eight hours to solve one problem for a couple who came back four or five times because they wanted to vote.

The most important problem was that at the Water Works Department, the gate's on automatic timer. They close at 6:15. It was a disaster. The people at the Water Works Department should have known about it or the people, Theresa LePore, who runs that particular district, should have known about that.

My deputy came running in and said, "You know, we're missing people. Must have turned away maybe thirty or fifty people that could not vote."

And of course there was no phone in our particular

room. I brought my own phone. The telephone jacks did not work. So I had to go across the hall to the cafeteria to get the phone to call 911 to get the police to open it up. It took about a half hour and they opened it up, and of course by a quarter to seven it was a complete disaster.

That wasn't the first time as a clerk. I've been a clerk for a whole year and this was the worlds worst. I've been a clerk, there's a lot of problems I was able to solve because I knew -- I had previously worked but there were a couple things I couldn't solve and I wouldn't let the people vote.

Like they would come from one county and wanted to vote in our county. I says, "You can't do it. You're not registered."

And of course in my particular area I think that every day just fifty-two deceased. Well, that's the truth. Some of them can't hear, see or talk. But unfortunately we took care of them and gave them wheelchairs. We had a lower table so that people with wheelchairs could take care of it.

I noticed around 8:00 in the morning there was a problem with the ballot. Of course, that was a complete disaster. You cannot go in to help the person voting, so the people, the workers for me tried to advise the people voting to be very careful where you're punching, because it was a bad ballot and it's the best

we could do. So about after an hour we realized there was a problem with the ballot. In fact my conclusion was that all the presidential should have been on one side, not divided, and the holes weren't even. And the holes were so badly that I had four styluses broken. It's the first time.

And that was about the main problems.

MR. FOREMAN: Thank-you.

Ms. Phoele.

MS. PHOELE: On November 7th as an official poll worker, I observed when I voted at 6:45 in the morning the ballots did not fit in correctly. They were hard to punch.

MR. FOREMAN: I'm sorry to interrupt you, but where were you a poll worker?

MS. PHOELE: 6C in Broward County, Pompano Beach.

As I voted and sat down, I thought gee, that something is wrong, but I just put it out of my mind. I said, they don't fit properly.

So as the day goes on we had so many problems that I threatened to walk out. People were not allowed to vote. They weren't on the polling -- they weren't on our books. They had registered. Black people were discouraged from voting. I would send them over to our clerk. She couldn't get into the Board of

Elections to give them affidavits and she didn't encourage them to vote. She didn't communicate with them. It was the first time they were voting.

I wouldn't have believed that this could happen in America had I not worked in the polling that day. I had worked the polling before and I had never seen anything go on like it did.

Finally, I told my clerk, I was threatening to walk out, and then I talked to my poll worker next to me, I said, "Is there any way I can get to a phone?"

She says, "Yes, there's one in the ladies' room," because I didn't dare ask the clerk. So I called my husband and left a message on the answering machine. I said, "If you don't get over here and get me some help, I am going to walk out."

So after he got back from golf he came over. And about a couple of hours later a gentleman from the neighborhood, who I -- stopped within the neighborhood asking people if they had voted. My husband said, "You need to come in. We want to talk to you." And there happened to be a neighbor at the house at the same time. And he came over and people that -- and he came -- and people were not given affidavits to vote. They walked out. Black people, Hispanic people, two girls, one started crying. There was a sign that was supposed to be posted on the board to the right saying if you had a

problem to call this number. This sign was not up. I asked our clerk, "Why not?"

She says, "I didn't have time to put it up. The deputy has it."

I says, "Do you want me to go out and get the deputy?"

She said, "No." She says, "You go ahead and put it up." And this was late in the afternoon.

So anyway, the two Spanish people, the girl was crying.

I pointed to the sign because I didn't want to make waves in the polling place, but it got so bad that finally I had to speak up.

So anyway, this gentleman came over, and people that were in line to vote at 7:00, she was not going to let them vote. She was only going to let people that were in the precinct vote, and he made her get to her book and read right there, and she had worked as a clerk before. She discouraged people from voting.

MR. FOREMAN: Mr. Rickles?

MR. RICKLES: Yes, sir.

MR. FOREMAN: Could you share with us your observation, and start first, identify what polling place you worked at and what your duties were.

MR. RICKLES: I worked at 74B, which is United Methodist Church of the Palm Beaches, and I was a deputy.

The problems, you've heard them all day. I had the same problems they had over and over. One thing that disturbed me, you know we hear about people punching ballots wrong and we, as workers at the polls, we put up signs, "No Smoking," don't do this, don't do that, don't talk to anyone. There is not one sign posted in that polling place -- in fact I was working with two polling places -- that tell you that if you mess up a ballot to get another one. Absolutely no signs warning you of that. It comes in that little election book, but if you don't read it on the back page you miss out on that.

So we had a lot of people coming out, shaking their head and saying, "Well, I voted, but I don't know who for."

And there's nothing you can do about this. You know, it was done.

Also, training I think is important because the clerk of one of these precincts had no knowledge of repairing the votomatics. If they jam with the ballot they closed up the ballot box and threw it on the floor.

And so at one point one of the workers came and got me and said, "Mr. Rickles, we've got five machines shut down in that precinct and people are backing up. Would you please try to fix them?"

Which I did that and I did not have that in my affidavit but, you know, it was a good thing.

The other things, the phone lines were the main things. You could not get through downtown. Please were frustrated and so forth.

And so other than that, I'm not going to take any of your time. My problems were the same you've been hearing all day.

MR. FOREMAN: Thank-you.

Ms. Nelson?

MS. NELSON: I worked in Miami-Dade County, North Dade Elementary School, Precinct 232. I've been a clerk now for about fifteen years and by far this was the worst election I have ever experienced. After that election I decided I didn't want to work as a clerk any more. I was very discouraged.

I had a lot of people coming to my precinct and they were telling me they had -- some of them had little orange cards, and we know that the little orange cards mean that they registered in time, which means that their name should have been in the book, and if their name wasn't in the book they would call downtown and we add them so that they can be able to vote. Of course, we couldn't get through to downtown. We were on the phone the majority of the day. And some time the phone would ring for hours, just ring and

ring and ring. No one would ever pick it up and when they finally picked it up, you'd be on there for hours again. We had lines of people waiting just to see if they could vote.

One thing comes to mind, a gentleman that came in. His wife had come in earlier and she had voted, and she said, "My husband's name is not in the book." We thought nothing of it because I didn't know him. I didn't know whether he could vote or not. And later on he came in and asked why his name wasn't in the vote. He said, "I voted in the last election and my name is not in this election." And I'm not thinking anything of it. I'm really not thinking anything of it. I'm just thinking maybe, you know, something happened and he can't vote or he thought he could and he couldn't.

A lot of people were told -- when I finally got through on some people, they would tell me downtown that the individual could not vote because their rights had been taken away from them. And I asked them if they could tell this person that because I need to give them an explanation. They told me, "I could not tell them that. Tell them to call downtown at a later date."

And that's one of the things. It was just very frustrating to me that day.

MR. SUID: I had sixty-eight -- I replaced sixty-eight

ballots in my precinct. A lot of people knew that they could replace and vote again. So I had sixty-eight. That's a lot of ballots that were no good that I know of.

MR. FOREMAN: Mr. Suid, if I understand it, your obligation as a clerk, if you have an issue with someone trying to vote that cannot vote in your precinct, is to contact the Division of Elections; is that correct?

MR. SUID: That's correct.

MR. FOREMAN: And you're provided a contact point through like a phone line?

MR. SUID: That's correct.

MR. FOREMAN: And did you have a phone line that was provided to you by the Supervisor of Elections?

MR. SUID: No. I used the one that belonged to the Water Works Department because I brought my own phone to put into a jack near where I was going to be sitting, but none of those jacked worked. So my own phone didn't work.

MR. FOREMAN: So you were set up with a phone line to the Supervisor of Elections that did not work?

MR. SUID: Well, I had to go across the hall to the cafeteria with the workers and I used their phone.

MR. FOREMAN: Okay. And did you try to use that phone

during the day?

MR. SUID: All day.

MR. FOREMAN: And how many times, if you remember, were you able to reach the --

MR. SUID: Once.

MR. FOREMAN: Once?

MR. SUID: Once. For a couple who came in all day. They came in before breakfast, after breakfast, after lunch. I finally got in to find out information about a husband and wife team, maybe about 4:00 or 5:00 that afternoon. But they were going to vote one way or the other and I was going to find out about that.

But being a clerk before, I didn't have too many problems because I solved so many problems before because it's always in the same district.

MR. FOREMAN: When the gates locked at 6:15 automatically, did you call the Supervisor of Elections?

MR. SUID: That wouldn't do any good, couldn't get in. I had called 911 and told the police. Now there was a young lady at the Water Works Department who worked there all day and she left at like 5:30 and she said, "I'll be back at 7:30 to lock up."

Now she should have known this gate's going to lock automatically and Theresa LePore, who's the head of the district,

should have known that. That wasn't the first time they used that. So somebody screwed up.

MR. FOREMAN: So if this Commission received affidavits from people indicating that they showed up at the Water Works at 6:15, were attempting to vote and found the gates locked, you'd find that fairly credible?

MR. SUID: That's correct, yes.

MR. FOREMAN: Mr. Rickles, you mentioned the training. Could you briefly describe what training you were provided by the Supervisors of Elections?

MR. RICKLES: Well, if you're a deputy or a clerk or inspector, there are three classes set up throughout the year. You go to that particular class, the area that you're working in, and you're there for about two hours. They merely go over the book, tell you, you know, the duties of the deputy, and that's the extent of it.

MR. FOREMAN: Was there any discussion at this training for this past election about the anticipated large turnout of voters?

MR. RICKLES: No.

MR. FOREMAN: Was there any special preparation that you were told to do in preparation for an anticipated turnout?

MR. RICKLES: The only thing they did different was give us more booths to vote at. Other than that, nothing changed.

MR. FOREMAN: And you said that what you observed is pretty much what we've been hearing today. Would that include people that were attempting to vote but they could not verify at the Supervisor of Elections and then didn't vote?

MR. RICKLES: Absolutely. We had one lady, African/American lady who was a principal of a school came in to vote that morning. She took time from school. She left. They told her she couldn't vote. "We can't call downtown. The lines are tied up. We can't verify you, so you cannot vote."

She came back later that afternoon, she got some more free time and came back the second time, and when they looked in the register book they found that they, the people at the Supervisor of Elections, had mis-spelled her name. That's why she was turned down the first time. The lady looked on the register and said, "Well, there's my name. You've mis-spelled it."

They said, "Oh, in that case you can vote."

We had one lady that practically shut down two polls by screaming and cursing. I learned some new words.

MR. FOREMAN: Well, I won't ask you what they are.

MR. RICKLES: And she raised -- it was terrible.

Everybody quit voting because of the language and the screaming. I don't mean talking. She left, because I think she was about to, you know, pass out. She came back that afternoon and repeated her act, but this time she sat down on the floor and said, "I'm not leaving until you let me vote."

So finally said, "Fill out the affidavit and we'll let you vote."

So filled it out, they let her vote. When she went outside and the people in line says, "Oh, I see you got to vote."

She said, "Yes, but you're going to have to go in there and fight for the right to vote or they won't let you."

MR. FOREMAN: Going back to the African/American principal that you personally assisted, do you have an idea how much time it took her to be able to vote?

MR. RICKLES: About three hours.

MR. FOREMAN: About three hours?

MR. RICKLES: About two in the morning and probably an hour to an hour and a half in the afternoon.

MR. FOREMAN: And based upon a witness interview I have here, there was a comment which you made, that you never saw the number of people turned away as you did in this election. Is that a fair statement?

MR. RICKLES: That is correct.

MR. FOREMAN: Ms. Phoele, can you give me an idea of how long people were waiting in your precinct in order to verify whether they would be eligible to vote?

MS. PHOELE: Hours, and a lot of them got discouraged and left and didn't vote, because our clerk could not get through to the Board of Election. It's the same thing over and over and over.

MR. FOREMAN: And if I heard your testimony correctly, and correct me if I'm wrong, from your observations the majority of the people that were being turned away or frustrated were African/American or Hispanic?

MS. PHOELE: That is correct.

MR. FOREMAN: If you know, could you give us an estimate of how many people that you observed were not able to vote because you could not access the Supervisors of Elections?

MS. PHOELE: I would say anywhere between forty and fifty people. And may I just inject one thing.

My neighbor down the street, her and her husband registered together. She was on our books. He wasn't. He had open heart surgery a year ago and she -- it took her about forty minutes anyway to get her to vote because she went over to the clerk and wanted to know if her husband couldn't go through all of this

aggravation. So she told her, "If I was you, I would tell your husband not to vote. His health is more important."

She said to the clerk, "You voted, didn't you?"

She said, "Yes."

So he did not come and vote. And then she turns to this lady and says, "You've got a good lawsuit."

And there was a lots more. It's unreal. You would have had to believe it -- be there to believe what went on.

MR. FOREMAN: Ms. Nelson, from a witness review, interview report, I note a comment that you were depressed and disappointed all day long. Why was that?

MS. NELSON: Because there were so many things going on that day. I've worked other presidential elections. As a matter of fact I worked four presidential elections prior to this one -- three prior to this one. This was the fourth.

And by far this was the worst. I've had other presidential elections, you have a lot of problems. Normally presidential elections, you do have problems. You have problems where people have been away in the military or in school and then they come to vote and their name's not on the books. So of course you have those normal problems.

But this particular day it was just unreal. I had to

stay on the phone all day. If I wasn't on the phone, my assistant was on the phone. And then, you know, we would be on the phone and the phone just would be ringing. And then sometimes you know that a person has a card showing that they were registered and you can't let them vote because their name is not in the book and you can't get through to let them vote. So I was extremely frustrated.

And there were some occasions where people came into the precinct really, really sort of weird to me, that it was one guy in particular. He was on one of those things, like a handicap thing where you have your arm and you walk with it. He came in. He had a different address on his license. We're supposed to ask, "What is your current address?" We asked him what is his current address and of course he didn't know his address. He told the poll worker, "It's on the license." So she says, "You have to repeat it to me. That's just standard practice. We have to, you know, hear it from you."

He said, "Well, I don't know."

So of course they sent him to me. He came to me. I took his license. I took his voter's registration card. I asked him what is his current address. He could not tell me. So of course I called downtown. I managed to get through. And when I got through to downtown I told them, "He does not know his current

address. He has two addresses. He has one on his voter's registration card and one on his license." It was somewhere in the Southwest. I remember that. It was in Miami-Dade County, it was in the Southwest, and he had one that was up north, in North Glade Elementary area.

And they told me, after they checked whatever they had to check, they said, "Let him vote."

I asked them for the authorization number because any time they give me something and I feel that it's something that I feel is a little funny, I make sure to get an authorization number, and I put it on the affidavit.

I had other individuals who actually wheeled people into the polls. One lady in particular, she wheeled two people in. First time she came in, she came in with an elderly man, very incoherent. He came into vote. We came him the voter's registration card and the ballot and we told him we would assist him by taking the ballot -- the voto-matic out and put it in his lap to accommodate him so he wouldn't have to worry about getting in there and trying to vote so he could vote. He started crying. He did not want to vote. He wanted her to vote for him. So because he was crying so badly, I said, "Okay. Since you have an affidavit on file I'll allow her to help you vote."

He didn't allow her. She voted completely for him.

Here it comes about an hour or so later, she comes back with another lady in a wheelchair. Same thing occurred. This lady came in, but this lady here didn't look like the man before, because this lady looked very coherent. She looked like she had proper mind.

MR. FOREMAN: I just wanted to follow-up on one point.

Again, this is from a document that was produced to us in a document production, and your comment at the bottom, "I had people bring people to the polls. I allowed people who had an affidavit on file for assistance to vote, but I had black people come in with current voter registration form and they" --

MS. NELSON: They were not able to vote.

MR. FOREMAN: Okay. You felt it was cut off and they were not able to vote.

MS. NELSON: Not able to vote. Even though they had a current voter's registration card, which was a white card at that time, and some of them had orange cards, but their names were not in the book and they were not allowed to vote.

CHAIRPERSON BERRY: Now we need to swear Ms. DeSoto. Ms. DeSoto, could you please stand?

(Whereupon, the witness was duly sworn.)

CHAIRPERSON BERRY: Please be seated. Thank-you.

MR. FOREMAN: You are here pursuant to a subpoena?

MS. DeSOTO: I am.

MR. FOREMAN: Do you have any documents in response to that subpoena?

MS. DeSOTO: I have the instructions that were issued by the Palm Beach County Supervisor of Elections Office to poll workers. I have a telephone bill for my cell phone that I used on the day of the general election, November 7th. I was asked to bring these documents.

MR. FOREMAN: Are these true and correct?

MS. DeSOTO: They are true and correct.

MR. FOREMAN: Madam Chair, I offer these into the record at this time.

CHAIRPERSON BERRY: Without objection, they will be entered into the record and numbered sequentially.

MR. FOREMAN: Ms. DeSoto, because of the interest of time I wanted to very quickly go to a couple issues that were confirmed in, I believe, an affidavit that we reviewed and you had submitted.

Is it fair to say that you could only get through to the Supervisor of Elections two to three times over a twelve hour

period of time?

MS. DeSOTO: Yes.

MR. FOREMAN: Okay. And is that in fact the reason you brought your phone book -- phone bill, to demonstrate how long you were on hold trying to reach the Supervisor of Elections?

MS. DeSOTO: I'm not sure that this telephone bill would indicate how long I was on hold. It would certainly indicate the number of attempts that were made to try to reach the Supervisor of Elections and the length of time of the calls themselves would be indicative of whether we got through or not, I believe.

MR. FOREMAN: And if you could not get through to the Supervisors of Elections to verify voter eligibility, what happened to that voter?

MS. DeSOTO: It depended on the circumstances, the problem of the voter's situation. If a voter lived within the precinct but had no identification, they could sign affidavits. Their name would have appeared in the voter rolls. If we had voters who lived in the precinct but had -- their names were not on the rolls, we could not allow them to vote, even if they had identification.

MR. FOREMAN: Well let me just walk through this because I'm trying to get an understanding -- I think the Commission

is trying to get an understanding. If you have someone who requested an absentee ballot --

MS. DeSOTO: That's correct.

MR. FOREMAN: -- but showed up at your polling place and wanted to vote, they could in fact vote through use of an affidavit?

MS. DeSOTO: That is correct.

MR. FOREMAN: Okay. And you indicated you could vote through a name change through an affidavit; is that correct?

MS. Desoto: That's correct.

MR. FOREMAN: You could, if you changed residence, vote through an affidavit by signing an affidavit indicating that you had changed residence?

MS. Desoto: As long as you were on the voter rolls somewhere.

MR. FOREMAN: Are you familiar with the challenge ballot situation?

MS. Desoto: Yes.

MR. FOREMAN: And that is something that's basically resolved through an affidavit; is that correct?

MS. Desoto: Yes. Those are challenges that somebody else signed in relation to somebody voting.

MR. FOREMAN: Okay.

MS. Desoto: You, as a voter, cannot sign that. If there is an absentee ballot that has been issued and you felt that the polls -- you sign an affidavit that will entitle you to vote. If the precinct register indicates that an absentee ballot has been returned and you show up to vote, you are not allowed to vote unless you turn in the absentee ballot. We had combinations of all those situations on voting date.

MR. FOREMAN: What I'm trying to understand then, if I come in to your precinct, I'm not on your precinct roll, but you cannot reach the Supervisors of Elections, can I vote by affidavit?

MS. Desoto: No.

MR. FOREMAN: And where do you get that understanding from?

MS. Desoto: The records, they tell you.

MR. FOREMAN: The records provided by who?

MS. Desoto: The Supervisor of Elections Office.

MR. FOREMAN: Is this based upon training and information given to you by the Supervisors of Elections?

MS. Desoto: Both. There is a training class that is given to us prior to the election and there is information in the books that indicates what you're supposed to do with certain --

there are people who fell in between. They were on a precinct roll at another precinct but had moved into our precinct. They were not on our precinct registers. They had no paper work from the other precinct either because they had not gone there or had not been issued to them and we could not reach the Supervisor of Elections Office to verify that they were in fact qualified voters.

MR. FOREMAN: Let me just ask you, part of the Florida Election Code, Section 101.045, Part III, states, "When an elector's name does not appear on the registration books of the election precinct in which the elector is registered and when the elector cannot present a valid registration identification card, the elector may have his or name restored if the Supervisor is otherwise satisfied that the elector is validly registered."

Can't that provision be used to allow that individual to vote?

MS. Desoto: Well, if you're a supervisor perhaps it can be. That was not my situation.

There is an affidavit for voter with no I.D. that can be signed. However, it specifically states, "This can be completed only if the name is on the precinct register."

MR. FOREMAN: That was the instruction given to you as poll workers; is that correct?

MS. Desoto: That's correct.

CHAIRPERSON BERRY: Is that true of everyone sitting here?

MR. FOREMAN: And could you just answer orally so it's reflected on the record.

(All answered yes.)

MR. FOREMAN: If my understanding is correct, the Supervisor of Elections may have the authority to allow that person to vote by affidavit; is that correct?

MS. Desoto: That is correct.

MR. FOREMAN: Okay. But in this case you couldn't reach the Supervisor of Elections; is that a fair assessment?

MS. Desoto: That's correct.

MR. FOREMAN: So in essence there were large groups of people turned away simply because you could not reach the Supervisors of Elections; is that a fair --

MS. Desoto: That's right. I think in addition with the motor voter provisions, there were people who had registered to vote through motor voter and somehow their registration was not transmitted to the Supervisor of Elections Office. I saw that with married couples in my own precinct. One person would be registered to vote, the other person would not. The person who was not

registered to vote couldn't vote unless they physically went to the Supervisor of Elections Office and picked up a piece of paper, which they then brought back to me, because we couldn't reach them on the telephone.

It was incredibly confusing and frustrating that day. The machines were all jamming, people were screaming. It was a mess.

MR. FOREMAN: I don't have any further questions.

CHAIRPERSON BERRY: Thank-you, counsel.

Does any Commissioner have any questions for the witnesses on this panel?

Commissioner Wilson?

COMMISSIONER WILSON: Thank-you, Madam Chair.

I'd just like to ask you all to answer briefly. You all are very experienced poll workers. You've been doing this for a very long time. You've seen a lot of elections come and go. You've seen a lot of voters come and go. And you must have -- after you saw what happened you must have thought about what you saw and what you experienced and what you tried to cope with, and I'm wondering if you had any thoughts about what you would attributed the state of chaos and confusion to?

MR. SUID: Two things. You couldn't get in to solve

any problems and the ballot was an abominal mess. Those are the two big problems. You couldn't get in to solve your problems and the ballot wasn't a good ballot. It was incorrect. It was just a disaster. There's the two big problems that I found.

MS. PHOELE: I had the same two problems. Also, I found that our clerk wasn't very accommodating to the voters because of doing the affidavit and not getting into the Board of Election. I mean it was just horrendous. It was atrocious. It's just an experience that you wouldn't have believed if you wouldn't have been there. You would have had to have been there.

COMMISSIONER WILSON: Mr. Rickles? Do you have any thoughts about what attributed?

MR. RICKLES: It was a disaster. One major problem, I know the Supervisor of Election has a hard time getting voting places, you know, schools, churches, whatever. One of our major problems, and I didn't bring this up a while ago, in our precinct there were two precincts adjoining each other, which means you had a very narrow door between them.

Now mind you, you've got a major turn out. You've got two lines of people going into two precincts, bumping elbows. Now you've got to do something with all the people that are inside this poll, and they're trying to get out. So it created a massive

traffic jam. Tempers were flying and you know, that's just part of it, and the phone lines. That's something else.

And I brought -- I don't know whether you wanted this given to you now or later. This was in the Palm Beach Post Times on February 3rd, which was this month. The same problem that we're all talking about, and the little headline says, "Election Workers Say They Bent Rules Out of Frustration." And the article goes on to say that they couldn't get through to the Supervisor of Elections. So they took and let the people fill out these affidavits they've been talking about. And do to that fact, Ms. LePore says there were over two hundred illegal votes, but the people said, "We did the best we could. We couldn't get you and the people were angry and they wanted to vote."

And she says to them, "You won't be working for me again."

So I'm leaving you this paper. It's complete. All articles. You can have it. And it follows up on what all of us are talking about.

CHAIRPERSON BERRY: Any other questions?

Yes, Commissioner Thernstrom and then Commissioner Redenbaugh.

COMMISSIONER THERNSTROM: Thank-you very much for

coming. We're obviously talking to a group of very knowledgeable and conscientious poll workers here.

But in previous panels we have heard about an awful lot of errors by poll workers who didn't seem really up to the job and that was said explicitly by one of the witnesses.

I wonder how are poll workers chosen and what is the remedy for the level of error, you know, just simple error by people who didn't seem to know what they were doing?

MS. Desoto: I will be happy to answer that from my precinct, because every precinct that works an elections cycle is assessed. The Supervisor of Elections maintains a check list that they grade you on and then they send you a grade after the election is over.

In the past my precinct has gotten perfect scores. So I think that my precinct workers are pretty knowledgeable of what they're doing and I don't think the level of training necessarily reflects the competence of the individuals, although more training is certainly beneficial for everybody.

I know that the people who come to volunteer don't necessarily come because they get paid minimum wage or below for being there twelve hours a day. Most of them do it out of a sense of civil duty and they do try their best to accommodate the voters

and to solve any problems that arise throughout the day. We attempted to do that during this particular general election. It was impossible to resolve some of the problems. We simply couldn't.

COMMISSIONER THERNSTROM: So you're saying that more extensive training would help at least?

MS. Desoto: Certainly in some situations. I think that the general election, the problems that arose were not because the poll workers did not know what they were doing, for the most part. They were outside of that.

COMMISSIONER THERNSTROM: Okay.

CHAIRPERSON BERRY: Commissioner Redenbaugh?

COMMISSIONER REDENBAUGH: I have a question for Mr. Rickles.

MR. RICKLES: Yes, sir.

COMMISSIONER REDENBAUGH: You said that a number of people commented that they weren't sure for whom they had voted. Did you or any of the poll workers tell them that they could have another ballot?

MR. RICKLES: Sir, that would have happened inside the poll. I was a deputy outside and they would come out -- you know, you could tell they were frustrated and you try to be nice and speak to everyone, you know, "Have a nice day," and so forth. And then

they would comment, "Well, I voted, doubt who for."

At that point it's too late for another ballot. They have already punched it and dropped it into the ballot box. They cannot do it again.

COMMISSIONER REDENBAUGH: So the time to inform people about that would have to be before?

MR. RICKLES: If you get to the booth, find that you have made an error or something's happened, you can request up to three ballots. But the public is not informed of this. They will all tell you, "We didn't know that. So I went ahead and voted." And they let it go at that.

COMMISSIONER REDENBAUGH: Thank-you.

CHAIRPERSON BERRY: Commissioner Lee?

COMMISSIONER LEE: Thank-you. Did any one of you work in a precinct where bilingual language assistance was required? Can you give me an idea what kind of language assistance was provided at your site?

MS. Desoto: Well, I speak Spanish and that was the language that was generally requested. We did have some voters who requested assistance in Spanish and I was able to provide that. Outside of my precinct I cannot speak to that because I don't know what provisions were made.

COMMISSIONER LEE: Besides you yourself, were there any signs that was given by the Supervisor of Election for you to post up, any bilingual ballots or any materials?

MS. Desoto: No.

COMMISSIONER LEE: So you were it?

MS. Desoto: I was the one who had to help them.

CHAIRPERSON BERRY: Okay. Commissioner Edley?

COMMISSIONER EDLEY: I am trying to get at the question of who is responsible or accountable for three different things.

The first is, who is responsible for the adequacy of the training for poll workers, so that poll workers know when affidavit voting is permissible, so poll workers know when they have to continue to serve people after the poll closing time? Who is responsible for that?

Number two, who is responsible for the kinds of signs, the number of phones that are available to do problem resolution, for the suitability, physical suitability of the polling place and so forth? Who is responsible for those things?

And the third is, who is responsible for insuring that there's adequate assistance for people with limited English proficiency, for insuring that there are bilingual ballots and that

there are enough translators available?

So could somebody address those, the training, the issues of signs and the suitability of the polling places and the phones and the issue of limited English proficiency?

CHAIRPERSON BERRY: And could we have one person answer and then if you all agree, say yes, and if you disagree, say no.

MR. SUID: The supervisor comes from the headquarters in each county. There's supposed to provide you with all that. I speak Spanish but I didn't have any particular problems.

CHAIRPERSON BERRY: Is there anyone who disagrees with the statement that the Supervisor, the County Supervisor of Elections is responsible for the three matters?

(All answer, that is true.)

CHAIRPERSON BERRY: Okay, that's the answer to the question.

Vice Chair?

VICE CHAIRPERSON REYNOSO: Ms. DeSoto, you don't have bilingual -- or ballots in languages other than English in Florida?

MS. Desoto: As far as I know, in my precinct all the ballots are in English.

VICE CHAIRPERSON REYNOSO: And I have a question for

Mr. Rickles. You described a lady who was quite forceful in her assistance that she be allowed to vote.

MR. RICKLES: Oh, yes.

VICE CHAIRPERSON REYNOSO: And finally you gave her an affidavit. What sort of affidavit did you give her? I'm trying -- I'm still trying to understand the affidavit. As I read the Statute, Florida provides for what's called affidavit voting, but from the testimony we heard in Tallahassee, apparently that Statute has been interpreted not to permit affidavit voting; that is, a person showing up and saying, "I believe I'm entitled to vote," and in some states, like California, then you're permitted to vote and then that vote is set aside and counted later.

But apparently the officials in Florida have interpreted the Statute is not to permit that. But you said you permitted that one lady to vote. What sort of affidavit did she sign? Did she sign an affidavit saying, "I've made myself sufficiently obnoxious so the State of Florida is going to permit me to vote"?

MR. RICKLES: I think that's what she signed.

(Laughter.)

VICE CHAIRPERSON REYNOSO: There was testimony from the County officials in Tallahassee that if there's a problem that

the only way that a voter in Florida can vote is to make himself or herself absolutely obnoxious. Apparently this one voter succeeded.

MR. RICKLES: I do not know what affidavit she signed.

Remember, I am a deputy and I'm outside. But I was so glad she got to sign something because she literally shut down two polls and she had a pretty body at that.

(Laughter.)

CHAIRPERSON BERRY: Last question, Commissioner Lee.

COMMISSIONER LEE: Just a follow-up question for Ms.

DeSoto.

Which county was your precinct in?

MS. Desoto: Palm Beach County.

COMMISSIONER EDLEY: Can any of you compare the telephone difficulty, getting through to the Supervisor in this election with previous elections?

MS. PHOELE: Yes, I can. Previous elections you took maybe ten minutes and our clerk, her name was Jenny Eckberg, she went out of her way that everyone, when I worked that polling for the president got to vote. I saw no one really turned around. If I did, turned down, it maybe was one or two voters, not like it was this November, November the 7th.

CHAIRPERSON BERRY: Do other people agree that it was

harder to get through on the phones this time than the last time or the time before or not?

(All answered, yes.)

CHAIRPERSON BERRY: Commissioner Edley, does that satisfy your question?

COMMISSIONER EDLEY: It does.

CHAIRPERSON BERRY: All right. Did you have a question? Commissioner Wilson was next.

COMMISSIONER WILSON: Thank-you. I would just like to ask, were you, any of you aware of a change in personnel in the Supervisor's Office after the Secretary of State was elected that made your life easier or more difficult in this past election?

In other words, were there people that you worked with before who weren't there, who had been -- or was it basically you were working with the same people?

MS. PHOELE: No, I wasn't working with the same. There was different people.

MR. SUID: I've never been in the same precinct, but all my people in other precincts had worked and they were very adequate. There was no particular problem. They knew what they were doing. Of course, as far as different ballots and different languages, we would have had to have fifteen different ballots and

fifteen different languages in order to satisfy everybody, which would be impossible.

CHAIRPERSON BERRY: Commissioner, does that answer your question?

Commissioner Thernstrom?

COMMISSIONER THERNSTROM: Thank-you very much, Madam Chair.

I realize one part of my question was not answered; that is, how are poll workers chosen? I'm interested in whether any of you think that there's a kind of short -- if these are volunteers and they're chosen from the list. Is there a shortage of volunteers which has become an increasing problem or has anything changed about the pool of poll workers who's selected, who ends up helping, or in many cases, not helping voters?

MS. NELSON: I believe it's a shortage of poll workers, because every time they'll have individuals who are supposed to be coming to the classes and they don't show up or whatever. On the day of my election I had to do a training class at 6:00 a.m., about ten minutes to six, because there was about four people who were new in my precinct, who told me they have never been trained. They had never gone to a class.

So of course I'm trying to train them in about ten

minutes, and that was what training they had.

COMMISSIONER THERNSTROM: And would you say that's part of the problem?

MS. NELSON: That was a major problem. Well, that wasn't a major problem with the other matters. That was a major problem with me being able to handle a lot of problematic situations.

MR. RICKLES: One thing that I have heard and observed is, used to -- Theresa is always begging for poll workers. She says we can't get enough, you know, we never have an overabundance. And one thing that used to be and I thought was an excellent idea, you go down and sign up to be a poll worker, you know, you just -- simple application. And there was a lot of husbands and wives working together. They could travel together. Very little money involved. And several years back Ms. LePore changed that rule herself and said, "I will not have husbands and wives working in the same polls."

COMMISSIONER THERNSTROM: Because?

MR. RICKLES: The reason, I do not know. She says, "If you want to work you have to go to separate precincts." And consequently, both people quit because they say, "We have one car, you know, it's 6:00 in the morning. We don't have time to run all

over the county. We don't mind working together but we can't split up. So we won't work any more."

CHAIRPERSON BERRY: Okay. Commissioner Meeks?

COMMISSIONER MEEKS: My question is, you know, it seems like the reason people were not allowed to vote, I mean at least what I can hear from your testimony, is that you couldn't reach the Supervisor's office. So was all the problems due to a lack of poll workers or was it -- how would you sum it up as the main problem why people couldn't vote?

MR. SUID: You couldn't get in to the main area to ask the question, whether there's a problem or not, especially if you're a new poll worker. You didn't know what to do.

MS. PHOELE: And they weren't in our books, in our voting books, their names. Some of them registered and they weren't there.

COMMISSIONER MEEKS: So that wasn't a poll workers' problem?

MS. PHOELE: No.

MS. Desoto: I think that the single biggest problem was that we could not contact the Supervisor of Elections Office. People are not allowed to vote because they don't fulfill certain requirements and they may be different. Everybody is not the same.

There are some situations you can handle within the precinct but the majority of them you must get an okay from the Supervisor of Elections Office, and we could not do that.

COMMISSIONER MEEKS: And that was different this time?

MS. Desoto: Absolutely.

CHAIRPERSON BERRY: Vice Chair?

VICE CHAIRPERSON REYNOSO: You described the problems.

My question is simply this, why in your view were there so many more problems in this election as compared to the other elections which all of you have worked?

MR. SUID: I think more people come out for a presidential election than something that goes -- any other type of election. See, I was very fortunate. My people were pretty well versed and I solved most of my problems because I remember them from previous, but there were a couple that you just couldn't solve and you couldn't get in.

VICE CHAIRPERSON REYNOSO: The impression I have is that there were more problems in this election than other presidential elections?

MR. SUID: Because more people showed up.

MS. Desoto: I think that there were more problems because there were a lot of different things that were creating the

problems. We had technological gap where we couldn't use telephones to get voters okayed. We had the problem with the ballot that was confusing to some of the people. We had voters who came without identification but felt they should still be able to vote even though we had no ways of verifying whether they could vote. It was a combination of all these things and these were not elements that are always present in every election.

COMMISSIONER EDLEY: I'm sorry. Did any of you experience problems related to the felony purges?

MS. NELSON: Yes, I did.

CHAIRPERSON BERRY: Any of the rest of you?

COMMISSIONER EDLEY: And what the nature of it was.

MS. NELSON: I was told by Elections that the people were purged because they had felony convictions and I couldn't tell them why. I couldn't explain. What I was told on the phone, that they had to call Elections at a later date. And it was quite a few. It was quite a few of those.

COMMISSIONER EDLEY: Do you have any reason why you were not permitted to explain to the voter?

MS. NELSON: I thought maybe it was just they felt that because of the nature of the situation I shouldn't tell them that. I don't know.

COMMISSIONER EDLEY: Had that ever happened at a previous election, that you haven't been able to communicate?

MS. NELSON: They usually tell them. I would usually pass the phone to them. But they didn't tell them. They said they had to call at a later date.

CHAIRPERSON BERRY: Okay. Well, thank you very much. We want to thank the panel and say that you are -- for being here with us. You are now excused. Someone from our staff will escort you through the sign-out procedure. Thank-you very much for coming. We very much appreciate your information.

(Whereupon, the witnesses were excused.)

CHAIRPERSON BERRY: At this time we have just a brief session, very brief, in which some documents are going to be received, and as soon as that happens we are going to break for the lunch break.

#### **Document Production**

CHAIRPERSON BERRY: Could we ask that the representatives from the State Attorney's Office for the Eleventh, Sixteenth and Seventeenth Judicial Circuits and the representative from the Office of Inspector General, all of whom were subpoenaed to provide documents to the Commission, come forward to present those documents. Could those persons, Eleventh, Sixteenth and Seventeenth

Judicial Circuits and the representative from the Office of General Counsel -- I mean Inspector General, all of whom were subpoenaed, please come forward.

All right. Is there someone here from each office, Eleventh, Sixteenth -- Eleventh.

MR. CENTORINO: Joseph Centorino, on behalf of Catherine Fernandez-Rundle, State Attorney, Eleventh Judicial Circuit.

MR. OWEN: Kirby Owen, Sixteenth Circuit, representing Mark Kohl.

MR. COUNTRYMAN: John Countryman on behalf of the Seventeenth Judicial Circuit from Michael Satz.

MR. MAZELLA: Chris Mazella, Inspector General, Miami-Dade County.

CHAIRPERSON BERRY: Please proceed, counsel.

MR. FOREMAN: Mr. Mazella, your office has been subpoenaed to produce documents. Have you brought those documents with you today?

MR. MAZELLA: We have no documents,

MR. FOREMAN: You have no documents that are responsive to the subpoena?

MR. MAZELLA: Correct.

MR. FOREMAN: And have you completed your search of documents that would be responsive to that subpoena?

MR. MAZELLA: Yes, we have conducted an extensive search and found none.

MR. FOREMAN: Thank-you.

Mr. Countryman, your office has been subpoenaed to produce documents. Have you brought those documents with you today?

MR. COUNTRYMAN: Yes, sir, I have.

MR. FOREMAN: Madam Chair, we would ask that these documents be entered into the record and numbered sequentially.

CHAIRPERSON BERRY: Without objection, so ordered.

MR. COUNTRYMAN: Your Honor, ma'am, may I ask, I have made copies and I have the originals. Which would the Commission prefer?

CHAIRPERSON BERRY: What do you prefer?

MR. FOREMAN: We usually prefer the original document.

CHAIRPERSON BERRY: So we'll take the originals, you take the copies.

MR. FOREMAN: Mr. Owen, your office has been subpoenaed to produce documents today?

MR. OWEN: Yes, sir.

MR. FOREMAN: And have you brought documents with you

that are responsive to the subpoena?

MR. OWEN: Yes, I have.

MR. FOREMAN: Madam Chair, I would ask that these documents be entered into the record and numbered sequentially.

CHAIRPERSON BERRY: Without objection, so ordered.

MR. FOREMAN: Mr. Owen, are there any additional documents, or are you continuing any additional search for additional documents, or is this all documents that are responsive?

MR. OWEN: These are all documents that are responsive to the subpoena.

MR. FOREMAN: Mr. Centorino, you've been subpoenaed to produce documents today? Your office has been subpoenaed to produce documents?

MR. CENTORINO: Yes. I have a letter addressed to the legal advisor indicating that we do not at this time have documents that would be in the public domain. There are documents relating to a pending criminal investigation that we don't feel would be appropriate to release at this time. But there are no documents that we have that we could release that would be responsive to the subpoena at this time.

MR. FOREMAN: With the exception of the documents that are subject to the criminal investigation, you produced all

documents that are responsive?

MR. CENTORINO: Yes. There are none.

MR. FOREMAN: Okay. And in terms of the documents that are the subject of the criminal investigation, will you release those documents to the Commission once you have completed that investigation?

MR. CENTORINO: Yes.

CHAIRPERSON BERRY: All right. Thank-you very much, counsel, and thank you, witnesses, for delivering the documents or indicating that you have none. And if you find some please deliver them, after you have left here. And you may now be excused. We have some sign-out procedures for witnesses and a member of our staff will assist you through them.

(Whereupon, the witnesses were excused.)

CHAIRPERSON BERRY: The Commission will now break for lunch until 12:40, and the Commissioners, it is in the Stafford Room, S-T-A-F-F-O-R-D. Ask any of our staff how to get there down the hall.

We'll reconvene at 12:40.

(Whereupon, a luncheon recess was taken at 12:15.)

A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

(12:45 p.m.)

CHAIRPERSON BERRY: May I have your attention please.

Lunch break is over and we will now reconvene the hearing.

Are there any new support staff who need to be sworn in?

(No response.)

CHAIRPERSON BERRY: The answer is no.

Could the sign interpreter please ask if anyone is in need of interpretation, please.

**State Officials and Agents**

CHAIRPERSON BERRY: Thank-you very much.

This panel is made up of various state officials and representatives of DBT Online, which some people call Choicepoint, which worked as an agent of the State of Florida in compiling voter information.

Counsel, please call the witnesses to this panel.

MS. WIGGINS: Will Barry Krischer please come forward?

Barry Krischer, will you please come forward?

Will George Bruder please come forward?

And will Sandra Lambert please come forward?

CHAIRPERSON BERRY: Is Barry Krischer here?

MS. WIGGINS: Madam Chair, I would show that Mr. Krischer was present.

CHAIRPERSON BERRY: Would the Marshals please make efforts to ascertain whether Mr. Krischer is available and is at the site where he was subpoenaed to appear at this time?

In the meanwhile, could the witnesses who are here please raise your right hands.

Do you swear or affirm that you will testify truthfully to the best of your abilities?

(Whereupon, the witnesses were duly sworn.)

CHAIRPERSON BERRY: Thank-you very much. Please be seated.

MS. WIGGINS: And for the record, may I ask, Madam Chair, that the gentleman with Mr. Bruder identify himself?

MR. ADORNO: Thank-you. My name is Hank Adorno. I'm with the law firm of Adorno and Zeder and we're here representing George Bruder.

CHAIRPERSON BERRY: All right. Thank-you.

Counsel, do you intend to testify also?

MR. ADORNO: I do not.

CHAIRPERSON BERRY: Please proceed, counsel.

MS. WIGGINS: Thank-you.

Ms. Lambert, you are the Director of the Division of Driver Licenses; is that correct?

MS. LAMBERT: That's correct.

MS. WIGGINS: And you're here in response to a subpoena; is that right?

MS. LAMBERT: That is correct.

MS. WIGGINS: And did you bring any documents with you in response to that subpoena?

MS. LAMBERT: Yes, I did.

MS. WIGGINS: And do they fully and completely comply with that subpoena?

MS. LAMBERT: Yes, they do.

MS. WIGGINS: All right. Madam Chair, I request that these documents be received into the record and that the clerk number them consecutively.

CHAIRPERSON BERRY: Without objection, so ordered.

MS. WIGGINS: Mr. Bruder, you are the Senior Vice President of Strategic Alliances for DBT Online, a Choicepoint Company; is that true?

MR. BRUDER: I am Senior Vice President of Database Technologies of operations and I am a Vice President of the Choicepoint Public Records Group.

MS. WIGGINS: Okay. And you are here in response to a subpoena; is that right?

MR. BRUDER: Yes.

MS. WIGGINS: And did you bring documents with you in response to that subpoena?

MR. BRUDER: I did not.

MS. WIGGINS: How long do you think it will take for you to fully and completely comply with the subpoena duces tecum?

MR. BRUDER: We will provide the records for them. The time frame set in the subpoena is thirty days.

MS. WIGGINS: Is that acceptable, Madam Chair?

CHAIRPERSON BERRY: You will supply the records?

MR. BRUDER: Yes, ma'am.

CHAIRPERSON BERRY: You're not refusing?

MR. BRUDER: Oh, no, absolutely not.

CHAIRPERSON BERRY: And you will do that within the thirty days?

MR. BRUDER: Absolutely, yes.

CHAIRPERSON BERRY: All right. Thank-you.

MS. WIGGINS: So you do agree to comply fully and completely with that subpoena duces tecum by March the 16th of this year?

MR. BRUDER: Yes.

MS. WIGGINS: Madam Chair, I request that any documents that may come forward during the response of his testimony be accepted into the record and numbered consecutively.

CHAIRPERSON BERRY: Without objection, so ordered.

MS. WIGGINS: Did Mr. Krischer enter the room?

CHAIRPERSON BERRY: Could the Marshals please seek the whereabouts of Mr. Krischer and then report that to us. We will proceed with the other witnesses in the interest of time while that is done.

MS. WIGGINS: At this time both of you will be given five minutes to give an opening statement and we'll start with the lady.

MS. LAMBERT: Thank-you. Good afternoon, Madam Chair, members of the Commission. It's certainly a privilege for me to be here today representing the more than one thousand men and women of the Division of Driver Licenses that have assumed a great responsibility, and that is of taking applications from the citizens of the State of Florida to register to vote when they visit our Driver License Offices.

Our members have worked very hard since the inception of the Motor Voter Act and have in fact taken in excess of three and

a half million applications.

Of the seven organizations that do take applications, the Division of Driver Licenses has taken approximately forty-five percent of all applications.

We are also very proud of an extensive customer communication process where our customers fill out customer comment cards at all of our Driver License Offices. In addition, the Inspector General conducts surveys annually and we have a direct E-mail access to the Division of Driver Licenses where we encourage our citizens to make comments, complaints, and any suggestions they might have for improving our service.

We have received thousands of comments which we've used to change our training processes and to improve our services. In 1995 we began the training process for the motor voter process. This training was conducted by the Division of Elections for all of our members to begin the motor voter process.

Let me explain that process very briefly to you today.

When a customer comes into a Driver License Office to have any kind of driver license or identification card transaction, all basic information is initially processed. The customer is then asked if they would like to apply to register to vote. If that

customer answers in the affirmative all the basic information is transferred from the computer screen on to an additional motor voter screen, so no additional information at that point has to be asked in duplication.

Some additional information does have to be gathered, such as party affiliation, homestead exemption address, a few additional things by law.

Once that is completed the application is printed, it is given to the customer to verify for accuracy, the oath is administered and the application is signed.

If a person declines to apply to register to vote or to change their address, it is so noted on our computer files.

If a person is not in the office, but rather making a transaction by mail, having their renewal done by mail, there is information in that envelope which they receive and an application so that they can make any kind of changes to their voter registration or to make application to vote at that time.

All of that information is mailed directly to the local Supervisor of Elections. And there is a list with all the addresses enclosed in their renewal information.

At the end of each day in one of our offices an end of the date motor voter report is compiled, along with all of the

applications, and then all of that information is forwarded within five days to the local Supervisor of Elections. It's pretty much of an electronic process up until this point, and then forwarded on to the local Supervisor of Elections.

It's a very simple process. It's a very good process. And we are pleased to be able to be part of that process.

MS. WIGGINS: Thank-you, Ms. Lambert.

Mr. Bruder?

MR. BRUDER: Good afternoon, Madam Chair and members of the Commission.

My name is George Bruder and I served as Senior Vice President of Operations for Data Base Technologies until our merger with Choicepoint in May of 2000. Currently I am Vice President of the Public Records Group for the combined company. I am pleased to provide the Commission with information regarding DBT's work with the Florida Division of Elections, the DOE, during 1999 and 2000. I will submit my full written testimony for the record.

I spearheaded DBT's with the Florida Division of Elections, but because I may not be fully knowledgeable on every specific detail surrounding that contract, I am accompanied today by Marlene Thorogood, who is the product manager on the assignment and is sitting directly behind me.

Because this issue is the subject of private litigation of which we are a party, I am also accompanied by our counsel, Henry Adorno of the Miami firm of Adorno and Zeder.

As we have stated publicly on many occasions, we believe the facts surrounding this issue clearly show that DBT was simply a data processor that did not design the voter integrity process, it made no decisions and took no actions that denied any eligible voter their right to vote.

We support the goal of improving the election system to insure all eligible voters are able to cast their ballots. The fact that people believe they were denied their fundamental right to vote is a clear indication that the existing voting system needs improvement.

Among the laws passed in the wake of the 1997 Miami Mayoral Election was a requirement to the Division of Elections to contract with a private entity to compare information in the central voter file with available information in other computer data bases, including without limitation, data bases containing reliable criminal records and records of deceased persons.

DBT bid unsuccessfully on the Division of Elections contract on two occasions before the Division of Elections issued an invitation to two companies, Computer Business Services and DBT. In

November of 1998 the Florida Division of Elections under then Secretary of State, Sandra Mortham, entered into an agreement with DBT.

From the beginning the DOE determined what information was to be used in the data processing -- data matching process. The search criteria used to create the list was color blind. Only name, date of birth and social security number were used to develop the list as specified by the State. An individual source record may have contained race or political affiliation, but, and this is important, so let me say it again, neither race nor party affiliation were part of any criteria used to create exceptions list.

Additionally, DBT did not remove a single voter from the central voter file. Under the Florida Statute the exceptions report that DBT provided to the State was to be used by the County Supervisors of Elections to manually verify each match before removing a voter from the rolls. Only the County Supervisors could remove a voter from the voter registration rolls.

I believe that a misunderstanding of this process resulted in the list being described by some people as inaccurate. There is no doubt the list included a number of what we call false-positives, as the Division of Elections required the exceptions list

to be very broad. A false-positive is an industry term that means some but not all the data elements match the data provided. The fact that there were names on the list that were not ultimately verified as deceased, registered in more than one place, or convicted felons does not mean the list was inaccurate, but reflects the nature of the search parameters established by the Division of Elections.

We advised the State of the likelihood of a significant number of false-positives and made recommendations to reduce those numbers. However, as reported in the December 10, 2000 edition of the Miami Herald, and I quote, "We wanted these lists to be fairly broad and encompassing, said Emmitt Bucky Mitchell, a former Division of Elections lawyer who headed the purge effort. It was never intended to be a cure-all," end quote.

Our role in the Florida Voter Integrity Project was simple, to provide the State with a list of voters with a potential problem as defined under Florida law. DBT was not authorized under any law, Federal, State or otherwise, to remove anyone from the voter registration rolls and we did not remove a single voter. That responsibility was the County Supervisor's alone, after verifying the list that the DBT provided under the direction and control of the Florida Division of Elections.

And at this time I would be pleased to answer any questions that the members of the Commission may have. Thank-you.

MS. WIGGINS: Thank-you, Mr. Bruder.

It appears, Madam Chair, that Barry Krischer has joined us.

CHAIRPERSON BERRY: Mr. Krischer, could you please stand and raise your right hand?

Do you swear or affirm that you will testify truthfully to the best of your ability?

(Whereupon, the witness was duly sworn.)

CHAIRPERSON BERRY: Thank-you very much. Please be seated.

MS. WIGGINS: Mr. Krischer, you are the State Attorney for the Sixteenth Judicial Circuit; is that correct?

MR. KRISCHER: Fifteenth Judicial Circuit, Palm Beach County.

MS. WIGGINS: Thank-you, sir. And you're here in response to a subpoena; is that right?

MR. KRISCHER: Correct.

MS. WIGGINS: And did you bring documents in response to that subpoena?

MR. KRISCHER: Yes.

MS. WIGGINS: Do they completely and fully comply with all the requests in that subpoena?

MR. KRISCHER: Yes.

MS. WIGGINS: Madam Chair, at this time I request that these documents be entered into the record and that the clerk number them consecutively.

CHAIRPERSON BERRY: Without objection, so ordered.

MS. WIGGINS: Mr. Krischer, at this time you'll be allowed to give a five minute statement.

MR. KRISCHER: I'll be briefer than that.

MS. WIGGINS: I'm sorry, Mr. Krischer, could you hand your documents to the clerk, please?

CHAIRPERSON BERRY: The clerk's standing right there.

Could you move your microphone over to the middle of your visage so we might hear you better?

MR. KRISCHER: Apropos obviously your inquiries, the only thing I could offer is that despite the problems that occurred at the polls, our office, despite the fact that I have a Civil Rights Unit in my office, our office received no complaints from any of the voters alleging criminal interference with their right to vote, any discrimination based on race, ethnicity or any of those other issues.

The only phone call we received was from an individual who spoke to my executive assistant, Mike Edmonson who is sitting on my left, that early on it was clear that the, what's now been called the butterfly ballot, was causing some confusion and he was referred over to the Supervisor of Elections Office.

But other than that one phone call, pretty astoundingly, we received no contact.

MS. WIGGINS: All right, thank you, Mr. Krischer.

Ms. Lambert, you explained<sup>e</sup> for us generally the process for motor voter registration application completion.

Pursuant to Section 97.057(2)(A)(5)(2), an applicant declines to register to vote or update their registration records if they fail to sign the voter registration application.

What safety net do you have for persons who do not have opportunity to sign that voter registration application while they're in the Driver's License Office?

MS. LAMBERT: I'm not sure why an individual would not have an opportunity to sign it.

MS. WIGGINS: If an examiner, for example, prints out their voter registration application and then forgets to ask the customer to sign it?

MS. LAMBERT: That has happened and that obviously is

a training issue and a performance issue with some of our examiners.

What our members are instructed to do at the end of the day, because the name still will appear on our end of the day motor voter report, is that we are to provide the address of that customer to the Supervisor of Elections so that they can make contact in order to get a signed application.

MS. WIGGINS: What other policies or procedures do you have in place to cure an incomplete voter registration application through your Driver License offices?

MS. LAMBERT: Again, I'm not sure what you mean by an incomplete application.

MS. WIGGINS: If the driver's license examiner, for example, forgot to include the date of birth or other element within the registration application.

MS. LAMBERT: Most of the items on the application will not allow the examiner to finish the application without something filled in. It requires something. So we have safeguards built in to the computer system. There are a couple of fields that are not like that, and again, that's a quality assurance procedure.

At the end of the day the office manager should be reviewing those and counseling or coaching or training, retraining that examiner to make sure all of that information is complete.

MS. WIGGINS: Pursuant to Section 97.0574 of the Election Code, and I think you mentioned this in your opening statement, the Division of Driver's License is required within five days after receipt to forward an application to the local Supervisor of Elections Office.

MS. LAMBERT: That's correct.

MS. WIGGINS: Practically how does that work, Ms. Lambert? Are applications forwarded every five business days, every five calendar days, every day?

MS. LAMBERT: It depends on the volume in the office. If it's a high volume office they go ahead and do it daily, simply because of the volume. If it's a low volume office we have it done twice a week.

MS. WIGGINS: By what means are they forwarded? By what means are the applications forwarded?

MS. LAMBERT: About fifty percent of them are mailed through the U.S. Mail. Approximately thirty percent are delivered by Driver License members to the local Supervisor of Election. And then the remaining twenty percent, approximately, are picked up by the Supervisor of Elections personnel.

MS. WIGGINS: Do you have a system of receipt to prove that the applications have been received by the Supervisor of

Elections Office? Do they sign anywhere?

MS. LAMBERT: If they're delivered, they sign. However, if they're sent through the U.S. Mail, there's obviously no receipt process. We have a log at our offices if they are -- the day they are put in the mail they are logged out as being mailed from our offices.

MS. WIGGINS: Are you aware that some Supervisors of Elections accused the Division of Driver License Office of not forwarding the applications in a timely fashion and as a result decided to send their own couriers to the Division of Driver License Offices?

MS. LAMBERT: I am aware of that, yes.

MS. WIGGINS: And do you know which Counties where those couriers come to pick up those applications?

MS. LAMBERT: I don't recall off the top of my head. I presented you with a spread sheet in that hand-out that everyone has that has that in there.

MS. WIGGINS: Madam Chair, I request that the documents that Ms. Lambert provided to me prior to her testimony today be entered into the record and numbered by the clerk consecutively.

CHAIRPERSON BERRY: Without objection, so ordered.

MS. WIGGINS: Thank-you, Madam Chair.

To what penalty is the Driver's License Office or the office manager exposed if he or she consistently has mistakes with voter registration applications in that office?

MS. LAMBERT: That would be a performance issue and we have standards to which they have to achieve and if they don't achieve those standards they are dealt with as any other performance issue.

MS. WIGGINS: Would they be fired or counseled?

MS. LAMBERT: It would depend on the severity of the issue and the number of times.

MS. WIGGINS: Have you had to counsel or fire any Driver's License office manager with respect to mistakes with motor voter registration applications?

MS. LAMBERT: No one has ever been terminated because of motor voter problems. I could not address whether an individual might have been counseled at the local level on that particular issue. With an excess of a thousand people out there I'm not sure that I would know if an individual is counseled.

MS. WIGGINS: Could you try to get that information for us and supplement that to the record?

MS. LAMBERT: Specifically, I'm not sure what you're

asking for specifically.

MS. WIGGINS: How many Division of Driver's License employees were counseled and/or terminated as a result of mistakes with the motor voter registration application process.

MS. LAMBERT: As I stated earlier, there have been no terminations as a result of motor voter. I will do my best to get the counseling; however, counseling is not required by rule to be placed in the personnel files. So I'm not sure how available that information might be.

MS. WIGGINS: If there is any disciplinary record within that person's file.

MS. LAMBERT: I will be happy to do that, yes.

MS. WIGGINS: Thank-you. And if you know, Ms. Lambert, how many Floridians completed voter registration applications through the Division of Driver Licenses last year?

MS. LAMBERT: Last year?

MS. WIGGINS: Yes, ma'am. If you know.

MS. LAMBERT: I don't know off the top of my head. I'm sorry.

MS. WIGGINS: Okay. At the time the National Voting Rights Act of 1993 became effective, how were the employees that were already employed by the Division of Driver License trained on

motor voter registration application completion?

MS. LAMBERT: The Division of Elections compiled a one-day training seminar and presented that seminar for all of our managers and trainers in that one-day seminar in 1995. We then incorporated their training into our training for all new examiners. We do a forty hour training course for all of our new examiners.

The following year the Division of Elections did a four hour refresher course for all of our members and we continue to do refresher courses and in-service training on motor voter issues, as well as other issues.

MS. WIGGINS: If you know, Ms. Lambert, how many hours of that forty orientation hour training is dedicated to motor voter registration application completion?

MS. LAMBERT: It's going to depend on the examiners being trained, how well they are learning that particular aspect, but in general it takes about two hours. They're given a proficiency test at the end of that portion of it and if they haven't learned it completely then they're given some additional training.

Once they are finished with the classroom training they then have on-the-job training. So they have a trainer at their side for a certain period of time while they're processing that.

MS. WIGGINS: So the trainee, the new hires, do have an opportunity for practical application in learning how to fill out the application?

MS. LAMBERT: Yes, absolutely.

MS. WIGGINS: And how often did you say the refresher training is offered?

MS. LAMBERT: We require twelve hours per year and exactly how often that is depends on the office manager and the needs of that office.

MS. WIGGINS: Thank-you, Ms. Lambert.

Pursuant to Section 97.057, Subsection 7, the Division of Driver License can purge names of individuals who have obtained a driver's license from another state and then that list is provided to the Supervisors of Elections.

How is that list compiled? Is it by County or is it just a list of names? How is that compiled?

MS. LAMBERT: That list is compiled annually on the most part. It is compiled by County. And I say by the most part because there are, I believe, about sixteen Counties that have asked for it quarterly, simply because of the size of the Counties. So we do provide the list quarterly for the larger Counties and annually for all other Counties. It is a list of drivers who have

relinquished their license from Florida in another state and they are no longer licensed in the State of Florida.

MS. WIGGINS: And how often is that list forwarded to the Supervisor of Elections?

MS. LAMBERT: Either quarterly or annually, whichever the particular supervisor has requested.

MS. WIGGINS: And Ms. Lambert, if it's not already included in the documents you provided for us, could you provide for us the request that the local Supervisors of Elections for that list, if it's quarterly or annually?

MS. LAMBERT: Yes, I will.

MS. WIGGINS: Thank-you.

Based upon our review of some documents by the Department of State pursuant to their subpoena, we discovered that it was suggested that the Division of Driver License data base be made available to Data Base Technologies in its effort to compile a list of Floridians who are no longer eligible to vote.

To your knowledge, was Choicepoint given access to that data base?

MS. LAMBERT: Choicepoint does have access to the Driver License data base, correct.

MS. WIGGINS: And if you know, what parameters are

placed to insure the integrity of that data, that it's not compromised?

MS. LAMBERT: The data base does not come under my purview. It's in another division. So I would not have access to that information.

MS. WIGGINS: Do you happen to know the name of the person who handles that department?

MS. LAMBERT: Yes. It's Randy Esser, E-S-S-E-R.

MS. WIGGINS: Ms. Lambert, isn't it true that there was --

CHAIRPERSON BERRY: Counsel, do you need us to vote to subpoena records from Randy Esser or do we already have subpoenas outstanding for records from Mr. Randy Esser?

Do you need us to move to -- oh, I can just sign the subpoena. Okay, I'll sign the subpoena, without objection. I just wanted to make sure we were able to get it since I hadn't heard that name before. Go ahead. Sorry.

MS. WIGGINS: No problem.

Ms. Lambert, is it true that there were prescriptions to decline in the motor voter applications forwarded to the Elections Supervisor in the last quarter prior to the 2000 Presidential Election?

MS. LAMBERT: I'm sorry, I didn't hear all of your question.

MS. WIGGINS: Certainly, I'll repeat it for you.

Is it true that there was a sharp decline of motor voter applications completed by the Division of Driver Licenses in the last quarter of the year 2000 prior to the November 7th Presidential Election?

MS. LAMBERT: No, I don't believe that's accurate. There was a decline in the percentage of overall applications from the Division of Driver Licenses, but the actual numbers remained fairly constant quarter by quarter since the inception. And the decline in the percentage simply shows that some other one of the seven organizations received more applications than we did during that time period.

MS. WIGGINS: Thank-you, Ms. Lambert.

MS. LAMBERT: You're welcome.

MS. WIGGINS: Mr. Krischer, you stated in your opening statement that you received no complaints of criminal misconduct with respect to the November 7, 2000 election; is that right?

MR. KRISCHER: That's correct.

MS. WIGGINS: You received no complaints of fraudulent activity on behalf of election officials?

MR. KRISCHER: Correct.

MS. WIGGINS: You received no complaints of police presence at the polls?

MR. KRISCHER: No complaints with regard to any police misconduct.

MS. WIGGINS: Including harassment at the polls?

MR. KRISCHER: Correct.

MS. WIGGINS: Did you receive any complaints of limited access to polling places for Florida citizens with physical challenges?

MR. KRISCHER: No.

MS. WIGGINS: And your office received no complaints of discriminatory disenfranchisement of people based upon gender, age, race, ethnicity or national origin?

MR. KRISCHER: Did not.

MS. WIGGINS: You also stated that your office has a Civil Rights position; is that right?

MR. KRISCHER: Yes, ma'am.

MS. WIGGINS: How did that -- does the Office of Civil Rights within your office interact with the United States Attorney's Office?

MR. KRISCHER: Yes. Renalda Mack, the Assistant State

Attorney employed by my office, is cross- designated with Attorney General Bob Butterworth's office, so she is an Assistant Attorney General and she's also been cross-designated with Emilon Webber (Phonetic) who is the Attorney in charge of the office in West Palm Beach of the U.S. Attorney's Office, so she's an Assistant U.S. Attorney, and she's obviously an Assistant State Attorney, so she is able to follow whatever cases we investigate, either into civil court, criminal court or Federal court.

MS. WIGGINS: Does your office have concurrent jurisdiction then with the United States Attorney's Office and the Attorney General's Office?

MR. KRISCHER: No. She is merely cross-designated to go to court and handle cases in the name of Emilon Webber's office, U.S. Attorney's Office.

MS. WIGGINS: What has your office done to advertise this authority to investigate civil rights complaints for residents of Palm Beach County?

MR. KRISCHER: There was quite a bit of notoriety for obvious reasons when the unit was created. The unit was initially the project of a retired judge, Edward Rogers, who is well respected in Palm Beach County, very well known. He is the gentlemen who took about a year to get all of the MOU's in place and allow us to do

what I was hoping would be something positive for the people of Palm Beach County.

And when the unit opened its doors the various media channels publicized the fact. Renalda Mack who is the attorney assigned to that unit -- and I would state that at the outset there was two attorneys, Edward Rogers, Renalda Mack, a paralegal and a secretary, and the work coming through that office was never enough to sustain that manpower. So at this time there is Renalda Mack and the secretary.

MS. WIGGINS: And when you said MOU's earlier, you were referring to Memorandums --

MR. KRISCHER: Correct, and I gave you those. Although they weren't subpoenaed they are in your package as well so you could see those.

MS. WIGGINS: All right, thank you.

To your knowledge, did Ms. Mack, is it, the director of the Civil Rights Division?

MR. KRISCHER: Right.

MS. WIGGINS: Did she go to any advocacy groups to advertise that your office now has the jurisdiction or is interested specifically in enforcing civil rights laws?

MR. KRISCHER: Yes. Renalda spends most of her time

out in the community doing exactly that. We also have a very strong presence in the public schools with a project that highlights Martin Luther King's life and lessons and that is done on a regular basis in the public schools as well.

The efforts to bring citizens in if they are confronted with discrimination in housing, jobs, red-lining by banks, any of those issues, there are obviously other agencies within the County and the State that provide those services and for whatever reason, citizens care to go there and not to my office. We have handled matters -- we have not had to go to court. Quite frankly, a letter from my Civil Rights Units that says State Attorney's Office at the top generally results in a consent, the person saying, "We'll do whatever you want us to do, just don't prosecute us."

MS. WIGGINS: Right.

MR. KRISCHER: Which was the obvious intent of creating that unit, because the office has certain inherent powers that other agencies don't have.

MS. WIGGINS: Right. You indicated to our staff that you were directed, or your office rather was directed, by the Governor's office to review any civil rights complaints involving voting to the Florida Department of Law Enforcement; is that correct?

MR. KRISCHER: That the Governor told me where to send those cases?

MS. WIGGINS: Yes.

MR. KRISCHER: No, not to my knowledge.

MS. WIGGINS: Okay. Did you receive any directive to send civil rights complaints involving voting to the Florida Department of Law Enforcement?

MR. KRISCHER: Not to my knowledge.

MS. WIGGINS: All right. You also indicated to the staff that you anticipated receiving complaints from the Palm Beach County Supervisor of Elections; is that true?

MR. KRISCHER: Correct. She had indicated to my executive assistant that there were matters that they were going to send over, but they haven't been received as yet.

MS. WIGGINS: All right. And if you know, Mr. Krischer, what appeal process, if any, does a Supervisor of Elections have if his or her budget request is denied? If you know.

MR. KRISCHER: I have no knowledge.

MS. WIGGINS: Okay. Thank-you very much.

MR. KRISCHER: Thank-you.

MS. WIGGINS: Mr. Bruder.

MR. BRUDER: Yes, ma'am.

MS. WIGGINS: At the time that DBT bid for the Florida Division of Elections contract it had not merged with Choicepoint; is that correct?

MR. BRUDER: That's correct.

MS. WIGGINS: And the DBT board of directors was involved in the decision to bid for that Florida contract; is that correct?

MR. BRUDER: No.

MS. WIGGINS: Okay. Were they involved at all in the negotiation of that contract?

MR. BRUDER: No.

MS. WIGGINS: What political contributions, if you know, were personally made by members of the board of directors?

MR. BRUDER: I don't know.

MS. WIGGINS: Are members of the board of directors not required to report their political contributions to the corporation?

MR. BRUDER: I don't believe they are, no.

MS. WIGGINS: And what political contributions were made by DBT as a corporation?

MR. BRUDER: We made one political contribution to the Tony Jennings Campaign for Senate President and she withdrew herself

from that, from out Political Action Committee, and the monies were returned.

MS. WIGGINS: What was the amount of that contribution, if you recall?

MR. BRUDER: I think it was \$500.00.

MS. WIGGINS: And was that information included, or will that information be included in the records you provide for us?

MR. BRUDER: We can do that.

MS. WIGGINS: Thank-you very much.

As you stated in your opening statement, DBT responded to a request for a proposal issued by the Florida Department of State, Division of Elections; is that right?

MR. BRUDER: Two times, unsuccessfully, and then finally we were invited to negotiate the contract.

MS. WIGGINS: How did DBT become aware of that request for a proposal?

MR. BRUDER: Through a business contact that advised us that there was a proposal out there.

MS. WIGGINS: What was the time frame within which you had to submit that bid to the Division of Elections in response to the request for a proposal, if you remember?

MR. BRUDER: I don't remember. It would vary, but you

know, thirty days or sixty days or something like that to prepare your bid.

MS. WIGGINS: Do you remember the dollar value assigned to the contract at the time the request for a proposal was published?

MR. BRUDER: By the Division or --

MS. WIGGINS: By the Division.

MR. BRUDER: No, I don't.

MS. WIGGINS: All right. And DBT did have another contract with the State of Florida with that -- with the Florida Department of Law Enforcement at the time it bid on the Division of Elections contract; is that right?

MR. BRUDER: Yes.

MS. WIGGINS: And is the contract with the State of Florida Department of Law Enforcement also a data collection and compilation contract?

MR. BRUDER: We have a contract, or at the time had a contract with them to provide access to the Florida Department of Law Enforcement to our investigative product called Auto Track XP.

MS. WIGGINS: You no longer have that contract?

MR. BRUDER: No, we don't.

MS. WIGGINS: And you stated there were two bidders

with response to the request for a proposal, but DBT was the only one that was invited to negotiate; is that right?

MR. BRUDER: No.

MS. WIGGINS: Okay.

MR. BRUDER: There were two bids. The first bid was awarded to a company called Professional Analysis and then the Division came out with a second bid some time after that, looking to have it reprocessed again and we bid on that and we were unsuccessful. And then the Division approached us and asked us and another company from Georgia to participate in a negotiation to understand what it was we could bring to them to process their file.

MS. WIGGINS: To your knowledge, is DBT the only bidder then to bid on the request for a proposal for the Division of Elections contract?

MR. BRUDER: No, I don't know that.

MS. WIGGINS: Okay. And the business contact that made you aware or made DBT aware of the request for a proposal, could you tell us who that was?

MR. BRUDER: A gentleman by the name of Anthony Loyzel (Phonetic).

MS. WIGGINS: Is he with the Florida Department of Law Enforcement?

MR. BRUDER: No.

MS. WIGGINS: And what is the value of the contract with DBT and the Division of Elections now? Is it \$4,245,800.00?

MR. BRUDER: I don't know the exact amount but that sounds about right. However, it is an annually renewed contract.

MS. WIGGINS: The contract that you have, as amended, with the Division of Elections has --

CHAIRPERSON BERRY: If that's not the amount, could he confirm with us what the exact amount is.

MS. WIGGINS: Mr. Bruder, in the documents that you submit to us will you please include the exact amount of the value of the contract?

MR. BRUDER: Absolutely.

MS. WIGGINS: Thank-you.

The contract that you have with the Division of Elections, as amended, has set certain disqualification parameters; is that right?

MR. BRUDER: I'm sorry?

MS. WIGGINS: The DBT contract, as amended, with the Division of Elections has set certain disqualification parameters for compiling the list it requires of your company; is that correct?

MR. BRUDER: Are you referring to the actual criteria

used in building the list?

MS. WIGGINS: Yes, I am.

MR. BRUDER: It has -- the criteria that was developed was given to us by the Division of Elections' technicians and how we were to process the file.

MS. WIGGINS: Some of those disqualification parameters were to remove people who were dead, convicted of a felony with their rights not being restored, and those registered in more than one Florida county; is that correct?

MR. BRUDER: No. You're referring to us removing information or names from the list and that is not what we did.

We process the file in accordance with what the Division of Elections gave us as search criteria and created a separate list called an Exceptions List that we presented to the Division of Elections for dissemination to the supervisors.

MS. WIGGINS: And on that list would be included people that you've discovered were dead, were convicted of a felony and didn't have their rights restored, or those registered in more than one Florida county; is that correct?

MR. BRUDER: That was per the Statute, yes.

MS. WIGGINS: Okay. The Florida Election Code also requires that those declared mentally incompetent to vote also be

removed from the central voter file.

Did that ever become a parameter for a DBT search?

MR. BRUDER: No.

MS. WIGGINS: Do you know why?

MR. BRUDER: The Division did not request us to use that.

MS. WIGGINS: DBT was provided some data by the Division of Elections to compile this list; is that correct?

MR. BRUDER: Yes.

MS. WIGGINS: What data was provided by the Division of Elections?

MR. BRUDER: We were provided with the central voter file, the Florida Department of Law Enforcement felony convictions file, Bureau of Vital Statistics deceased file, and the Executive Board of Clemency file.

MS. WIGGINS: DBT also has its own data bases; is that correct?

MR. BRUDER: Yes, we do.

MS. WIGGINS: And DBT used its own data bases in compiling the list; is that correct?

MR. BRUDER: We used -- yes, we did.

MS. WIGGINS: And you spoke in your opening statement

about race and party affiliation was not a search criteria to compile that list. Did I understand you correctly?

MR. BRUDER: Yes.

MS. WIGGINS: Was race or party affiliation a matching criteria in compiling that list?

MR. BRUDER: No.

MS. WIGGINS: Was gender or age a search or matching criteria in compiling that list?

MR. BRUDER: Gender was not. Date of birth was.

MS. WIGGINS: In a letter to the Florida Supervisors of Elections dated June 9, 2000, and it's a letter signed by you, sir, it says, "That in an effort to insure the accuracy of the Florida centralized voter file DBT conducted a review of the records. The process included matching the information on the voter rolls to felony conviction records to purge the rolls of those whose right to vote had been revoked. The information used for the matching process included first, middle, last name, date of birth, race and gender, but not social security number."

So when this letter was written -- did you write this letter? It has your signature on it.

MR. BRUDER: Can I see it, please?

MS. WIGGINS: So at the time this letter was written,

Mr. Bruder, race was then a criteria used to match names; is that correct?

MR. BRUDER: No.

MS. WIGGINS: So you misinformed the Florida Supervisors of Elections that race would be used as a matching criteria?

MR. BRUDER: Yes.

MS. WIGGINS: You misinformed the Supervisors of Elections?

MR. BRUDER: I did, personally, yes.

MS. WIGGINS: Why would you do that, Mr. Bruder?

MR. BRUDER: Because when I authored the letter I was not -- I assumed that we used part of that information as criteria.

I have since learned that we did not, and I was in error. The process that we used, as given to us by the Florida Division of Elections in their specifications to process the file included a combination of using the name, the date of birth and the social security number. Race and gender and party affiliation were never a part of that.

MS. WIGGINS: So then the Supervisors of Elections -- well, did you take any steps to then correct your communication, or mis-communication to the Supervisors of Elections once you learned

that race was not a matching criteria?

MR. BRUDER: I did not, no.

MS. WIGGINS: So the Supervisors of Elections could be led to presume that race was a matching criteria and used in the compilation of that list?

MR. BRUDER: Based on my letter, that is accurate, yes.

MS. WIGGINS: Did any State officials complain about this letter? Did you receive any complaints in response to this letter?

MR. BRUDER: No.

MS. WIGGINS: What are the sources of those data in the data bases, if you can tell us?

MR. BRUDER: The sources of the data are all Government agencies. The first file we received was the central voter file. We also received the Florida Department of Law Enforcement felony file, the Florida Department of Corrections file, the Florida Bureau of Vital Statistics deceased file, the social security master death file, and then we also used ten other States in year 2000 of criminal felony conviction files from ten other States.

MS. WIGGINS: All right. The matching that is done to

compile -- I'm sorry.

MR. BRUDER: And the DMV record, I'm sorry.

MS. WIGGINS: Thank-you. The matching that's done to compile the list, Mr. Bruder, is this an automated system?

MR. BRUDER: Yes.

MS. WIGGINS: Is there any contract requirement or industry custom to also have a manual or some human to also compare the data?

MR. BRUDER: I'm sorry, would you re-state that? Say it one more time.

MS. WIGGINS: Certainly. Does your contract with the Division of Elections require that a human or some manual data comparison be made of the data base, information in the data bases and what's on the list? Is there some sort of -- is there some other manual verification of the list or is your company totally relying upon the automated system?

MR. BRUDER: In the first year of the contract there was a requirement that we hire a statistician to build a model that would tell us how many records we would need to manually verify to give us a level of accuracy on the process, not on the records themselves, but on the process that was developed per the direction of the Division of Elections. And we did do that and we did do a

manual verification and provided that back to the State.

MS. WIGGINS: Did any DBT employee also make telephone calls to verify information in the list?

MR. BRUDER: Not that I know of, no.

MS. WIGGINS: Not that you know.

If any phone calls were made would you provide us with those records?

MR. BRUDER: Sure, absolutely.

MS. WIGGINS: In the original contract between DBT and the Florida Division of Elections, only felony convictions occurring in the State of Florida were to be used for matching with the central voter file. Under what circumstances did that expand to felony convictions outside the State of Florida?

MR. BRUDER: In the contract it did state that, and the Division of Elections approached us and knew that we had data bases of other felony convictions and they asked us to include some of those States in the first year in the processing. And we did do that.

MS. WIGGINS: Which States were included, if you recall?

MR. BRUDER: I don't recall.

MS. WIGGINS: Would you include that in the

information that you submit to us within thirty days?

MR. BRUDER: Yes.

MS. WIGGINS: And as part of the DBT contract with the Division of Elections, you were to ascertain the clemency status of those listed as convicted felons; is that right?

MR. BRUDER: I'm sorry, could you repeat the question?

MS. WIGGINS: As part of the contract with the Division of Elections, DBT was also to ascertain the clemency status of those listed as convicted felons; is that true?

MR. BRUDER: Yes. We processed -- under the criteria that was given to us, was to process the file, the central voter file, find the names that matched to a felony record and then match those against the clemency file by the Florida Executive Board of Clemency.

MS. WIGGINS: Other than the Florida Executive Board of Clemency, what data did you use to determine the clemency status of people listed as convicted felons?

MR. BRUDER: We used the clemency records from the other States that had similar Boards of Clemency and then in some States there were not an Executive Board of Clemency that was similar to what Florida uses. The individual would have their voting rights reinstated in that State upon completion of their

sentences. However, that is not recognized in the State of Florida and they would have to apply to the Florida Executive Board of Clemency in order to have their voting rights reinstated in the State of Florida. And this was information that was provided to us by the Division of Elections in how we process the file.

MS. WIGGINS: So DBT's methodology would not capture the automatic restoration of civil rights to one convicted of a felony outside of the State of Florida; am I understanding that correctly?

MR. BRUDER: What we -- it would not automatically do it, but if they had an Executive Board of Clemency, we would contact that Executive Board of Clemency and verify whether or not they were on their list before we provided it back to the Division of Elections.

MS. WIGGINS: And am I understanding you correctly that you were instructed by the Division of Elections to include the name of any person convicted of a felony outside of the State of Florida without having to make phone calls to verify the clemency status of those States that do not have a Clemency Board? Am I understanding that correctly?

MR. BRUDER: I don't know. If you can give me one second to confer I can answer that, okay?

MS. WIGGINS: Okay.

MR. BRUDER: In the States that did not have an Executive Board of Clemency where the voting rights were reinstated, we ran them solely against the Florida Executive Board of Clemency file. Where there was an Executive Board of Clemency in the other States outside of Florida and there was a repository type agreement between that State and Florida to reinstate those civil rights, we checked with each one of those Boards of Clemency to verify that individual had been granted that right.

MS. WIGGINS: And am I understanding you correctly that the Division of Elections informed DBT that felons who had automatic restoration of their civil rights in other States had to then reapply for clemency in the State of Florida?

MR. BRUDER: Per the Assistant General Counsel of the Division of Elections at the time, his directions were exactly that, that if they did not have an Executive Clemency Board or similar type process in a State, that the individual would need to apply for clemency within the State of Florida to have their voting rights reinstated.

MS. WIGGINS: Did DBT and/or Choicepoint at that point, did their legal staff then go back to try to verify whether or not that was a true statement of the law, of Florida law?

MR. BRUDER: We relied upon the information that was given to us by the Division of Elections who was giving us the criteria in which to use to do the data processing.

MS. WIGGINS: And if you recall, what is the name of that Assistant General Counsel at the Division of Elections that gave DBT that information?

MR. BRUDER: Emmitt Mitchell.

MS. WIGGINS: DBT provided two felony lists to the State of Florida; is that correct; one before May, 1999 and one after May, 1999?

Was there not one list that included eight thousand misdemeanors or people who were convicted of misdemeanors?

MR. BRUDER: That clarifies that. Yes.

MS. WIGGINS: And what steps did DBT take to correct that list?

MR. BRUDER: Once we were made aware that there was an error in the processing, we immediately notified the Division of Elections and the Supervisors that there was an error in the processing. We immediately reprocessed the file and disseminated a new list in the spring of, I believe it was 2000 and gave it back to the Supervisors -- actually through the Division of Elections back down to the Supervisors.

MS. WIGGINS: There are some Supervisors of Elections that complained that there were many inaccuracies in the DBT list.

Did you receive any of those complaints directly to your office?

MR. BRUDER: First of all, there were no inaccuracies in the list that we provided. The list that we provided was per the specification of the Division of Elections. And we did -- there may have been some confusion about how that list was derived and the matching logic that caused those Supervisors to have confusion about that, but what we did was per the specifications of the Division of Elections. We delivered it back as accurately as we could and it was accepted by the Division.

MS. WIGGINS: If I understand you correctly, your testimony is that DBT basically did as it was instructed by the State of Florida and has no warranty to the accuracy of that date with the limited verification of the data that was compiled?

Is it your testimony that DBT basically did as it was instructed to do?

MR. BRUDER: We were the data processor and we processed in accordance with the specifications that were given to us by the Division of Elections and we met that criteria to their satisfaction.

MS. WIGGINS: And the warranty of the data within that last is only that it was compiled within the search parameters, the warranty does not extend itself then to the accuracy of the data within those parameters?

MR. BRUDER: As to -- I don't know what you mean, the accuracy of the data itself. We took the list that was provided to us by the Governmental agencies and applied the criteria given to us by the Division. And we handed it back to them for their review and they accepted it saying that it was fine, it was exactly what they wanted.

MS. WIGGINS: There was an article in which Choicepoint Vice President, Mr. James Lee, who is seated in the audience, stated to a media outlet, and I think you mentioned this in your opening statement, that DBT was basically directed by the State of Florida to include, and I think I'm quoting him accurately, "more names than were actually verified as being a convicted felon," on its felony report.

Is that a true and accurate statement?

MR. BRUDER: What that refers to is the false-positives where we would, in the criteria given to us by the Division, we would have been matching by name, date of birth and social security number, and sometimes there was not enough

information to specifically identify the individual. And that is what we classify as a false-positive because the process did what it was supposed to do as per their specifications. So that could be set wider or narrower and the Division chose that type of process on how wide they wanted it, how many names they wanted to bring into it in that process.

MS. WIGGINS: The Division of Elections basically wanted to cast a wide -- as wide a net as possible for the felony list; is that an accurate statement?

MR. BRUDER: Yes, it is.

MS. WIGGINS: Madam Chair, that completes my questions.

CHAIRPERSON BERRY: All right. Any Commissioner have any questions for any of these witnesses?

Commissioner Thernstrom?

COMMISSIONER THERNSTROM: Mr. Bruder, I'd just like to go over the clemency process once again.

It is my understanding that if a voter in another State, a former felon in another State has had his or her civil rights restored that the process in Florida is simply that that voter must fill out an application to once again be able to vote in Florida and that the burden is on the State to check the legitimacy

of that voter's standing as someone whose civil rights has been restored; is that accurate?

MR. BRUDER: As involved in our process?

COMMISSIONER THERNSTROM: Well, I'm just trying to get through this clemency question. There have been allegations -- I mean you kind of, it seems to me your description slightly fudged the issue. You said, "Well, X felons who have had their rights restored in former States had to apply."

Well, as I understand the application process is a very simple one of filling out a form and then it is the burden on the State to -- the State carries the burden to check that indeed this is a person whose full civil rights have been restored. And you know, I wondered one, is that your understanding of the process, and two, how did that affect --

CHAIRPERSON BERRY: Please turn off all cell phones. If cell phones go off they will be removed by the Marshals.

COMMISSIONER THERNSTROM: Did that affect in any way your collection of data?

MR. BRUDER: In the review with the Division of Elections' attorneys, they informed us that there were two -- to try and clarify this and make it simple, there were two standards. There were those States that had a similar Executive Board of

Clemency as Florida, and if a felon applied for clemency in those States and their rights were restored, that Florida would accept that.

There are other States --

COMMISSIONER THERNSTROM: But that person had to notify Florida of this history?

MR. BRUDER: I don't know that.

The second part of it would be, in those States where a person that was convicted of a felony, completed their sentence, upon the completion of that sentence their voting rights were reinstated. However, if they came to the State of Florida, they were required by Florida law to apply for clemency to have their voting rights restored in this State. And that is the information and the process that we were given by the Division of Elections and that's how we applied it to the data files that we processed.

COMMISSIONER THERNSTROM: Madam Chair, I think it would be nice to get that process -- make sure we've got that process absolutely clear.

CHAIRPERSON BERRY: We will make sure that the staff when they write for us or inform us include the exact details of the clemency process.

Commissioner Edley I think was next.

COMMISSIONER EDLEY: Madam Chair, I seek your forbearance. I know time is short but I actually have three areas that I want to explore and I understand that you may cut me off at any moment, but I --

CHAIRPERSON BERRY: That's all right. I'll make up the time after that, assuming that other people don't do the same thing.

COMMISSIONER EDLEY: I'll leave town immediately after this if you'd like, or maybe we should put that to a vote. Maybe not.

(Laughter.)

COMMISSIONER EDLEY: Here are the three areas with regard to DBT.

The discussions with State officials regarding the false-positives. Second, your verification obligations under your contract. And third, how you got this contract. So those are the three areas I want to walk you through.

MR. BRUDER: Sure.

COMMISSIONER EDLEY: First, did you -- did anybody from the company, any agent of the company, have conversations or correspondence with State officials concerning which variables should be used?

MR. BRUDER: Yes.

COMMISSIONER EDLEY: Did anyone from the company at any time suggest to State officials that the guidance being considered by the Division of Elections would result in a high false-positive rate?

MR. BRUDER: Yes. I did.

COMMISSIONER EDLEY: Which variables did you identify as being possibly problematic and what was the response of the State officials?

MR. BRUDER: The variables are -- I don't know how to address that part of it without getting into the technicalities on how we did the actual processing and getting down into the minutia of it. But in the program that we developed to do the process we could move it so that we could narrow down the matching logic or expand it, and the State dictated to us that they wanted to go broader and we did it in the fashion that they requested.

COMMISSIONER EDLEY: Madam Chair, may I ask that a description of this technical information be included with the company's submission if they haven't already given it through interviews?

CHAIRPERSON BERRY: At this point I think that's entirely appropriate, without objection, but I would also like you

to have the witness answer your question, which is what were the variables that were suggested. So we'll do both. Without objection, please submit that for the record. And also, to the best of your ability, answer Commissioner Edley's question about variables.

MR. BRUDER: Okay. Give me one minute on variables then.

CHAIRPERSON BERRY: Okay. Would you like her to be sworn to answer the questions?

COMMISSIONER EDLEY: Well, he's under oath and he has enough confidence in what she's telling him, then -- to swear it, and he has an able lawyer sitting by his side. I can tell from his tie that he's able.

(Laughter.)

MR. BRUDER: I think I can handle it. If I can't handle this I'll ask Marlene to do it.

The criteria that we could develop for them as related to me, was on a first name and middle name. It was Deborah Ann or Ann Deborah. We could move that back around. And the State chose that they could make it go both ways.

Also there was a parameter that was set by the State that included not to look at the last name and included ninety

percent of that last name to make a match, rather than a hundred percent.

So that answers your questions on how you can adjust this. That's what we did.

CHAIRPERSON BERRY: Please proceed, Commissioner.

MR. BRUDER: That would be done for the specific reason of capturing mis-spellings and data entry errors that are present in data files. And working with data, that is something that happens quite frequently, but that criteria was something that the Division gave to us and we did apply it.

COMMISSIONER EDLEY: Who at the Division gave you this guidance?

MR. BRUDER: The technical representative that our team worked with was Janet Modrow (Phonetic).

COMMISSIONER EDLEY: Do you know who the policy level official was responsible for these decisions?

MR. BRUDER: At the time the people that we worked with throughout our process were Emmitt Mitchell, as the Assistant General Counsel, Janet Modrow, as the Technical Specialist, and Ethel Baxter was the, I believe the Director of the Division at the time.

COMMISSIONER EDLEY: Do you have any recollection of

conversations in which Division officials made choices that would result -- that would tend to result in under-inclusion rather than over-inclusion of names on the exceptions list?

MR. BRUDER: No.

COMMISSIONER EDLEY: So all of their guidance to you tended toward over-inclusion and false-positives?

MR. BRUDER: Casting a broader net.

COMMISSIONER EDLEY: Do you -- now I want to move to the issue of verification obligations.

Do I understand your testimony to be that under the contract that you signed, DBT had no contractual obligations to conduct verification apart from -- well, period.

You had no obligations to conduct verifications?

MR. BRUDER: We had an obligation to conduct a verification of the process as it was given to us by the State, and we did that.

COMMISSIONER EDLEY: And that was through the statistical sampling method from the -- did you hire a statistician to do that?

MR. BRUDER: Yes, we did.

COMMISSIONER EDLEY: And the name of the statistician was?

MR. BRUDER: I do not have that available. I can provide it to you but I don't have it off the top of my head right now, no. I know it was a Professor from a local university that we employed.

COMMISSIONER EDLEY: Okay, I just want to be certain that I understand that, because there's been some confusion on this I think in some of the press accounts.

So it is your testimony that you had no obligation, apart from the audit of your methodology, so to speak, by the statistician, DBT/Choicepoint had no obligation to see to it that each name on your exclusion list, or any of the names for that matter in your exclusion list, were accurately on that exclusion list; that is to say, meaning that they indeed should not be eligible to vote?

MR. BRUDER: The way the process was developed by Statute was for us --

COMMISSIONER EDLEY: I'm sorry, sir, I'm asking about your contract. Did you promise to do something in your contract with respect to insuring that the names you gave on an exclusion list were indeed people who, pursuant to the policies of Florida, should not vote?

MR. BRUDER: Okay, that's a very complex question and

I cannot answer that at this time without reviewing the contract, and I would ask to be allowed to do that, and we will provide you a copy of that. I don't believe so but I do not want to --

CHAIRPERSON BERRY: Would you like us to recess while you review your contract? Is that what you're suggesting? Are you suggesting that you're not familiar with the terms of your contract?

MR. BRUDER: I'm suggesting that that specific question -- could you re-state it for me one more time and maybe I can get this clarified.

CHAIRPERSON BERRY: You answered a question very similar to that earlier.

MR. BRUDER: Okay.

CHAIRPERSON BERRY: Go ahead. Repeat the question.

COMMISSIONER EDLEY: Well now you've made me worry that the question was more complicated than I thought it was. But my students complain about that a lot.

(Laughter.)

COMMISSIONER EDLEY: Did your contract impose any duty on you to insure that the names that appeared on the list were in fact people who, under Florida policies, were ineligible to vote?

MR. BRUDER: No. What our process was, as dictated by the contract and the Division of Elections, was to take the files

that they gave us, take the process that they specified to us, develop a list, an exceptions list completely separate from the central voter file, provide that back to the Division of Elections, who would then take that list, disseminate it to the Supervisors of Elections, who would then take their individual list and do the verification process of the names on it.

COMMISSIONER EDLEY: The amount of money that -- the contract amount, roughly four million dollars, to the best of your knowledge, is that consistent with the price of contracts for similar work done by other contractors around the country?

MR. BRUDER: That price would have been under what we would have done in a private area.

COMMISSIONER EDLEY: Under what you would have done in the private area?

MR. BRUDER: Yes.

COMMISSIONER EDLEY: Well, did you make a profit on this contract?

MR. BRUDER: I believe so.

COMMISSIONER EDLEY: I don't know how to ask this, Madam Chair, so I'm seeking your guidance here.

If I can just be candid. This seems like a very lucrative contract, given that there was no obligation to verify.

It sounds like it's just running data tapes and cross-matching and spitting out something with no warranty as to the accuracy of the underlying data bases, whether or not the over-inclusiveness is -- makes the list useless.

The State of Florida, as far as we can tell from Tallahassee, obviously didn't undertake any extensive effort on the State level or the County level to verify the accuracy of the lists.

So somebody somewhere must have had some expectation that a human being was going to see to it that these lists made sense. But if DBT feels that it didn't have any responsibility to do it, there's a disconnect here.

So I'm wondering if -- what I'm trying to get at is whether or not there was a reasonable expectation on the part of the State and the public that Choicepoint would have cleaned the lists.

And I think if the contract turned out to be very lucrative and profitable, that would bear on that issue, and I'm wondering if it would be appropriate for us to try to get some sense through the subpoena as to whether the returns, the profits made by the company, were somehow out of line for the work that they did.

CHAIRPERSON BERRY: It might be -- we could ask the company to detail for us the portions of the contract that were allocated to support various activities in which they engaged and to

give us a detailed budget of the amounts that were allocated to each function, and then if you add them up, let them tell you how that relates to the amount of that contract, if that's what you're interested in.

COMMISSIONER EDLEY: I think that would do it. And I have one final brief question.

CHAIRPERSON BERRY: Can you provide that?

MR. BRUDER: I believe we can.

CHAIRPERSON BERRY: Okay.

COMMISSIONER EDLEY: Okay, my final issue on how you got this contract, briefly is just this. You went through, as I understand it, there were two RFP's on which you were unsuccessful.

MR. BRUDER: Yes.

COMMISSIONER EDLEY: And then you were invited in to bid -- you were invited in to negotiate. I'm trying to understand, why did the two first RFP's fail in such a way that the State felt required to do this invitation to a negotiation and on what basis was DBT selected to participate in this negotiation?

CHAIRPERSON BERRY: If you know.

MR. BRUDER: On the first two, the first one was awarded to another company, and then for whatever reasons the Division issued a second RFP to have the data file processed and the

particulars on that, we did not meet on that request either.

COMMISSIONER EDLEY: You don't know why they were dissatisfied with the first contractor?

MR. BRUDER: Not off the top of my head, no. No.

And on the second one, we did not meet the criteria of the bid request. And then we were invited to negotiate, along with Computer Services out of Georgia, and we came out to be the better of the two companies. I personally sat with members of the Division, showed them what our data processing capabilities were, what products we had developed in the past, and went away and they awarded us the bid.

COMMISSIONER EDLEY: And did DBT or any agent of DBT take any steps through lobbying through promotional activity of any kind through conversations, did you take any steps either to induce the Division of Elections to abandon the earlier RFP's or to induce the Division of Elections to bring you in to participate in this negotiation process?

MR. BRUDER: No.

COMMISSIONER EDLEY: Out of the blue they came to you?

MR. BRUDER: No. I believe they came to us because of our responses to previous one, because we do know what we're doing and we did a very good job for them.

CHAIRPERSON BERRY: I know we are behind and I'm apologizing to the panelists who are to come after you. I am going to try to catch up here fairly soon.

But Commissioner Wilson, do you have a question?

COMMISSIONER WILSON: I did, Madam Chair, but I will give my time to you, but I do think it would be interesting to find out what happened with the first company that had been awarded the contract.

CHAIRPERSON BERRY: You mean the first bidders?

COMMISSIONER WILSON: That had been awarded the contract.

CHAIRPERSON BERRY: Do we have that information? Are we subpoenaing that information?

They subpoenaed it and so we will have it.

Commissioner Lee?

COMMISSIONER LEE: You mentioned that you had not received any complaints from your office regarding ineligible and race violations.

How does the public know about getting to your office to file complaints? Is it a common knowledge?

MR. BRUDER: Actually, the public doesn't perceive that the Prosecutor's Office is the place to go with those

complaints. Law enforcement investigates. Then we receive them and we prosecute them. So the public will generally go to the Supervisor of Election or call Tallahassee.

COMMISSIONER LEE: So it's safe to say that it's not that no one filed complaints, it's just that it never got to your office?

MR. BRUDER: Correct. They don't perceive our office as the appropriate agency to receive those complaints.

CHAIRPERSON BERRY: Quick questions?

COMMISSIONER THERNSTROM: Yeah. I just want to go back to Commissioner Edley's verification question.

Could you have verified, if it had been part of your contract, could you have verified the names on the exclusion list; that is, could you have made it more accurate? If so, how? What would it have taken?

MR. BRUDER: First of all, the list was accurate. We did it in accordance with the specifications.

Could we have tightened the parameters and reduced the false-positives? Yes.

COMMISSIONER THERNSTROM: By doing what?

MR. BRUDER: By tightening the parameters and the technicalities.

COMMISSIONER THERNSTROM: Thanks.

CHAIRPERSON BERRY: Commissioner Meeks?

COMMISSIONER MEEKS: I just wanted to ask a question of Sandra Lambert which no one has asked yet.

The process that you outlined for the Motor Voter Law and the whole process, and you know, you said how these applications then got transferred to the Division of Elections, why then were there a lot of cases -- I mean we've had testimony that they weren't on the list? I mean did they get to the Division of Elections?

MS. LAMBERT: First of all, the only testimony I heard was one today that said they registered at a motor vehicle office and they were not on the list. Is that accurate?

COMMISSIONER MEEKS: Yeah, and I think that we've had other testimony too. But anyway, then why wouldn't the one today --

MS. LAMBERT: I did receive a number of complaints after the November election and we looked into all of them. We found a variety of reasons why the person was not on the list, and I'll share some of those with you.

Several people said they registered to vote at the motor vehicle office when in fact they had renewed by mail and they had received the application in the mail. As I explained to you earlier, then it is mailed at their -- they have to mail it back to

the Supervisor of Election. So they had not in fact been into a Driver License Office.

I had one gentleman who had in fact been into a Driver License Office and he had moved from another State and he had completed everything. However, when I checked the transaction date it was October 22nd, and the date alone tells you the books were closed. So he was not able to vote in that election.

We resolved every complaint that we received. I will tell you that there are times when it is apparent that the mail does not always get there. We have had calls from Supervisors of Elections saying, "I've had a complaint. I'm not finding Jane Doe on my records."

And when we check and we show, "Well, we mailed you a batch that day," and they check and say, "We have nothing from that day."

So what we do then is recreate that day's report for the Supervisor of Election, but it is their responsibility then to have to make contact with that customer, or all those people, to get them to be on the rolls.

CHAIRPERSON BERRY: Commissioner Edley has another urgent question, or somebody did.

The question is, how long did it take, Mr. Bruder, to

pull together the list that you pulled together and gave to the State, in terms of how much time?

MR. BRUDER: In the first contract, we began the process in December of 1998 and we delivered a final list to the Division of Elections in May of 1999.

CHAIRPERSON BERRY: And the second one?

MR. BRUDER: We began it in January and delivered it on March 31st.

CHAIRPERSON BERRY: So in other words, Commissioner Wilson's interest is that for four million dollars you did that many months' work and submitted a list which turned out to be inaccurate but you say that you were not responsible for that because you didn't contract to make it accurate, if I understood your testimony.

Your contract did not include that the people on there had to actually be felons because that wasn't the contract you made. But the contract was worth four million dollars and the matter of months that you spent on it was what you just told us for the record.

MR. BRUDER: We spent that amount of time on developing the list for them and we developed it accurately according to the specifications that were given to us.

CHAIRPERSON BERRY: Precisely. Did the State ever ask you to give them a refund of any amount?

MR. BRUDER: No.

CHAIRPERSON BERRY: They haven't to date.

The other thing is, would you be willing to -- did the State ever ask you to do anything on the racial impact of the use of the methodology that they asked you to use and that you used in compiling the list?

MR. BRUDER: I'm sorry, could you repeat that?

CHAIRPERSON BERRY: Did the State of Florida ever ask you to do any kind of study, and have they asked you to date of the racial impact of the use of the methodology you did use, with their agreement, to compile the list, given the complaints in the aftermath of the election? Have you heard anything about, you know, doing some kind of evaluation or looking at the impact or anything like that?

MR. BRUDER: Absolutely not.

CHAIRPERSON BERRY: Absolutely not.

And I also was interested, Mr. Bruder, in the fact that you say that you sent a letter with erroneous information to the State of Florida. That was your testimony. But if I heard correctly, you never sent another letter saying, "I sent you an erroneous letter and the letter I sent to you was incorrect"; was that your testimony?

MR. BRUDER: I did not follow up with a letter that corrected portions of the information that was contained in this June 9, 2000 letter, that's correct.

CHAIRPERSON BERRY: And more specifically, that race and gender were used in terms of match, which you say was misinformation in that letter; that was your testimony earlier.

MR. BRUDER: That was --

CHAIRPERSON BERRY: You never in writing informed the State of Florida that that was a -- the letter was erroneous; is that correct?

MR. BRUDER: That's correct.

CHAIRPERSON BERRY: Did you orally, on a date certain, to which you can attest, inform the State of Florida or the public that your including that in the letter was erroneous?

MR. BRUDER: I have not.

CHAIRPERSON BERRY: You have not, to date.

Do you intend to send a letter to your contractor explaining that you, on a four million dollar contract, sent them a letter containing erroneous information and that you're sorry that you hadn't sent them another letter until this hearing and we asked you a question about it, explaining that your letter was erroneous?

MR. BRUDER: That would be advisable.

CHAIRPERSON BERRY: I see. Okay.

Now, would DBT officials be willing to submit to a deposition for follow-up questions to this witness, because we do not have time to ask you all of the questions we would like to ask you?

If that's possible we will say yes and go on, and if not we'll stay here and keep asking you questions.

MR. ADORNO: We'll submit to depositions.

CHAIRPERSON BERRY: All right. Thank-you very, counsel. It will be within the thirty day deadline, because we have a report to do.

All right, hearing nothing else, I will thank the panel and say to you, thank you very much for coming and there are sign-out procedures that you will engage with counsel, but you are excused.

(Whereupon, the witnesses were excused.)

CHAIRPERSON BERRY: We will call the next panel with apologies, our sincere apologies to you for the delay.

**Broward County Public Officials**

CHAIRPERSON BERRY: The next panel would be from Broward County Public Officials and the Honorable John E. Rodstrom, former Commissioner, and Chairperson of the Board of County

Commissioners, Suzanne N. Gunzburger, Robert J. Desjarlais, the Honorable Miriam Oliphant, and former Supervisor of Elections, Jane Carroll, and Sheriff Ken Jenne. Please come forward. Let's get the names straight.

And when you come to the table, and you all have your names in front of you, it would be nice if you would remain standing or rise if you already sat down, and I apologize. When we're all in order here we'll take the oath.

Everybody, could you raise your right hands, please?

Do you swear or affirm that you will testify truthfully to the best of your abilities?

(Whereupon, the witnesses were duly sworn.)

CHAIRPERSON BERRY: Please be seated. I will ask that cell phones be turned off. If cell phones ring we will ask the Marshals to identify the culprit, unless it's my cell phone in my briefcase that I forgot to turn off, and they will be removed from the room.

(Laughter.)

CHAIRPERSON BERRY: Counsel, could you please proceed, counsel Debbie Reid, with the questions you would like to address to the witnesses on this panel.

MS. REID: Thank-you, Madam Chair.

A few of our witnesses from Broward County have some documents pursuant to our subpoena duces tecum.

First of all, good afternoon. Nice to meet you.

The first person, we'll start with Mr. Rodstrom. Mr. Rodstrom, are you currently the Chair of the Board of County Commissioners?

MR. RODSTROM: I am, yes.

MS. REID: You are here in response to a subpoena; is that correct?

MR. RODSTROM: That is correct.

MS. REID: Did you bring the documents with you in response to that subpoena?

MR. RODSTROM: I believe my attorney has done that, yes.

MS. REID: All right. The documents that you brought, are they fully representative of those in compliance with the subpoena?

MR. RODSTROM: To the best of my knowledge, yes.

MS. REID: Madam Chair, I would like to ask that these documents be received into the record and that the clerk number them consecutively.

CHAIRPERSON BERRY: Without objection, so ordered.

MS. REID: Next we'll go to Mr. Desjarlais. Mr. Desjarlais, are you currently the Broward Administrator for the County Board of County Commissioners?

MR. DESJARLAIS: I am.

MS. REID: You're here in response to a subpoena; is that correct?

MR. DESJARLAIS: Yes, I am.

MS. REID: Did you bring the documents with you in response to that subpoena?

MR. DESJARLAIS: I have.

MS. REID: Very well. Do the documents that you brought with you, do they fully comply with the subpoena?

MR. DESJARLAIS: To the best of my knowledge.

MS. REID: Madam Chair, I would like to request that these documents be received into the record and that the clerk number them consecutively.

CHAIRPERSON BERRY: Without objection, so ordered.

MS. REID: Next we'll go to Ms. Oliphant. Ms. Oliphant, are you currently the Supervisor of Elections for Broward County?

MS. OLIPHANT: Yes, I am.

MS. REID: And you're here in response to a subpoena?

MS. OLIPHANT: Yes.

MS. REID: Did you bring the documents with you in response to that subpoena?

MS. OLIPHANT: Yes, all documents requested by the Commission are being submitted at this time, with one exception. Items requested in Number 26 are currently being copied and will be provided to the Commission as soon as possible. I anticipate that this will be completed early this week.

MS. REID: Early this week?

MS. OLIPHANT: Yes.

MS. REID: Is there a particular date?

MS. OLIPHANT: Next week.

MS. REID: Next week, okay.

MS. OLIPHANT: The end of next week.

MS. REID: Madam Chair, is that acceptable?

CHAIRPERSON BERRY: That's acceptable.

MS. REID: Do you agree to fully comply with the subpoena?

MS. OLIPHANT: Yes.

MS. REID: Thank-you. And Madam Chair, I would like to request that the documents that were brought today be received into the record and that the clerk number them consecutively.

CHAIRPERSON BERRY: Without objection, so ordered.

MS. REID: The last person is Sheriff Jenne --

CHAIRPERSON BERRY: And the documents that will be submitted will also be introduced into the record and numbered consecutively, the ones that will come next week.

MS. REID: Thank-you, Madam Chair.

The next person is Sheriff Jenne. Sheriff Jenne, are you currently the Sheriff of Broward County?

SHERIFF JENNE: Yes, I'm Ken Jenne and I am the Sheriff of Broward County.

MS. REID: All right, and you're here in response to a subpoena?

SHERIFF JENNE: Yes, I am.

MS. REID: Did you bring the documents with you in response to that subpoena?

SHERIFF JENNE: I did.

MS. REID: Do the documents that you brought with you today fully comply with the subpoena?

SHERIFF JENNE: They do.

MS. REID: Very well. Madam Chair, I request that these documents be received into the record and that the clerk number the consecutively.

CHAIRPERSON BERRY: Without objection, so ordered.

You may proceed with any questioning.

MS. REID: At this time I would like to allow the witnesses a chance for an opening statement.

CHAIRPERSON BERRY: Brief opening statement.

MS. REID: Brief opening statement. And we'll begin with Sheriff Jenne.

SHERIFF JENNE: Yes, ma'am.

Briefly, and I'd like to submit if the Chair will allow, a longer statement that I have.

CHAIRPERSON BERRY: All statements that are submitted will be included in the record.

SHERIFF JENNE: Thank-you, ma'am.

As Sheriff of Broward County, the Sheriff's Department had an obligation that was three-fold on election day.

First of all, we appointed all poll deputies at \$90.00 a day for every polling place. On the 7th of November there were 558 poll deputies and one poll deputy coordinator. The role of that deputy, poll deputy, is very limited; that is, to provide security outside of the polling place. When polls closed at 7:00 p.m. the precinct clerk directed the poll deputy then to stand at the back of the line of those people voting and to make sure that no additional

people came into the line, but those in the line at 7:00 would continue to vote.

Secondly, certify deputy sheriffs were hired by the Supervisor of Elections Office to deliver the ballots, transfer cases from ballot drop-off points to the voting equipment center.

And then third, there is a Statutory duty of the Sheriff's Department to watch for and investigate any election law violations or complaints.

Those are the three provisions that we're obligated to do.

To my knowledge, the Broward Sheriff's Office received no allegations of mistreatment or misconduct at any polling place open during the 7th of November general election.

The Sheriff's Office was concerned about two election issues, two issues on election day. One was the long lines of voters at several polling places, and two, erroneous reports about a missing ballot box broadcast during network news on election night.

After the polls had been closed on the 7th, had been opened on the 7th, I discussed reports that there were very, very long lines with the Attorney General of the State of Florida, Mr. Butterworth. We also discussed those reports that phone lines to the Supervisor of Elections Office were overloaded and voters and

poll workers with questions were unable to get through.

I then spoke to the Elections Supervisor, Ms. Carroll.

It was decided that I would hold an informal news conference to ask voters frankly, to be patient and encourage them to return later in the day if they could not vote then, and also reminding them that any voter that was in line at 7:00 had the right to vote, that they would not be precluded if they were in line at that particular time.

Also, we were explaining to people, what they were asking, most of the calls that were coming in where to vote, that they could get that on the election Supervisor's website where they could vote, and we were assisting there.

Second issue, Madam Chair, was the question of after the polls closed, NBC News and CNN erroneously, and I want to emphasize that word erroneously, reported that ballot boxes were missing from several precincts in Broward County. Ms. Carroll, the then Supervisor of Elections, was able to clearly clarify that some ballots had arrived late but none had ever been missing or misplaced. All the deputy sheriffs had taken it from the transport point.

The point is that several of those lines were very long, voting lasted later than -- much later than 7:00. They were in the process of being transferred. There was a delay but it was a

delay that was normal in the process, as I understand it.

The Commission as asked whether the Sheriff's Office had scheduled any roadblocks or traffic check points on the 7th of November. I have no knowledge of that but I also checked with every one of my records. No check points were in operation at any time on the 7th of November, and to my knowledge, whenever a detention stop had been made in Broward County on the 7th of November, there -- well there may be some complaints of people that they were arrested, there were no complaints by anyone to me or our internal affairs, professional compliance or anyone else that it was an attempt to interfere with the right to vote.

The Commission has also asked I understand, I'm trying to get through some questions that we were asked by staff about police presence at polling places. I want to emphasize to you if it has not been, and if it has I apologize, but I'll still go ahead, what the Florida law, and that our deputy sheriffs are not allowed, are not allowed inside polling places without the permission of the polling clerk or at least three people, a majority of those clerks there, except to cast their own ballot.

Nevertheless, there's two exceptions to that. One, we had one deputy sheriff who was the polling supervisor who was on roving patrol to make sure nothing was occurring on election day, as

we do on every election, in an unmarked vehicle, went to the various polling places. And the second reason that patrol cars might be at a polling place, that under Florida law, if the sheriff agrees, that deputy sheriffs can vote during their work day, so they may have been there voting in uniform as well as with a marked car.

Post-election the Sheriff's Department provided security at the Courthouse and also at the Emergency Operations Center where a manual recount took place.

I issued a general order, which is an attachment, an exhibit that I have given to you, that clearly states at that time our duty was one, and that was to provide security at the Courthouse, provide security at the Emergency Operations Center. We were not to engage in any fashion into the political discussion or the Governmental discussion of how those ballots would be accounted.

I made it clear to both the Chairman of the republican and democratic party in Broward County that we would enforce the letter of the law for both parties. During demonstrations outside of the Courthouse, one person was arrested. That person was intoxicated and had gone over a line that we had suggested they not.

That happened to be a republican going into the democratic lines. That person was removed, given a Notice to Appear. We actually did not have to take that person to jail.

To my knowledge, the Broward Sheriff's Office received no complaints and detected no violations of Florida's Election Law on the 7th of November during the recount.

CHAIRPERSON BERRY: Your time is up.

SHERIFF JENNE: Thank-you, ma'am.

CHAIRPERSON BERRY: Thank-you very much. Go right ahead, counsel.

MS. REID: Next we'll go to Ms. Oliphant.

MS. OLIPHANT: I think it's important that you know that I am the newly elected Supervisor of Broward County, and I take fully responsibility for that office effective January 2, 2001 and not before.

MS. REID: Thank-you very much.

(Laughter.)

CHAIRPERSON BERRY: Let's move on.

MS. REID: Mr. Desjarlais.

MR. DESJARLAIS: I have no opening remarks.

MS. REID: Mr. Rodstrom.

MR. RODSTROM: I am the Chairperson of the Board of County Commissioners in Broward County, Florida. I took that position after the election and during the time of the election I was an incumbent County Commissioner running for re-election. I

know of no instance and my office knows of no instance where anyone made a complaint about their civil rights being violated.

MS. REID: Thank-you. Ms. Carroll.

MS. CARROLL: I am the former Supervisor of Elections of Broward County. The election cycle of three elections, September, October and November, begins with candidate qualifying in July. Voter registration is on-going since the inception of NVRA and doesn't reach the high intensity just prior to the twenty-nine day book closing that it used to.

Ballot lay-outs are completed after qualifying. Ballot printing follows. Absentee ballots are then available for in-person mail and supervised nursing home voting. Voter rolls are up-dated on a daily basis with new registrations, address changes, absentee voting status, if any.

The precinct registers are printed as late as possible to be distributed to the precinct clerks the day before the election.

Voter I.D. cards are mailed to all new registrants, to those who make changes in their registration, and to those where it's necessary for the Elections Office to change a polling place. The cards contain all pertinent information, such as the address of the polling place, voter information in districts for Congressional,

State, House and Senate for that particular voter.

Sample ballots were advertised in the local newspapers of general circulation prior to the first two elections, which were primaries. Sample ballots were mailed to all households with one or more registered voters prior to the general. These were mailed no later than ten days prior to the general.

Broward County had eighty-eight ballot styles and that's the reason for the mailing. The format of the sample ballot is exactly as it appears in the precinct for that voter with the exception of Municipal elections which individual cities may have added to the November general. This is a practice that was discouraged by the Supervisor of Elections Office due to the fact that adding to an already long ballot would increase the lines at the polls and that a special act of the Florida Legislature provides March as the appropriate time for Municipal elections.

The sample ballot booklet also contains information on the voting system, which is punch cards in Broward, and instructions on how to use this system, including the statement, if a voter makes a mistake he should return that ballot and obtain another one. This information also appears on a tile found on the inside of the unit used by the voters at all precincts.

The sample ballot also has information on how to vote

for a write-in, an application to be a poll worker for future elections, a reminder that the address of the polling place is on your voter registration card, that you'll be required to show picture I.D., or minus that, complete an affidavit verifying your identity, and that all the information is available in other formats and in Spanish.

When a voter arrives at a polling place on election day he is requested to observe a demonstration on how to use the voting system. After, that voter is then directed to the appropriate precinct register. In a primary the registers are in alpha order by political party or no party, which would include minor parties. In a general the registration books are in total alpha order.

There are placards clearly directing the voter to the correct register. If the voter's name appears on the register he will show picture I.D. or utilize the affidavit, sign his name or mark. If the signature matches the one pre-printed on the register the voter is issued a ballot with a gray security envelope which contains write-in provisions for general elections.

The worker will ask if the voter still resides at the address on the register, as Florida law requires a voter vote in the precinct in which he resides on election day. Address changes can be made on election day and the voter is then directed to the proper

precinct. Of course the voter should have notified the Elections Office of the new address prior to election day for the benefit of all concerned, especially himself.

If the voter's name does not appear on the register a call to the Elections Office is necessary. Calls will be difficult on the day of a major election. There's no phone system available that will handle the volume of thousands of calls at a given time and have knowledgeable and competent people to answer those calls. Responsibility of the citizen to keep the records up to date is essential so that the truly unavoidable calls can be handled.

Now we get to the people who actually conduct the election on election day, the poll workers. When the polls open at 7:00 a.m. on election day, everything is in their hands. For this reason training has been a priority for the many years while I was Supervisor of Elections.

While many methods of training have been used and all have had merit, I feel that the last method was most successful. It was what was the state of the art at this time, training the trainer. Under this concept through roundtable discussions with many precinct clerks in small groups, key leaders were asked what we call to be regional clerks. Each one was assigned approximately fourteen precincts. Their responsibility was to train all the poll

workers in their precincts in a session that lasted approximately two hours.

If the regional clerk wanted, a resource person from the Supervisor's staff attended the session. The regional clerks attended a one-day training session where they were trained by staff members and myself. All necessary materials were distributed to them.

They became a layer between the Elections Office and the poll worker. Each one had a cell phone and could be reached at all times with a problem. Some precincts had several visits during the day from their regional clerk. The comments from precinct clerks were very favorable.

Prior to the general, another refresher training course was held for a half day where the regionals --

CHAIRPERSON BERRY: You have to start summing up. Your time is up. Your entire statement will be in the record.

MS. CARROLL: Some of the others did relinquish some of their time.

And supplemental training inserts were distributed. Enough supplements were given to each precinct clerk and worker to have one. Now the poll workers and regionals were comfortable with one another and the visits by the regionals to the precincts were

even more meaningful.

The poll workers had a very comprehensive work book which was used in their training session as a reference on election day. They had an operations check list, a during the day list, after the polls closed list, and a supply list. Trouble shooters were available with necessary supplies if any were missing.

The poll workers set up and checked the election equipment for the proper ballot function. A wheelchair accessible voto-matic was supplied to each precinct, three in the primary due to the different ballots. The various functions needed for the day were assigned by the clerk in charge.

If no phone was accessible for the twelve hours while the pools were open a cell phone was supplied to the clerk. If a voter needs assistance he may bring someone of his own choosing or use two poll workers. Curbside voting is available if the voter needs it. All polling places are to be accessible to those who need special access.

Sensitivity training is included in the instruction book. Prior to the March Presidential Preference Primary, members of the Broward County ADA Commission spoke to the precinct clerks.

When the day is over and the voter has voted the clerk and the assistant clerk bring all of the voted ballots and other

materials to the counting center. Lines at some precincts were long at the Presidential. However, at other elections and in many precincts, even during the Presidential, there are no lines. Lines should be encouraging, not discouraging. They show that people care. A line at a restaurant means it's very popular. We should all hope that voting is and always will be popular.

MS. REID: Thank-you very much. Commissioner Gunzburger.

COMMISSIONER GUNZBURGER: I have no prepared statement. I, as Chair of the County Commission, became involved once the polls closed at 7:00 p.m. and I was involved in the counting, and as many of you may know, in the recounting.

MS. REID: Let me begin first with Sheriff Jenne.

You mentioned before that there was erroneous information put out there in the media about a missing ballot box.

SHERIFF JENNE: Yes, ma'am.

MS. REID: What exactly is your policy for handling ballots and ballot boxes during elections in Broward County?

SHERIFF JENNE: If I am, ma'am. Our deputies are hired by the Supervisor of Elections in the process, and Ms. Carroll may want to elaborate that this is how it's done. The ballot box at the precincts is taken by a poll worker to a central area where one

of our deputy sheriffs picks it up and then brings that, all of those cases to the central counting area.

MS. REID: Okay. And in reference to your testimony about there were no check points and road blocks in the County on election day, and you received no complaints of such, is that the usual procedure for a citizen who may come upon a road block or a check point during an election, would they complain to your office or would they go to some other entity?

SHERIFF JENNE: I would presume that if it was a road block by the Broward Sheriff's Office, they would come to my office or to professional compliance within the Sheriff's Office. Neither my office nor professional compliance received any complaints, because in the past there has been no official policy of having or not having a road block on election day. They just had not occurred. I have been Sheriff for the last three years and we have not received any complaints.

MS. REID: How do you feel about that policy? Do you think there needs to be a certain policy for that on election day?

SHERIFF JENNE: There is a policy that is -- I've asked our folks to create a standard operating procedure which has not been developed that will prevent road blocks unless there is a public safety necessity on election day. There may be some public

safety necessity, but for -- because if I am elaborate. The only real reason that you're going to have a check point; two, is one for DUI under the State of Florida, and then the second is for the -- if the vehicle is under proper repair, traffic type of concerns. And a check point, as you know, is merely taking it down to one lane.

Since elections are from seven to seven, I never conduct a DUI check point frankly during daylight hours. I think it would not be productive to anyone.

And the second question is on traffic repairs; that may be, but frankly we could do it on a Monday or Wednesday just as easily on election day.

MS. REID: Thank-you. We're going to turn to Ms. Carroll now as a former Supervisor of Elections for Broward County.

Previously in our hearing we received testimony about the difficulties that disabled voters in Broward County had in assessing a polling place. Specifically, the testimony that we received mentioned Precinct Number 417, which is a recreation center and it's located in Dania Beach, Florida.

This witness testified --

MS. CARROLL: I'll tell you that is not a precinct number in Broward County, nor is that place that you named. Are you sure it was Broward?

MS. REID: That's what the witness stated.

MS. CARROLL: We don't have a Precinct 417, or we didn't when I left.

MS. REID: Well, let me just continue and let you know the problems that the witness said that he had.

The witness was Frederick Shotz who appeared before us earlier today. He mentioned that the polling place that he appeared, there were problems with having access to getting over a curb, getting over a curb to reach the polling place, the parking places were inaccessible, and the ones that were there were occupied by non-disabled people.

Other problems that he noticed, there were a number of elderly and other disabled people who attempted to access the polling place, requested assistance from the poll workers at that particular location and they were told by the poll workers, allegedly, that they were too busy to assist them.

And my question is, given the fact that -- according to Florida Elections Laws, Section 101.715, which I'm sure you're very familiar with, that the Supervisor of Elections shall only select as polling places, this is Subsection 3, sites which meet the standards of accessibility described in Subsection 1, except the Supervisor may select a site not meeting the standards if no other accessible

locations are available within the precinct.

And my question to you, what type of accommodation did you make to make polling locations accessible to disabled voters pursuant to Florida's Election Law?

MS. CARROLL: We sent staff members out, divided up the number of precincts; Broward County had 618 precincts, 609 of which were in use that election day. We sent staff members out to assess all of the polling places and fill in the sheets that were recommended by ADA. If the precinct didn't comply, our person in charge of polling places went out and tried to find something in the precinct or adjacent to the precinct that could be used as a polling place.

At the time the assessments were done, he reported to me that they were all accessible. Those few that didn't have ramps or needed them, ramps were supplied. There were very few of those.

We do have curb side voting which does not completely comply with the ADA, but it is available to anyone who feels that getting into the polling place is difficult or hazardous or would just be more comfortable by using the curb side voting. I know one of your witnesses today said that that was a myth. However, I imagine you heard me report to you that we do have it. It is in all the poll worker instructions. They all know about this. This can

be done with the particular voting system that Broward County utilizes at this time. It could not be done with all systems in all places.

Accessibility is very important, but to my knowledge, it was reported to me they were all accessible.

Now as far as parking places are concerned, we can't control that on election day. However, Florida does have a heavy fine to be imposed if those places were occupied by people who did not have handicap stickers. So that should have been reported to the proper law.

MS. REID: Okay. The witness also indicated that, according to your former office, that a transitional plan for inaccessible polling places was to allow absentee voting for disabled voters; is that correct?

MS. CARROLL: Well of course, absentee voting is available to anyone who needs to avail himself of that. But that's not a transitional plan for polling places not being accessible. The curb side voting is in the transitional plan if a polling place isn't accessible.

Voting by absentee is a choice that the voter makes and it is definitely available to everybody. But we don't use that as an alternate to being able to get into the polling place. That's

not even really allowed under ADA.

MS. REID: Okay, so that's not correct, is that what you're saying?

MS. CARROLL: That's not correct. And if someone did tell someone that, and I believe I heard him testify that he was told that he could vote absentee, he may have been told that he could vote absentee but it cannot be required that you vote absentee. You must have an accessible place if at all possible and you're read the choice if it isn't possible what you're supposed to do.

MS. REID: Okay. And in relationship to that question, how many potential polling places did you uncover when you were looking for polling sites in preparation for the November election that were inaccessible, and according to the Statute once again -- the regulation once again, 101.715, Subsection 4, when you find those places you're supposed to refer, file a report to the Board of County Commissioners who are supposed to take affirmative steps to make the polling place more accessible.

How many places did you find that fit that criteria?

MS. CARROLL: I could not tell you an exact number because it wasn't done just prior to the November election. It was done in 1999 to be ready for the 2000 elections, which we had four,

March, September, October and November.

As far as referring them to the Board of County Commissioners to make them accessible, to my knowledge we didn't refer any to the Board of County Commissioners. I think under Florida law, while it may say that, the Supervisor of Elections is responsible for polling places and we've never felt that we should ask the Board of County Commissioners to make them accessible, although all funds come from the Board of County Commissioners. So when we request budgetary funds for additional ramps, in essence that would come from the Board of County Commissioners.

I couldn't give you an exact number though without going back to the records and looking at them.

MS. REID: Okay. Well, just for the record, the Florida Election Laws do require that when you find these polling places you're supposed to refer -- identify them and refer them to the Board of County Commissioners who are supposed to take affirmative steps, which leads me to ask, Ms. Gunzburger, as the former Chairperson of the Board of County Commissioners, to the best of your knowledge, did you receive any reports from --

COMMISSIONER GUNZBURGER: We received no complaints. The only thing that we could see, and that was only visible on the re-count, was that there were some voto-matics that were

malfunctioning by the nature of some of the ballot cards.

MS. REID: Okay, but no information you got from the Supervisor --

COMMISSIONER GUNZBURGER: None whatsoever.

MS. REID: -- of Elections Office about inaccessible places?

COMMISSIONER GUNZBURGER: No.

MS. REID: Okay. Ms. Carroll, again, what type of training did you provide to poll workers on assisting disabled voters who may need assistance?

MS. CARROLL: In the manual that I mentioned to you, the work book that's given to the poll workers and at their training, we go rather in depth with that. We have two pages in the book that talks about assistance to the voter, but it also talks about sensitivity training which we were requested by the local Commission on ADA to have for the poll workers, and that they not give assistance that may not be wanted or may be offensive.

But as far as the part, assisting the voter to actually vote, Florida law very clearly provides that the voter may bring someone of his own choice to assist him, or two poll workers. In an election where both parties are voting they have to be of opposite parties, the two poll workers. That part is very, very clear.

But the assistance, if you mean such as getting into the polling place and having enough space between everything to move a wheelchair, all of those provisions are in the book, which is an attachment to this report that I rather hastily finished and had to gloss over because time was running out.

MS. REID: In retrospect, can you make any suggestions to our current Supervisor of Elections regarding making polling places more accessible or things that you think that could have been done to correct any potential problem?

MS. CARROLL: No. If we knew of a problem we did do everything we could to correct it. However, there are situations, particularly in schools, where they moved the polling place from the part of the school that we've checked and found to be accessible and we don't know that the principal of the school is going to do that on election morning and later in the day we get a report that it's been moved to a different area of the school. That's out of our control and is out of the control of any Supervisor of Elections.

But I certainly have no suggestions to make, because if I knew what to do at the time I certainly would have done it. It's almost impossible to have everything function in a perfect way in 609 places with 4000 poll workers and 588,000 people trying to vote in one day.

MS. REID: In your response you mentioned the fact that a polling place had been moved. We reviewed testimony from the November 11th NAACP Public Hearing that was held in Miami on election day "irregularities, and during that time a witness testified that there was a complaint about a polling location at Plantation Elementary School, which was demolished prior to the November election, and various potential voters in that polling location could not find the polling place where they were supposed to go because there was a vacant lot there.

I believe that the polling site was moved to a new location, now termed as the New Plantation Elementary School, but that caused some confusion on election day.

Additionally, there was another polling location in Broward County, I believe in Pompano Beach, the branch Eli High School polling site, which is located in a predominantly African/American community that was moved to another location without the local residents' prior knowledge.

And my question to you is, what type of notification does your -- did your office provide to local residents who somehow the polling location wasn't there, closed, shut down early? I mean what's the usual procedure for that?

MS. CARROLL: When I said that the principal of the

school sometimes move the polling location, I didn't mean he moved it to a different building. I mean he moved it from one room in the school that we had checked and found to be accessible to another. For instance, they might be voting in the library which is very accessible and the principal may, that morning without telling us prior to that, move it to some room that is not accessible, that doesn't have the proper width of the door or whatever is required.

As far as if a polling place is moved and we know this prior to the election -- I read that in part of this report, but I apologize that I had to read as fast as I did -- we send a new voter I.D. card to the person giving him the address of his new polling place. If it's a temporary move we send a letter to the voter letting him know.

The case that you mentioned where the school was torn down, obviously that would be a permanent move if they had already built a new school. I'm not personally familiar with all 618 of the polling places in Broward County. However, I'm very familiar with Plantation Elementary since two of my children attended that school. I'm certainly sorry to hear it's been torn down.

But if they built a new school in its place, then the voter would have been notified if that school was at a new address.

MS. REID: And if somehow there was some falling

through the cracks type of situation where the various voters did not receive the letter or somehow were not notified, is there another mechanism for them to assure that they cast their votes?

MS. CARROLL: Well, if it's a move that we consider a last minute move we post a notice at the place from which it was moved. For instance, at one of the primaries a polling place burned down the Saturday before and we posted notices there and the people in that particular development had people there ready to take the voters to the new place. In fact they even supplied a large van or a small bus where they would take them because it was a community. And that's one way that they're notified. There's nothing that you can do if it's as late as the Saturday before, if there's a fire, as far as getting anything to them in writing. But that was a temporary move until it was reconstructed.

We do the best we can to let them know. It's on the sample ballot that they get that their polling place address is on their voter I.D. card. And normally a public school, such as this Plantation Elementary, wouldn't move a great distance away because it's going to serve the same neighborhood. So it should be able to be found by people who live in that neighborhood.

MS. REID: Okay. I have another question to you, Ms. Carroll. In your prior interview with the Commission you indicated

that in your former position as Supervisor of Elections you did not support the continued use of the punch card voting system for Broward County's elections. As a result you requested budgetary approval to require the optical scan voting system from the County Commissioners each year from 1993 to 1999. And you stated that your requests were denied.

My first question is, why did you not support the use of the punch card system for Broward County?

MS. CARROLL: It wasn't that I didn't support the use of the punch card system for Broward County, and you notice I didn't address anything about voting systems in that because I think that's in the past and will be taken care of in the future. But I felt that newer technology was available and that the main problem really with the punch card system is the hanging Chad situation. It's not in the tabulation of the votes and I don't want to mislead anybody that I don't think the tabulation equipment reads it accurately.. It reads what it sees.

But I felt that the hanging Chad problem was one that could change in re-counts, had not actually changed an election at any point. But one of my statements was that at some point it could come home to haunt us with the hanging chards in some election that's close, but we may regret continuing with that system and that

a Chad may come and a Chad may go but an ink mark lasts forever, and that I felt that a marked sense system where somebody clearly marked it with either a marking pencil or ink would be very clear and not hard to determine the intent of the voter, whereas the Chad situation could be a problem, and it did prove to be one.

However, I don't want to say I told you so and I certainly didn't want to be proven right by the country suffering what the country suffered, and I don't say that the punch card system is totally bad and I don't say that any jurisdiction using it now should be questioned, because it will be used until something can come in its place and I don't want to create discontent or distrust with the voters, because I do think the tabulating system is very good, the software and the hardware to it. It is strictly the Chad problem, which everyone in the United States now knows about.

MS. REID: What rational, at that time what rational did the County Commissioners provide to you for denying your request for up-dating the equipment?

MS. CARROLL: Well, in '93 when all of this started and we went into a very serious long presentation on buying the new voting system, I entered every plea that I could, all but crying and getting down on my hands and knees to buy a new system, because I

knew the potential problems with the chards and I knew that better technology had finally become available. We purchased this system in 1974. So in 1993, nineteen years later, I felt that it was antiquated and I really did a lot of research on voting systems. And I think only the Commissioner should answer why they decided not to buy it. I don't really feel it's fair for me to quote what their reasons were.

MS. REID: Let me to do it the safe way. I'll go right to the Commissioners. Let me to go Ms. Gunzburger who was, I believe at that time, the Chairperson of the County Board of Commissioners.

COMMISSIONER GUNZBURGER: Not in '93.

MS. REID: Not in '93.

COMMISSIONER GUNZBURGER: Commissioner Portier was the Chair at that time.

MS. REID: Were you on the Board then?

COMMISSIONER GUNZBURGER: Oh, yes. Commissioner -- yes, ma'am, I was on the Board.

MS. REID: Okay. Well what was the rationale provided at that time for the denial?

COMMISSIONER GUNZBURGER: At that time we were told that for less than a half a million dollars we could fix any

problems we had with the punch card system, but to go into a new systems and the one that Ms. Carroll preferred, there was one maker that she preferred, would cost us close to three million dollars.

I am very penurious when it comes to other people's money and the voter's money is very important to me, and if I have a choice that I can fix something for half a million or three million dollars and it will be fine either way, I'm going to pick the less costly. It ended up being a lot more costly this November.

MS. REID: Did you want to add something, Mr. Rodstrom, to that?

MR. RODSTROM: I was just going to say, my recollection was that it was \$150,000.00 versus three million dollars, and at the time the State of Florida had us in a non-compliance situation, so we had to do something, so we chose the \$150,000.00 fix as oppose to the three million dollar fix.

MS. REID: Were there any State of Federal funds available to assist you in purchasing a new system?

MR. RODSTROM: Not to my knowledge at that time, no. And there was one other thing I think that I considered, was the fact that there -- Ms. Carroll represented about the mark sense system, but my recollection is there were not many vendors, as a matter of fact, just a handful, maybe even a couple vendors in the

country. It was almost a sole source kind of thing, and I felt that the technology needed to be proven before we were going to spend that kind of money and that there ought to be a number of vendors from which to select from in order to make the decision.

MS. REID: Could you just elaborate on what you mean by your system at that time wasn't compliant, the voting system?

MR. RODSTROM: I think Ms. Carroll could probably answer that. I don't know what was wrong with our system. I don't know what we spent the \$150,000.00 on, other than to fix it.

MS. CARROLL: Would you like for me --

MS. REID: Sure.

MS. CARROLL: Well, the State of Florida, through the Secretary of State's Office, certifies voting equipment. This is by Legislative action. And they re-evaluated the technology that was on the market at the time and being used in several counties in Florida, and the particular tabulating system that we were using, which was called CMX, which I'm sure means nothing to you all but it was the type of equipment we were using. It was a stand-alone large tabulation system where the card image was converted on to the computer and tabulated. They de-certified the CMX. So therefore, while we had a voting system, we did not have a tabulation system that was in compliance. That's the reason I knew that this was

happening for three years before it happened, because of the legislation and the take-over of these certifications procedures and the fact that we were notified that we were not going to be in compliance, or that perhaps they might re-evaluate it, but I knew that they probably were not going to because they had put up some very peculiar standards. It couldn't withstand temperatures below thirty-two and if dropped it had to be able to still function. Well, of course it weighed many hundreds of pounds and wasn't going to be dropped and temperatures in South Florida, especially in an air controlled system very seldom go below thirty degrees.

So I really felt maybe they would finally certify it. They did not. So I looked at other systems, went to the Commission and said, "We either have to get new tabulating equipment or buy a new system. I would recommend that we not put any more money into this system and that we go with a new system."

There were only two vendors at the time and incidentally, there are still only two vendors with precinct mark sense systems on the market, so we haven't increased the number of people. The only thing we've increased is the price, the 2.9 million it would have cost then has now probably quadrupled.

MS. REID: Thank-you. Ms. Oliphant, how are you preparing in your office for subsequent elections in Broward County,

particularly Presidential elections, and please address how you plan to respond to improving communication with your office with local polling precincts on election day, any potential plans you have for voter education and outreach.

MS. OLIPHANT: Thank-you. Madam Chair and members of the U.S. Commission on Civil Rights.

Recognizing the challenges that face us here in our County and throughout this nation in years to come, I think it's very important that we start working in a more professional sensitivity manner in our ways of communicating and getting the word out about voting.

I have been in office a little over thirty days and I've had the opportunity to meet with members of the staff, except for our former member, Ms. Carroll, who retired and left the State.

But I've had the opportunity to reach out to our educational institutions, our superintendent of schools, our president of our colleges, meeting with community group, community base organizations here, as well as the Clerk's Association, who our many Supervisors here in Broward -- we're in Dade County -- but in Broward County, as well as talking with our NAACP of Broward County, our delegation, you know, our legislators.

I think it's important that we have voter outreach

education awareness. And since I've been in office I have brought on board outreach specialists, community relations specialists, and people who have political experience.

I've also had the opportunity to meet with our Sheriff because we're Constitutional officers and there are only four of us in Broward County, and I think it's important that we have an open line of communication, that we share in the resources and that we are communicating.

I have put together a transitional team to do an extensive evaluation of the office. As I stated, prior to I had not had the opportunity to go into the office; I was a candidate. But my transition time is looking at all areas, human resources as well as the technology, the facilities and the educational outreach. And at this time they are deliberating and communicating with one another so that they can make recommendations to us.

My concern is that living in Broward County, the multi-culture, diverse population, and growth is a real issue there, that we must have adequate resources. We do not need to repeat what happened November 7, 2000. I know that there are many concerns about accessibility and visibility of the office. I have an election connection program in place where we're out in the community conducting voter registration drives. We're working with

our corporate people to educate their employees and how they can better work and accommodate and partner with our office.

I think it's very important that we realize that there are adults -- both adults are working now and that we have to protect but involve ourselves in democracy and we cannot do that alone. We have to work with the entire community.

I met with our legislators about getting additional dollars, because as Mrs. Carroll stated, our funds do come from the County Commission. I've attended also training and conferences so that I can learn more about other Supervisor of Elections Offices through the State of Florida as well as throughout this nation.

I think the more I learn the more I know and I know how to communicate.

MS. REID: Thank-you. Let me just interrupt you and ask you another question.

In relationship to your new position, do you anticipate that you could receive any additional Federal or State or local funding to obtain up-dated voting systems? I know you advocate the use of the touch screen voting system. That's part one.

Part two to that question, I know you are a former school board member for Broward County. In looking for polling places that are accessible to disabled, have you identified schools

that need ADA requirements for handicapped voters?

MS. OLIPHANT: I've had the opportunity to meet with the superintendent of Broward County schools and shared my concerns and experiences that I've heard in the past, and the superintendent is in agreement to work with me to do a complete evaluation of the schools as to where the polling places are, because my concern at that time was the disabled as well as the accessibility and the parking. And he agreed with me that we need to have some central locations on campuses and that principals do have the authority or the powers to, you know, designate where polling places are located, and I recommended the media center because the media center is accessible, there's more parking and you have the technology resources there, as opposed to the cafeteria or a portable or, you know, other facilities there.

As a former school board member, knowing the rules and the regulations and the policies, I think the superintendent and I are going to work very closely together.

As far as the new voting equipment, as we move into the twenty-first century, I've had the opportunity to look at the different equipment that's out there. As Mrs. Carroll stated, we have two that's certified and one will be disbanded soon.

I'm concerned about the blind, the disabled, because of

the ADA compliance and the laws that are mandated, whether they are funded or unfunded mandates, but I think that everybody should have the right and the accessibility to these facilities. The difference that I see with the electronic touch screen is that it provides services for the disabled, the blind. You know, it's more of just touch screen type and it converts.

Here in South Florida we have different languages. It's an opportunity to serve the different cultures that we serve here throughout our tri-county, whether it be Broward, Dade, Palm Beach County, but we are very diverse.

My other concern is the young people. We're losing people between the ages of eighteen and twenty-six, and I know in Riverside, California they have gone to the electronic touch screen and they have been able to accommodate the needs of the overall community, and in particular the young people, and I was very pleased to know that they had registered well over 45,000 young people between the ages of eighteen and twenty-six within a couple years period of time.

So again, we have to comply with the law. I'm working with our legislators. I'm working with the community and I think that working together we can do what's right for the people and with the people participating in the process.

MS. REID: Ms. Oliphant, are you aware of any specific irregularities that occurred in Broward County, voting irregularities that occurred in Broward County in the November, 2000 Presidential election?

MS. OLIPHANT: I was a candidate on November 7th, and as a candidate and working with my manager, there were people that were turned away because their names were not on the register or there were problems with the phone system and you know, as far as people trying to communicate with the Administration Office, but I cannot go into detail because I did not, you know, stop and take note. But I was very much aware of the long lines that took place in certain communities throughout Broward County.

And knowing that I'm not in a district, I run at large, you know, and I've had the opportunity to observe and hear the frustrations that occurred on November the 7th.

MS. REID: Mr. Rodstrom, how does the Board of County Commissioners plan to assist the Supervisor of Elections Office in addressing those problems that were evident during the November Presidential election, such as poll workers' difficulties with contacting Supervisor of Elections Office and areas of that nature?

MR. RODSTROM: The Board of County Commissioners has agreed and will and has -- we don't have a date yet but we will have

a workshop for the Supervisor of Elections. We were going to meet with her prior to the legislature getting together, but we felt that we should let the legislature do what they're going to do to see if there's any equipment requirements that come out of this legislative session and then at that point in time, sit down with Ms. Carroll and go over with her how to -- Ms. Oliphant, how to go over with her so we could fulfill her requirements.

MS. REID: Okay. Are you aware of any appeals process that's available to the Supervisor of Elections Office in terms of whether her budgetary requests are denied by you?

MR. RODSTROM: I am aware of that.

MS. REID: And what are they?

MR. RODSTROM: The President upheld that if the Supervisor of Elections deems that the Commission's too harsh on their budget, doesn't approve their budget, they then have the ability to appeal that budget to the Florida Cabinet.

MS. REID: Did that ever happen in your case, Ms. Carroll?

MS. CARROLL: Well, Commissioner Rodstrom was so kind to address me as still being the Supervisor, I hate to correct him, but we don't have. The Supervisor of Elections is the only Constitutional office that has no appeal process.

MR. RODSTROM: I stand corrected then.

MS. CARROLL: So if they don't approve it that's it. That's why I cried and got down on my hands and knees back in '93 and begged them, because I knew they were my last resort.

MS. REID: All right. Mr. Desjarlais, what's your primary area of responsibility for the Board of County Commissioners and what role do you play in assisting them and fulfilling -- approving funding for Supervisor of Elections Office?

MR. DESJARLAIS: My job is created by the Charter for Broward County and responsible to the Board of County Commissioners for creating and providing to them a balanced budget annually, as well as reporting all financial matters to the Board of County Commissioners, creating a five year capital improvement project as well as managing all of the day to day business of the Broward County Government on behalf of the Board of County Commissioners.

In response to your second question, responsibilities with regard to recommendations to the Board for the Constitutional officers, it is my responsibility to review those budgets submitted to the Board by the Constitutional officers and then make recommendations to the Board.

MS. REID: Thank-you. For the record, I refer to testimony of a previous witness who is disabled and he was not in

the -- the precinct number that I referred to was 417, erroneously. It was 412, the City of Dania -- oh, 41Z, the City of Dania Beach, Florida.

Are you familiar with that particular polling place, Ms. Carroll?

MS. CARROLL: Actually, no. As I told you there's 618 of them and I'm not conversant with every precinct and every detail of every precinct. Is that the one you told me that there was some stumbling block as far as being able to get into the precinct?

I'm quite sure that will be investigated, all of those complaints. All of the polling places are either made compliant or moved to a different one as soon as we're aware of that fact.

Actually, that's an unincorporated area, 41Z. It's not really in the city limits of Dania Beach.

MS. REID: Thank-you, panel. I have no further questions at this time. Madam Chair?

CHAIRPERSON BERRY: Any Commissioner have any questions for this particular panel?

Commissioner Wilson?

MS. WILSON: Yes, I'm afraid I do.

CHAIRPERSON BERRY: That's all right.

COMMISSIONER WILSON: Ms. Oliphant, congratulations.

MS. OLIPHANT: Thank-you.

COMMISSIONER WILSON: I was heartened to hear what you had to say, but I was also a little bit concerned because we've heard testimony in Tallahassee from college students, college and university students and people who had worked with helping to register college and university students who had said that they had been registered by the thousands and they were all excited, as they should have been and rightly so to be voting and were, of course, devastated when they didn't get their cards and they weren't able to vote.

And so it seems to me that there's an issue here, not about people wanting to vote, but they register and then the system doesn't somehow allow them to do that. And I was wondering what you plan to do, if anything, in terms of rectifying that?

MS. OLIPHANT: Thank-you, I appreciate that. Allow me to elaborate a little bit more.

As I stated, I have had the opportunity to meet with the president of the university -- community college as well as the university and we've come up with some excellent ideas. We're looking at doing research and evaluation to come up with a very solid program for our college campuses. And here just in Broward County what I'm looking at is doing a liaison on each campus on

voter education and awareness.

We're also -- I had a couple of professors come to me who do a survey with the college students on different needs and how they would like to involve themselves. I think it's very important that we find a way to keep our younger people involved in the process. You know, so many things happen every day that's so discouraging to them, and the accessibility. You know, the internet voting is something very popular and right now people think that you can, but you can't, and everything is mandated by law. But I think my professionalism and my relationship with the university's president, we're going to be able to develop a very good and positive program so that we can reach out to those young people and keep them informed. Most of them have technology and they're always on line, you know, searching.

But again, I'm not aware of students that were away, because other than they thought that they could vote where they were relocated -- say for example if they were in Tallahassee and they were registered voters here in Broward, they could have done absentee voting. But some of them, and this is what I just heard, that they went to vote in Tallahassee and they could not. And I think that's what we need more voter education informing them as to not just that you're a registered voter, but how to vote, when to

vote and what the issues are that are out there.

COMMISSIONER WILSON: Well, I just want to ask another question, because it seems to me that it isn't just with -- I mean we heard witnesses here earlier today who had been told that they couldn't vote and they still didn't know what -- I mean they still weren't really registered. They had been told for whatever reason that, "Your name has been taken off the roster," or whatever, and these people still didn't know if they could vote. And these kids seem to me to be interested and wanting to vote, but somehow there's some kind of major disconnect so that it seems to me that what's important that it somehow has to be made easier and that there is an assurance that they are registered.

MS. OLIPHANT: Commissioner Wilson, as I stated before, I take full responsibility for the office as of January 2, 2000, but anything that happened, you know, prior to that, I cannot give you explanations. But I can only tell you what I have done within the thirty days that I've been in office and I am aggressively working with the community, whether it be through community based organization, through our colleges or, you know, voter outreach and awareness.

I think that we need also more funding for public service announcements, you know. It's very important that we reach

our young people because history is so important to us. So many people have died for us to have the right to vote, and for them to not vote for whatever reasons, I think that it's a priority of this community, and I will continue to work aggressively to reach out to, not just the young people but understand that we are in a very diverse, multi-cultural population. It's our responsibility to make sure the information is out there.

And I just want to say that I had a prior election, my first primary in Dania, Florida on February the 13th, and the preparation I think is very important, with the poll workers, you know. We have poll training with our poll workers. We conducted four hours of training for them. We had signage out there at the polls. There were public service announcements in our local newspapers informing them on simple things, small things that we take for granted. A lot of people think the voting machines have changed. They have not. We're still using the voto-matic. And I was taken by surprise, even people that you think would know that it just doesn't happen like that, it's mandated by law and it probably won't go into effect until 2002, but again, it's my responsibility as a Supervisor of Elections, is to try and inform the voters as much as possible about what changes are occurring, what to prepare when you go to the polls. We are still using the punch card. Check

your punch card for hanging chards, dimples or pimples or whatever may be out there. But again, we have to work and communicate effectively.

And I also want to say, and I thank my Commissioners for being here and the County Administrator, because they have opened their doors to me since I've been in office and we have been working very closely in a very professional manner.

CHAIRPERSON BERRY: Are there other questions?

COMMISSIONER WILSON: My last question and then I'll be quiet is -- I promise -- is your budget. How have you tried to increase it and have you put forth plans to increase it and by how much?

MS. OLIPHANT: Thank-you very much. Yes, I have had the opportunity to speak with the County Administrator and he has given me to go ahead to go ahead and prepare a budget. I'm looking at more outreach education out into the community voter registration.

I inherited an office that does not respect the community in which it serves. We have different languages in Broward County. I'm concerned that when I got into a community, whether it is the Haitian/American community or Hispanic community, that I have the diversity that I need and the professional

communication to go in there and communicate. So through our outreach, we have branch offices. We have four offices other than the main office. I am looking to expand staff and bring in he resources into that office so that we can go out into the community and better work and communicate and educate people on voter education awareness.

I right now operate on a five million dollar budget with approximately about sixty-one employees. Since I've been in office I have brought in maybe about six additional staff people to work with me on community relations. I am anticipating with the new voting equipment that we're going to be looking at some additional dollars. Right now the price tag for the machinery, the jury's still out on that, but I know that reapportionment coming up. We have 618 precincts. It's probably going to double. The Census 2000 Report will be released hopefully by April. And again, there's going to be additional dollars for technology, for the training of the people and other outreach services.

So we're talking, and I mentioned to the Chairman of the County Commission, maybe an additional two million dollars. I do know how to shop and bring home the bacon but again, my concern is having the resources so that I can get my job done.

We are preparing right now proposals, budget, monies

that we have inherited are expenses that we have inherited from the prior election, you know, the legal fees and other things that it took for us to prepare the re-count. That has become, you know, a responsibility of ours. But again, the County Administrator has asked us to prepare, you know, our bills and prepare to submit it. But we are working on our new budget for 2001/2002. So we're talking -- taking all that into consideration, you're talking about a large sum of dollars.

COMMISSIONER WILSON: Okay, thank you.

CHAIRPERSON BERRY: Anybody else?

Commissioner Meeks.

COMMISSIONER MEEKS: For Sheriff Jenne. We had testimony from someone this morning from Broward County that said that she -- her polling place was Fire Station, Miramar Parkway. That she arrived at the polling site at 6:58 and was stopped from voting, but that there were people behind her that were allowed in.

Do you have any knowledge of that?

SHERIFF JENNE: No, ma'am. As a matter of fact, if I could respond to it, Miramar is one of the municipalities that are not in our jurisdiction. So if it was law enforcement it would not be the Broward Sheriff's Office. But that complaint never came to us. Was it suggested that a Sheriff's deputy stopped her?

COMMISSIONER MEEKS: It might have been a police officer.

MR. KRISCHER: Miramar Parkway is in the city. But I have not heard -- I have not received that complaint, do not know of that complaint, and frankly, it's a dangerous statement, but out of keeping --

COMMISSIONER EDLEY: Are you saying it would have been a municipal police department rather than the County Sheriff?

SHERIFF JENNE: It's not within one of our jurisdictions.

CHAIRPERSON BERRY: Commissioner Edley?

COMMISSIONER EDLEY: I guess this is for Ms. Carroll.

Did you have responsibility for verifying the correctness of the felony exclusion list?

MS. CARROLL: Had we chosen to use that list that you're discussing, we would have attempted to verify it. We did with the previous list that came out, the first time that list came out, which was two years ago prior to the '98 elections. We wrote to everyone who was on the list and we didn't use the word felon in the letter for fear it would fall into someone else's hands and might be embarrassing. We said, "Your voting status has come under question from information we've received from the Secretary of State

and would you please call us to discuss this."

Most of them did call. We cleared it up. Either it was not accurate information or it was. If they didn't call we did not remove them.

When the list came the next time there was a great deal of discussion among the supervisors as to the validity of the list.

So we chose not to use it. So actually in Broward County no one was removed due to that second and third list. If you remember, there was a second list that was corrected later, according to testimony that I heard earlier.

But when I attended the supervisors' meeting in June in Key West, there was much discussion of the inaccuracies of the list.

So we opted not to remove anybody that was on that list.

While I have the floor can I answer that 41Z question that the County Attorney was kind enough to tell me about?

CHAIRPERSON BERRY: Sure.

MS. CARROLL: That was a County recreation facility. So I have to say that all the County facilities are accessible. That's required, all the Government buildings. So I'm sure that that was an accessible building. Excuse me, but I didn't want to forget that he kindly came up and refreshed my memory by showing me the polling place list.

CHAIRPERSON BERRY: I'll let you, but is it your testimony that from your personal information you can attest here that you know absolutely that the 41Z polling place at the time that Dr. Shotz testified that he went there, you know for a fact that it was indeed accessible and you are certain of that as you sit there?

MS. CARROLL: I am quite sure my attorney who's sitting behind me some place would tell me no, but I certainly cannot certify that of personal knowledge that I know that it was. I am saying that it was a County -- is a County facility, a County recreation, Patrick J. Meli, I believe, Community Center, and that of course all Government buildings by law have to be accessible.

So before you tell me I shouldn't assume anything, I would have to say that's all I can do. I cannot testify under oath that I have personal knowledge, that I went there, that I know that it was accessible. All I know is that every Government building is supposed to be, so we do, when we use a Government building, make the assumption, may be incorrectly that we do that, but we trust that the Government is functioning as it's supposed to and that those buildings are accessible.

CHAIRPERSON BERRY: I only offered you that opportunity because --

MS. CARROLL: I choose really not to swear under oath

that I know what it was. I didn't go there personally.

CHAIRPERSON BERRY: Because we will check again. So I just wanted to make sure.

Please proceed, Commissioner Edley.

COMMISSIONER EDLEY: It sounds to me, Ms. Carroll, your view and the view of at least some of the other County Supervisors is that you had discre -- well, your view is A, that the list that was provided by Choicepoint, Choice whatever it is, might very well be -- you had no expectation that it was going to be particularly accurate, number one, and number two, you felt that you had discretion not to use it?

MS. CARROLL: I had reason to believe by things said by other Supervisors and knowing that the first list that we received in '98 had some problems; I did have reason to believe that there could be problems with the list. And yes, I understand from all the testimony today that I heard and heard at your previous hearing, which I did have the pleasure of seeing on CSPAN, that that was a discretionary thing by the Supervisor of Elections.

This is a Constitutional office and actually, the Secretary of State is the Chief Elections Official, but we don't come under the Secretary of State. We are a Constitutional office elected independently in our County and we do exercise discretion

and we exercised the discretion not to remove people based on that last list.

COMMISSIONER EDLEY: Okay, let me just be pointed for you and also I guess for Commissioner Gunzburger.

Whose responsibility is it to insure that there are adequate ballots or translation services available for people with limited English proficiency, and secondly, what's the big deal, if you'll excuse the colloquialism, what's the big deal about training enough people to be at your headquarters on election day with cell phones so that folks don't have to wait hours and hours and hours to resolve problems?

MS. CARROLL: If you're asking me, first of all, I believe the first question had to do with language.

COMMISSIONER EDLEY: Correct.

MS. CARROLL: Okay. Broward County --

COMMISSIONER EDLEY: Because there were polling places we heard about that didn't have ballots in Creole or in Spanish, didn't have assistance being available to people who didn't speak English.

MS. CARROLL: Broward County is not a blanket County where you have to have everything in Spanish. It's a targeted County. And this all comes from the census, the last census, and

what the percentage in Broward was of Hispanics. There is nothing as far as Haitian, there's no Creole language right now in Broward County. There probably will be when the census is available and Mrs. Oliphant alluded to that earlier.

We did have a Spanish advisory committee that advised us which areas of the County they felt should have Spanish. We did have precincts with Spanish voto-matics available in them. All things given out by the office are available in alternative formats.

I think I read that in talking about the sample ballot, that it tells you in the front of the sample ballot in both English and Spanish, that it's available in Spanish. The reason it's in both languages is so that a person who doesn't speak Spanish won't call us and say, "What was that in my ballot that I didn't understand?" So we put it in both languages that it's available to them.

So as far as the language issue is concerned, Creole is not required in Broward County in any of the precincts and therefore it wasn't available, but you can bring someone of your own choosing.

And I know I heard some of the testimony that poll workers told them they couldn't do that, they couldn't have assistance. I can't tell you that every poll worker does everything a hundred percent correctly.

I used to teach school. I cannot tell you that I could

teach a hundred children and all of them did it a hundred percent perfectly about everything. We do train the poll workers but they misinterpret something. So I would not say under oath that no poll worker ever said, "You cannot have assistance." But I would say under oath that no poll worker should have said that. They are told about assistance. It's in the printed instructions. It's gone over in depth so they know that people can have assistance.

And your second question had to do with what's the big deal about cell phones. Was that your terminology?

COMMISSIONER EDLEY: Hiring more people on election day and giving them cell phones so that people at the precincts can get through to you.

MS. CARROLL: Well, the people at the precincts, the clerks at the precincts, if they're in a facility that does not have a phone available for the entire twelve hours that it's open, those clerks are given a cell phone. Their problem is getting through to us.

COMMISSIONER EDLEY: Exactly.

MS. CARROLL: We have I think a pretty good phone system, but it is inadequate and it's not adequate anywhere in the United States, any place I've talked to. Nobody has something that's totally adequate on election day because of the thousands and

thousands of calls we get, most of which are not necessary. If the voter changed his registration, his address with us earlier or met his own responsibility, we wouldn't get the lines tied up with non-essential calls like, "Where is my polling place," and "I've moved and I don't know what to do." That should all be taken care of ahead so that the really necessary calls could get through.

Getting more phones is not the problem. It's getting more people who are competent and knowledgeable to be on the other end of the phone, because it would be worse if you got through to somebody who didn't really know what he was talking about, frankly.

We don't have that many people trained to answer all of the questions.

COMMISSIONER EDLEY: Why?

MS. CARROLL: There are not that many available people to do all of this. I've talked about this, with not only Florida Supervisors, but Supervisors all over the United States.

Another problem that we tried to solve, we did take the thirty-one largest precincts in Broward County, and hire a person to be there with a PC. We had our records on that PC, so that that person had access to anything that you might call to ask us at the main office. That was somewhat helpful, but not totally, because those people, even though we trained them and they were there in the

precinct with a laptop, they were not regular staff, obviously. Our regular staff is busy with other duties on election day. They didn't always know exactly what they were looking up on the computer. But we did try that as an experiment to see that if renting PC's and putting them in every precinct on election day, a laptop type thing, would solve the problem. And in discussing this with people around the country I find that getting knowledgeable people to operate them is a problem.

There are not that many people. We've had many suggestions. The Florida Task Force has talked about this, would closing the schools and using school teachers that day be beneficial? There are many thoughts that could occur, but they all require a great deal of collaboration. I just don't have the -- did not have -- excuse me when I speak in the present tense, it's only been a short time and I lapse into thinking I'm still in the present tense and I'm very much in the past tense. But I think some of these problems will be solved, perhaps the school closing thing and the teachers would be a good answer to this. Maybe other resource people in the County. But it's hard to ask the County to give up their other functions on election day and put all their personnel on phones to help us with thousands and thousands of people calling.

CHAIRPERSON BERRY: Questions down here?

Commissioner Lee had her hand up first, Commissioner Thernstrom, and then I will recognize you.

COMMISSIONER LEE: In the interest of time I'd like to submit my questions in writing to the panelists if they're still under oath.

CHAIRPERSON BERRY: You will be asked some questions once you leave here that you will respond to in writing. Does anyone have any objection, a complaint about doing that?

(No response.)

CHAIRPERSON BERRY: Okay. Go ahead.

COMMISSIONER THERNSTROM: Actually, Commissioner Edley basically asked my question.

CHAIRPERSON BERRY: Good, Commissioner Thernstrom, but you're going to ask it anyway?

COMMISSIONER THERNSTROM: No, I'm just going to do a little bit of a follow-up. No, I wouldn't think of repeating it.

You stated, Ms. Carroll, that since the validity of the list was questionable, no names were removed. That's what you said; isn't that correct?

MS. CARROLL: No one from the list of supposed felons.

COMMISSIONER THERNSTROM: Of supposed felons, yes, that's what I mean. But you did not know for certain that the list

was unreliable, you were simply concerned about its unreliability; is that correct?

MS. CARROLL: That's correct, and I had a choice of removing people who perhaps should not be removed or perhaps leaving someone on who should be. I used the discretion to not remove them.

COMMISSIONER THERNSTROM: Was there a third alternative, which was to check the -- somehow check the reliability of the list or was that not one of the functions of your office?

MS. CARROLL: We did attempt to do that. We have to do that through the Bureau of Pardons of Clemency in Tallahassee. They're very understaffed and they don't have all the technical equipment to check all of these things. It was virtually impossible for all over Florida for this to occur in this time frame. We did do that previously. We have worked with them.

COMMISSIONER THERNSTROM: Thank-you very much, Madam Chair.

CHAIRPERSON BERRY: All right. The only other question is to ask whether your understanding, Ms. Carroll, at the time that the election took place, that people who said they were registered and weren't found on the list could use -- fill out affidavits. We had testimony from a witness this morning in Broward County, Lake Forest Reserve Park. Is there such a place in Broward

County or not, or have I got the wrong County?

MS. CARROLL: I think it is Lake Forest something that she testified about.

CHAIRPERSON BERRY: Is that the right County? There is a Lake Forest place in Broward County?

MS. CARROLL: Yes.

CHAIRPERSON BERRY: I just want to make sure I've got the right County. That she saw people fill out a pink -- something that looked pink or orange or something, it was an affidavit form.

MS. CARROLL: There's something called a pink affirmation.

CHAIRPERSON BERRY: And those are available, right?

MS. CARROLL: They're available but there are certain caveats that I should give you that go with that. You can't just automatically fill in one and vote because Florida at this time doesn't have provisional voting. So therefore if you voted and you should not be voting your ballot would have been commingled with all of the others and you'd run the danger that they'd all be thrown out by some Court.

So unless we had a provisional ballot where that type thing, where a person's voting ability came into question and we could have them fill in a provisional ballot to be checked at a

later date, it's not possible now. I think what she was referring to was the fact that the clerk gets in touch with the Elections Office and if in truth that person is entitled to vote because he's moved into that precinct and can give that address and show the fact that he has moved into it and didn't change his address ahead of time, they can be authorized to vote. But if the office clerk does not get in touch with us or gets in touch with us and we say, "No," the person is not registered, this is one of these that either they think they registered, they registered after the books closed, the registration was one of those you discussed earlier that may not have gotten to us in the mail, which I believe the Driver's License people raised that question. There are many people who tell you they were turned away from the polls, whereas if I had the actual names or if I had them when I had access to the records, we could have looked them up and given you specifics. But these vague allegations about being turned away from the polls when I have no way to verify whether that person really was entitled to vote at this time, we really need names of people rather than just numbers where there were many people turned away.

CHAIRPERSON BERRY: Well, you have names of people who testified this morning.

I have just one other question. What is your

understanding of what a County Supervisor -- Supervisor of Elections has a right to expect from the Secretary of State Division of Elections Office in terms of help, assistance, information, relationship or anything else? What was your understanding and then we'll move on to the next panel?

MS. CARROLL: My understanding is that the Division of Elections issues official opinions and that's provided by law, Division of Elections opinions. They're numbered opinions that can be requested by any number of official people. When that opinion is issued, it's binding on the person who sought the opinion. It's advisory to the other people that would be concerned with that opinion in Florida and that we can use them as a resource to ask questions. They have nothing to do with the funding of any phase of the office. They provide us with the election law books, the voter registration forms. Many, many of the affidavits and things that are use are prescribed by them. We're not really required to use a form that's prescribed by the Division, other than the voter registration.

Specifically in Florida law you must register on the proper voter registration form. So we cannot make those up ourselves, nor can we have an ad in the paper that says, "Register," and you mail that in from the paper, because Florida is specific

about the weight of the paper, the card, the information that has to be on it.

The Division of Elections has been helpful to us, although I believe I pointed out earlier we don't in essence work for the Division of Elections, even though the Secretary of State is the Chief Elections Official. We are independent Constitutional -- I was an independent Constitutional officer.

CHAIRPERSON BERRY: Is that generally your understanding or does your understanding deviate in any way from that, Ms. Oliphant?

MS. OLIPHANT: No, I concur with it.

CHAIRPERSON BERRY: Are you aware that in the Supreme Court, Bush vs. Gore, the Supreme Court of the United States stated that the Secretary of State of Florida has full responsibility for the elections and overseeing to make sure that they're done in a proper manner and fairly in the State of Florida, in the counting of votes and everything else? Did you know that?

MS. CARROLL: I'm aware that the Supreme Court made that ruling and they are the final authority when it's a statewide or multi-county election. We certify the results to them and then they certify, which we had a great deal of publicity recently about when and how things are certified, I'm aware of that. But as far as

the every day supervision of telling us what to do or not to do, no, I don't believe they have that authority.

CHAIRPERSON BERRY: And they certify your voting machines and equipment; is that correct?

MS. CARROLL: They certify what can be purchased in the State.

CHAIRPERSON BERRY: And we also had testimony in Tallahassee that the Supervisors asked for some extra money, wasn't it, \$100,000.00 or something in order to have an allocation made to them which was submitted to the Secretary of State and then to the Governor's Office to help in preparation for the most recent election in November. Were you aware of that, either one of you?

MS. CARROLL: I wouldn't know what some other Supervisor submitted to them, but there's nothing in the law giving us any authority to ask them for money. The only place I can get any money to operate the office is from the Board of County Commissioners, or could get. Any other funds that come into the Supervisor's Office are turned over to the County Commission on a weekly basis. We do not have enterprise funds.

I don't know that there's anything in the law that would have allowed me to ask the Division of Elections for money, nor do I think they have the resources to give it to me.

COMMISSIONER EDLEY: Just for clarification, as I understand it, I thought it was the State Association of Supervisors that made the suggestion for funds to be provided. But since you raised the financing issue --

CHAIRPERSON BERRY: I just wondered of Ms. Carroll knew anything about that.

COMMISSIONER EDLEY: Since you raised the financing issue and we've got the County folks here, let me just say and ask to Commissioners, County Commissioners here, I assume that neither of you would say that having voters wait for two, three hours and more on election day is a good thing.

COMMISSIONER GUNZBURGER: That's correct. I waited even forty-five minutes on the day before the election.

COMMISSIONER EDLEY: And you said that you spoke very proudly about being penurious in your role on the Commission. So let me ask, what is the total annual budget for the County and what -- how much of that has been spent historically for voting operations, because I don't -- we've heard a lot about this in Tallahassee and today and we just might as well put it out on the table, but it's leaving us with the impression that the County Governments for whatever reason are starving the infrastructure of democracy here.

So anything that you could say that would illuminate why you're making the choices that you are and why you're having trouble finding a few nickels and dimes --

COMMISSIONER GUNZBURGER: I'd rather you ask Ms. Carroll how she's been treated by the Commission.

CHAIRPERSON BERRY: Could you please -- first of all, ma'am, the Commissioner has a right to ask whatever question he chooses.

COMMISSIONER GUNZBURGER: Right, I'm sorry.

CHAIRPERSON BERRY: Secondly, and you of course have the right to answer it or not. The point is that we subpoenaed the documents concerning the budget but I think it's right to respond to the question by laying it here on the record.

So could someone please answer. I don't know who the appropriate person is. Mr. Desjarlais, please.

MR. DESJARLAIS: The annual budget for Broward County is about 2.4 billion dollars, of which eight hundred million dollars is for operating expense. But you know there's a much more complex answer to your question in that we have future obligations as a result of our growth that are very far reaching. With the revenue source it is going to start flattening out over the next ten years or so.

So the question ultimately becomes where is the money going to come from to do what the legislature will ultimately mandate? In the State of Florida you should know that we have an unfunded mandate Statute that says that the Florida legislature cannot mandate that the local Governments or Counties in particular spend dollars mandated by the Florida legislature if it goes above the amount of \$500,000.00.

So anything the legislature is going to do, they're going to have to think about providing some funds as well.

COMMISSIONER EDLEY: So, like calling an election?

I'm sorry --

CHAIRPERSON BERRY: Just a -- Commissioner Edley, in the interest of --

COMMISSIONER EDLEY: Well, I'm trying to get him to be response, Madam Chair.

CHAIRPERSON BERRY: Right.

COMMISSIONER EDLEY: What fraction of your total -- I'm very familiar with budgeting. I was a Federal budget official. But what's the fraction of the County budget that goes to --

MR. DESJARLAIS: I can't answer that question.

CHAIRPERSON BERRY: We have it in the documents, we

hope, it was supposed to be submitted, and if it was not, we want it to be submitted. But you have no idea what percentage of the County budget is devoted to the budget of the County Supervisors? What is the budget of the County Supervisors Office at this time, Ms. Oliphant?

MS. OLIPHANT: Approximately five million dollars.

CHAIRPERSON BERRY: Approximately five million dollars. And you have just told us the total budget for the County is -- you gave us a figure.

COMMISSIONER EDLEY: 2.3 billion.

CHAIRPERSON BERRY: Is that what you said?

MR. DESJARLAIS: Yes, ma'am.

CHAIRPERSON BERRY: So we have some idea from those figures. That gives us an idea.

I want to thank the panel very much for coming. You are excused and there are some sign-out procedures that take place with the staff, and we thank you again.

(Whereupon, the witnesses were excused.)

CHAIRPERSON BERRY: Now we're going to call the next panel.

#### **Miami-Dade County Public Officials**

CHAIRPERSON BERRY: The next panel would be Miami-Dade

County Public Officials; Chairperson Gwen Margolis, Board of County Commissioners, Merrett Stierheim, County Manager, Samuel Williams, Assistant Director of the Miami-Dade County Police Department, and Raul Martinez, Chief of Police of the City of Miami Police Department.

Everybody, could you raise your right hands, please?

Do you swear or affirm that you will testify truthfully to the best of your abilities?

(Whereupon, the witnesses were duly sworn.)

CHAIRPERSON BERRY: Please be seated.

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

MR. HAILES: Are you Raul Martinez?

MR. MARTINEZ: Yes.

MR. HAILES: Are you the Chief of the City of Miami Police Department?

MR. MARTINEZ: Yes, sir, I am.

MR. HAILES: Did you bring documents with you?

MR. MARTINEZ: Yes, they're right here, sir.

MR. HAILES: Are they a fair and accurate representation of the documents requested by the subpoena?

MR. MARTINEZ: To the best of my knowledge, they are,

sir.

MR. HAILES: Are you Gwen Margolis?

MS. MARGOLIS: Yes.

MR. HAILES: Are you the Chairperson of the Board of Commissioners for Miami-Dade County?

MS. MARGOLIS: That is correct.

MR. HAILES: Did you bring documents with you?

MS. MARGOLIS: No.

MR. HAILES: You believe that no documents in your possession fairly and accurately represent what was asked for in the subpoena?

MS. MARGOLIS: I don't believe you asked for anything specifically.

MR. HAILES: Are you Merrett Stierheim?

MR. STIERHEIM: That's correct.

MR. HAILES: Are you the County Manager of Miami-Dade County?

MR. STIERHEIM: I was up until Tuesday night.

MR. HAILES: Have you officially left the office?

MR. STIERHEIM: Well, I'm on the payroll but I'm not the County Manager.

MR. HAILES: Did you bring any documents with you?

MR. STIERHEIM: I have submitted a lengthy memorandum.  
It's a matter of record. Yes.

MR. HAILES: Do they fairly and accurately represent  
the documents requested by the subpoena?

MR. STIERHEIM: Yes.

MR. HAILES: Are you David S. Leahy?

MR. LEAHY: Yes.

MR. HAILES: Are you Supervisor of Elections for  
Miami-Dade County?

MR. LEAHY: Yes.

MR. HAILES: Did you bring documents with you?

MR. LEAHY: Yes.

MR. HAILES: Do they fairly and accurately represent  
what was asked for in the subpoena?

MR. LEAHY: Yes.

MR. HAILES: Are you Assistant Director of the Miami-  
Dade Police Department, Samuel Williams?

MR. WILLIAMS: Yes.

MR. HAILES: Did you bring documents with you?

MR. WILLIAMS: Yes, I did.

MR. HAILES: Do they fairly and accurately represent  
what was asked for in the subpoena?

MR. WILLIAMS: Yes.

MR. HAILES: At this time, Madam Chair, I would like to ask that these records be -- these documents be placed in the record and be recorded by the records clerk.

CHAIRPERSON BERRY: Without objection, so ordered, except, Ms. Margolis, was it your response that there are no documents that meet the requirement of the subpoena at all?

MS. MARGOLIS: The staff would have my documents. I don't have the documents at my finger tips.

MR. HAILES: At this time, Madam Chair, I would like to offer everyone the opportunity to provide opening statements. No more than two minutes. We have to cut it because of time.

CHAIRPERSON BERRY: And all statements will be included in the record and you will be questioned.

MR. HAILES: I'd like to start with Supervisor of Elections, David C. Leahy.

MR. LEAHY: Thank-you. I'll be real brief.

I am the Supervisor of Elections for Miami-Dade County. I started with the Elections Department in 1974 as an Assistant Supervisor of Elections. I was appointed by the County Manager and confirmed by the Board of County Commissioners as a Supervisor of Elections in 1981.

I am responsible, and I underline the word responsible, because I understand you had trouble finding people that accept responsibility in Tallahassee, for the voter registration process and the conduct of elections in Miami-Dade County, and I welcome your questions.

MR. HAILES: Ms. Margolis.

MS. MARGOLIS: I guess it's important for you to understand that Dade County is somewhat different than the other Counties in the State of Florida. We're a home rule County and all of the Constitutional officers, with the exception of the clerk, are appointed by the County Manager, according to our Home Rule Charter.

And the Manager is the one that presents the budget to us. And so there is a whole different structure. And we also have a Mayor that can veto. I'm appointed, not by County Commissioners, but I am appointed by the Mayor of Miami-Dade County. This is all in our Charter, just to give you some background. As the Chair of the County Commission, I've served as the Chair of the County Commission for four years now.

MR. HAILES: Mr. Stierheim.

MR. STIERHEIM: Yes, very briefly. The Home Rule Charter of Miami-Dade County, which was approved by the voters in 1958, also was approved in a statewide referendum and is part of the

Constitution of the State of Florida. The County Manager, and I have served in that capacity now twice, once from '86 to 86 and then more recently over the last three years, does appoint not only the Supervisor of Elections, but other Constitutional officers that are elected in the other sixty-six Counties, including the Police Chief.

In other words, we do not have an elected Police Chief. He is appointed by me. I have delegated the provisions of the Charter which said that I technically was the Sheriff, but obviously I'm not going to be the Sheriff, so I have delegated that to the Director of Public Safety, our Police Chief.

I had the pleasure of appointing David Leahy as Supervisor of Elections in 1981, twenty years ago. I appointed him on the basis of his professional competence, education and experience, and I will say that he's done a magnificent job for twenty years, and I'm very proud of him.

MR. HAILES: Chief Martinez?

MR. MARTINEZ: I really don't have any opening statement.

MR. HAILES: Assistant --

MR. WILLIAMS: Nor do I.

MR. HAILES: Okay, at this time, Madam Chair, I'd like to proceed with questions.

CHAIRPERSON BERRY: Please do.

MR. HAILES: Mr. Leahy, it is I believe your position that the Florida law as written requires you to at best investigate whether individuals who have been named as convicted felons are in fact convicted felons, but in reality it shifts the burden on to the convicted felon to prove their innocence; isn't that correct?

MR. LEAHY: Yes. Under Florida law when I'm provided with a list of individuals who the State maintains are convicted felons who have not had their rights restored, it is my responsibility to verify that information to the best of my ability, and if I do not have any information that they are not convicted or that they haven't had their rights restored, then I'm required to remove them from the rolls.

But you're correct, in essence, the way it works in reality, the persons on that list who I send notices out to are responsible for giving me information that they are not convicted. So it's kind of a reverse process. They have to prove that they're not convicted felons in order to remain on the list.

MR. HAILES: So essentially, if an individual is named on the list and they don't provide you with information that they're not convicted felons, they're removed. They basically are guilty until they prove themselves innocent?

MR. LEAHY: Right. We don't remove these individuals that do not send us information back as convicted felons, because I don't know that for a fact. We go through what is called an Administrative Hearing process, which is set out in State law, where if people who are provided proper notice that there may be a problem with their registration do not contact us, either in writing or by phone or at an Administrative Hearing, then they are removed from the rolls.

So we remove many of these individuals because they did not contact us. As part of the Administrative Hearing process we don't remove them as felons unless we have specific information that they are indeed felons who have not had their rights restored.

MR. HAILES: Of the individuals who challenge the determination by DBT or by the Florida Law Department that they were convicted felons, how many were found not to be convicted felons?

MR. LEAHY: We had two different lists applied. One was in June of 1999 and one was in January, 2000.

On the June, 1999 list, let me start, there was a total of 5,762 names provided to us. Of that, there were 327 who responded with appeal forms who eventually we were told by either Florida Department of Law Enforcement or the Office of Executive Clemency that they were not convicted felons. That's 327 out of

5,762.

We were also sent a subsequent list to that June, 1999 list, which informed us that 485 people that were on the original list in fact had their rights restored and should not have been on the list to begin with. So you've got to add up the 485 plus the 327 that were not convicted felons or had their rights restored out of the 5,762.

MR. HAILES: So just a ball park figure, about 850 people, somewhere around there, 840 people were named by DBT to be convicted felons and it later turned out that they were not convicted felons; is that correct?

MR. LEAHY: That's correct.

MR. HAILES: And that's just your County alone?

MR. LEAHY: Right. Let me -- January, 2000 list we had 1,388 names on that original list. Then we get a subsequent list which removed 501 of those 1,388 because they had made an error in particularly individuals who are from Texas, they had been listed as felons when in fact they had not committed felonies. So we removed the 501 from the 1,388. We sent out notices to everyone else and we had 142 that sent us appeal forms and it was determined afterwards that they were not convicted felons or had had their rights restored.

MR. HAILES: Mr. Leahy, I know I asked you this just yesterday, but can you give me the demographics of that particular group? What was the breakdown?

MR. LEAHY: I can now. I've got all different categories. So if you give me specifically what you're looking for. I mean I have it by the total list and I also have it -- let me go back to June, 1999.

Of the 5,762 names that we received, 1,013 were listed as white, 3,794 were listed as black, and 955 were listed as Hispanic. Of those who were determined not to be felons who did appeal, 98 were white, 155 were black, and 74 for Hispanic.

In the January, 2000 list, the initial breakdown of the 1,388, 251 were white, 884 were black, and 253 were Hispanic. Of those who were determined not to be convicted felons or had their rights restored, 27 were white, 84 were black and 31 were Hispanic.

MR. HAILES: Okay, Mr. Leahy, I'm going to have to move on because I've been told to ask these questions as quickly as possible. So I'm going to ask you just one question regarding -- or a couple questions I should say -- regarding language assistance.

How do you provide language assistance ballots and basic language assistance at the polling place in your County?

MR. LEAHY: We're under the Federal Voting Rights Act.

In terms of Spanish we provide everything that goes to a voter in English and Spanish. That's ballots, registration information, everything, is in English and Spanish.

The County Commission last year passed an ordinance which requires me to determine which precincts have a significant Haitian/American voter population and to provide ballots in Creole as well as English and Spanish in those precincts. And we also had a subsequent resolution. In total for November we had sixty precincts that I determined had a significant Creole population. So in those precincts there were voting booths that had both English and Spanish and other voting booths that had English and Creole.

And we also do -- for that population we also do sample ballots in English and Creole and we publicize those into heavily Haitian/American newspapers.

MR. HAILES: We had an individual testify earlier today, Marlene Bastien, who herself was a Haitian individual. She testified that she's never seen a Creole ballot, and according to her there were only forty-seven precincts that are slated to have Creole ballots.

Could you explain the discrepancy? Why would she testify as to that?

MR. LEAHY: There are sixty precincts and that's part

of the records I've submitted, listing which precincts those are. She may be in a precinct that is not covered, not selected as one of those sixty.

Commissioner Rolle and Commissioner Barber Carry Schuler were the two that sponsored that resolution and initially they would have liked to have had Creole in every precinct. With our particular punch card voting system it is not practical. I don't have enough voting booths to do it countywide. That's why they went down to sixty.

In terms of looking for future voting equipment, that is something that should be considered, where you can have multiple languages countywide, and that's something we'll look for in the future. But I can't explain -- I don't know where she's from, so I don't know why. But if she is one of those sixty precincts, she would have had that ability.

MR. HAILES: Okay, moving on.

Assistant Director Samuel Williams, I asked you to come here to testify about a situation we had in Miami regarding ballot boxes. Could you explain how your department is involved with the transportation of voting boxes in Miami?

MR. WILLIAMS: Certainly. Mr. Leahy's office communicates with our department regarding elections. He then

communications through a memorandum that on certain dates an election is going to be held and depending on the size of the election, using the Presidential election as an example, we were notified that there would be nine central locations for which he would like my officers to pick up the ballots and take them to his office. And that's exactly what we did. I think that November 7th we had fifty-four officers that responded to these nine different central locations and we then took the ballots from there to the Elections Office.

MR. LEAHY: So it's your position that all the ballots that you were supposed to pick up, you picked up and took to -- took from the areas to the central location which would have been the Stephan P. Clark Center to be tabulated?

MR. WILLIAMS: To the best of my knowledge, that's correct.

MR. LEAHY: In that same vein, I'd like to turn to Chief Martinez.

Your department discovered or it was called to the attention of some officers of the City of Miami that there were some locked ballot boxes I believe in the Little River's Good News Baptist Church and in the Sheraton Hotel.

MR. MARTINEZ: That is correct, sir. We received

information from citizens. An officer was dispatched at two different instances at two different locations. On November 10th we were dispatched to the Sheraton Biscayne Bay Hotel which is 495 Brickell Avenue, Miami, where a security guard had found a locked ballot box from Precinct 541. We took that ballot box into custody and we placed it into our Evidence Bureau.

On the next day, being November 11th, an officer was dispatched to the Good News Little River Baptist Church where one of the elders there found a ballot box. We took that ballot box into custody. We placed it into the Evidence Bureau.

Both ballot boxes were returned to Mr. John Claucher (Phonetic) who's an Assistant Supervisor of Elections, on November 13th.

MR. HAILES: Mr. Leahy, I believe you know what ultimately happened to those ballot boxes. Could you explain to the Commissioners what happened to those ballot boxes?

MR. LEAHY: Certainly. The supplies, like extension cords and signs and telephones, are delivered to the precincts prior to election day in the ballot box. On election morning supplies are removed from the ballot box. The election workers certify that the box is empty. It is then locked and sealed and used for the deposit of ballots during election day.

On election night when the polls close, they verify the seal hasn't been tampered with or changed. They break the seal and mark the box, remove all the ballots, count all the ballots, and there's a counting form required by State law, and then they take these ballots, both the voted, unused and spoiled, put it into a transfer case, which is not a ballot box. It is a fully sealed metal box or boxes if it's a large precinct. They seal those boxes with numbered seals. Those seals are recorded. It's the transfer cases that are brought in to these drop-off points that the police bring in.

The ballot boxes remain in the precincts. The supplies are put back in those. Again, the extension cords and phones and so forth. Those boxes are locked and during the week following the election my staff picks up those ballot boxes. But those ballot boxes do not contain any ballot cards, simply supplied at that point in time.

And we had several City of Miami and Hialeah turn over ballot boxes. Those were examined at the time that they were brought into us and none of them contained ballot cards. We did account for all the ballot cards in the November 7th election on election night.

MR. HAILES: Just one more question to you, Mr. Leahy,

regarding how you turned over or used computers, I should say, in various precincts in your County.

Could you explain how you chose which precincts were able to get computers that were used to verify the registration precinct rolls?

MR. LEAHY: Yeah. We did something similar to the -- what Jane Carroll testified she did. We only had eighteen PC's and what I did was select the eighteen largest precincts, because largest precincts are normally the growth precincts in our County. It's where we have the most number of calls coming from because you have a lot of new residents moving into those precincts. Those are the largest number of calls that are going to come into us.

So we picked those, one, so that they could handle their voter problems, and two, it would eliminate a lot of those problems from coming into the network so the other precincts would have a better chance of communicating with us.

MR. HAILES: I know I asked -- I said I was going to ask one more question. I've been instructed to ask another one.

Isn't it true that only one of those precincts was an African/American precinct?

MR. LEAHY: Yes. Our African/American precincts are pretty stable. They do not grow in size in terms of voter

population significantly. Their average size is, I would say 1,300 to 1,500 for most of the African/American precincts. The precincts, the largest ones which got these PC's ran 2,700 or more registered voters, and we only had one African/American precinct that has a voter population that high.

MR. LEAHY: At this time, Commissioners, I have no further questions. I turn the panel over to you.

VICE CHAIRPERSON REYNOSO: Thank-you very much. Thank-you all. I'd like to turn to my fellow Commissioners. I'm going to ask my fellow Commissioners to limit their questions to one and to ask any other questions in writing. I know I have several that I would like to ask the panelists but I'm going to submit them in writing.

Yes.?

COMMISSIONER WILLIAMS: Thank-you, Vice Chair.

VICE CHAIRPERSON REYNOSO: Excuse me. I just want to mention, we're fifty minutes late and I think we owe it as a courtesy to those coming afterwards to try to get done at time.

COMMISSIONER WILLIAMS: Thank-you, Vice Chair. Fortunately, I only have one question.

That is, in Tallahassee we heard testimony that, I think it was once a month that registration rolls were to be sent in

to, I think it's the Division of Elections. Is that correct, or are they sent to you?

MR. LEAHY: No. It used to be once a month. Now it's whenever they call for them and right now it runs about twice a year that they request us to submit our voter registration rolls from each County which are then put out on the central voter file, which is then used by DBT to provide lists of felons and deceased and people who are registered in more than one County to us.

COMMISSIONER WILSON: But it's not once a month?

MR. LEAHY: No. It used to be once a month when the central voter file was first set up, but now it's whenever they call for them, and again, it's about twice a year at best.

COMMISSIONER WILSON: That's my one question.

VICE CHAIRPERSON REYNOSO: Good. Any other questions from this side?

If not, I'll turn to my right.

COMMISSIONER THERNSTROM: Well I will submit a lot of questions, particular to Mr. Leahy, but I'll just ask one right now.

I was a little troubled by your answer on the convicted felons question. You were asked, if you as a former felon end up, or as an alleged former felon, end up on this list, are you guilty as it were until you can prove yourself innocent, just asking

somebody to prove a negative, and I wonder if that's an answer unfair to the process; that is, is it not the case that if you end up on the list that -- let's say you've been cleared in another State, that all you have to do is fill out a one page application saying, "Look, I've been cleared in another state," and then it is for Florida authorities to check with the other state that indeed your rights, your civil rights have been restored. You do not have to prove that yourself. That is my understanding of the law.

MR. LEAHY: That's correct. I think my statements goes to the fact that you have to fill out that -- first of all, you have to receive that notice from us and it's sent out certified mail under Florida Law, using the Administrative Hearing process, and then you have to take some action. You actually have to fill out the application. You have to submit it and then wait for a response. And there are some instances where the response came back that they were a convicted felon according to FDLE and then they submitted fingerprints and it was determined it was actually somebody else who was the convicted felon, that they were not.

I'm concerned mainly with the process, in that so many of these people don't respond, and I don't know whether it's because they don't get notice or they're confused or what the problem is. But we're removing a lot of people from the rolls when I know for a

fact based on the appeal forms that I get back that this is not a truly accurate list. It's drawn off the Florida Department of Law's data base and that data base was never intended for this purpose, but it's being used for this purpose.

And so I am concerned that we may be removing people through the Administrative Hearing process that are truly not convicted felons, and that will cause them a problem when they show up to vote in the next election.

VICE CHAIRPERSON REYNOSO: Another question?

COMMISSIONER REDENBAUGH: It's for Commissioner Leahy as well.

Today we've spent really the majority of our time talking about what happened or happens on election day. And problems that happen on election day are very hard, as we found out, to solve on election day. And that's probably the most expensive way to solve a problem, either from the resourcing staffing point of view.

If we look upstream, what can be done to repair, improve, enhance the process so that we don't have a breakdown on the day that it's hardest to solve and what responsibility does the voter have in the process?

MR. LEAHY: I believe the voter has a responsibility,

but we've got to solve the problem a different way because voters are not going to keep us informed when they change their address and they do send in the registration forms late. The number of problems has grown significantly as a result of the National Voter Registration Act. I'm not saying that that Act is all bad, because I now have 200,000 voters that I probably wouldn't have had if we didn't have the Act.

The solution, in my opinion, is to -- Florida does not have provisional ballots, and that to me is the best way to solve the problem. If you cannot get through by phone, and I would still set up my phone networks, if you can't get through by phone or it's determined that you're not allowed to vote, I'd still have that voter fill out a provisional ballot.

I found errors that my staff made and turned people away because there was some communication problem. They said the poll worker said, "This is the original. Your name isn't on the precinct register. The name was spelled wrong." My staff looked it up. The person was turned away. In fact they were a registered voter.

So you do a provisional ballot. You get those ballots back in the day after the election and you determine, in a very calm atmosphere, whether that person was eligible to vote, and if they

were you count their ballot.

As a back-up, because I don't have any control over that, that would have to be a change in Florida law, I've already put in my budget and the Commission hasn't seen it yet or the Manager, for laptop computers in every precinct. It's a capital cost of a million three. And then you'd have to find 600 County employees, train them on how to use the laptops and send them out to the precincts.

It is not a good solution. As Jane Carroll said, you're going to have 600 people making decisions who got some training with a PC in the voter registration system. There will still be problems.

The provisional ballot, we need in Florida and I'm hoping the legislature makes that decision to go forward with that process.

VICE CHAIRPERSON REYNOSO: Commissioner Lee?

COMMISSIONER LEE: Thank-you.

This question is for Ms. Margolis. The U.S. Department of Justice back in '92 and '93 filed a lawsuit against Dade County on 203 violations on language assistance for limited the English proficient voters.

Can you tell us what happened with that lawsuit and

what action have you taken since then?

MS. MARGOLIS: I wasn't elected until that time. I was in the Senate, in the Florida Senate at the time. So I can't answer the question.

MR. LEAHY: I'll be glad to answer if you permit me.

This was the first election in which County Commissioners were being elected on a single member district basis. Before they were elected by the entire County electorate. They had residential districts.

There was information that was developed by the Communications Department which talked about this new process of electing Commissioners. And it was done only in English. And we also at that time in our County had an anti-bilingual ordinance where you could only put things in English unless it was a Federal law.

So in terms of this particular document, it was a question of whether it meant Federal law because it dealt with elections, or it was an anti-bilingual type of situation. It was only printed in English and the Justice Department did come down and file suit and ordered us to print it in Spanish and we also had to distribute it to all the precincts on election morning. It was just that one instance.

In terms of elections, like I said, since the mid 1970's everything that deals directly with the voter has been done in English and Spanish. It was just that one instance because it was unclear of whether it was an election related document or something coming from Communications that wasn't directly election related. And the wrong decision was made and we made the correction.

COMMISSIONER LEE: And what is your overall County budget on election related activity and what is the percentage that you spend on language assistance programs?

MR. LEAHY: My budget ranges between six and seven million dollars per year, depending upon the elections schedule, and we've been doing everything in two languages since the mid 1970's. I couldn't even guess as to what percentage. We do have a translator. We pay him his salary with funds, about \$35,000.00 a year. The printing is not that much expensive because we do everything front and back, and normally that's not an added expense.

It did cost us additional money this past year because of introducing the Creole language. That probably ran us I would say about \$50,000.00 for the printing this past fall for the three elections plus the translations, probably close to \$100,000.00 to do that added language.

COMMISSIONER LEE: It you can submit that, I would like to have that submitted.

MR. LEAHY: I'd be glad to.

VICE CHAIRPERSON REYNOSO: If you could submit that with your material.

MR. LEAHY: Absolutely.

VICE CHAIRPERSON REYNOSO: Any questions to my left then? If not, then I want to thank this panel very, very much. As I say, unfortunately, we're running late so we'll submit some other questions in writing. But you've been very, very helpful and we're very, very appreciative. Sorry for the lateness.

CHAIRPERSON BERRY: All right. Thank-you very much. Thank-you Vice Chair.

There are some sign-out procedures as you go that you may do with the staff. We would appreciate that.

(Whereupon, the witnesses were excused.)

**Monroe County Public Officials**

CHAIRPERSON BERRY: We will now go on to the next panel which is the panel from Monroe County, and the witnesses from Monroe County, and Attorney Advisor Barbara De La Viez will be counsel for this panel. Could you please call the witnesses?

MS. DE LA VIEZ: Thank-you, Madam Chair.

Would the Honorable George Nugent, James L. Roberts, the Honorable Harry Sawyer, and Sheriff Richard Roth please come forward to submit their documents and testimony.

CHAIRPERSON BERRY: I hesitate to have a three minute break because people would get up and leave and never come back in five minutes. So we'll just sit here. No, you can't have a break, Russell. They were out in the hallway because we're late and so they're being rounded up and it's all our fault. And we very much want to apologize to the people from Palm Beach County for being behind and having you listed. I don't know if we did it in alphabetical order. Yes, so that's why you're stuck at the end. Sorry about that.

Here we are, from Monroe County. The beautiful Keys. If I understand that correctly that's where you guys are from.

Could you please stand, and we apologize for the lateness, could you stand and raise your right hands.

Do you swear or affirm that you will testify truthfully to the best of your abilities?

(Whereupon, the witnesses were duly sworn.)

CHAIRPERSON BERRY: Thank-you very much. Please be seated.

Counsel, please proceed.

MS. DE LA VIEZ: Thank-you, Madam Chair.

You are the Honorable George Nugent?

MR. NUGENT: Yes, ma'am.

MS. DE LA VIEZ: Are you here in response to the subpoena?

MR. NUGENT: Yes, ma'am, I am.

MS. DE LA VIEZ: Did you bring documents with you in response to that subpoena?

MR. NUGENT: We have documents with us, yes, we do.

MS. DE LA VIEZ: Do the documents you brought fully and completely comply with that subpoena?

MR. NUGENT: To the best of my knowledge,

MS. DE LA VIEZ: Mr. Roberts?

COMMISSIONER ROBERTS: Yes, ma'am.

MS. DE LA VIEZ: You are here in response to a subpoena?

COMMISSIONER ROBERTS: Yes.

MS. DE LA VIEZ: Did you bring documents with you in response to that subpoena?

COMMISSIONER ROBERTS: Yes, I did.

MS. DE LA VIEZ: Do the documents you brought fully and completely comply with that subpoena?

COMMISSIONER ROBERTS: To the best of my knowledge.

MS. DE LA VIEZ: Thank-you.

Mr. Sawyer, you are here in response to a subpoena?

MR. SAWYER: Yes, ma'am.

MS. DE LA VIEZ: Did you bring the documents with you

--

MR. SAWYER: Yes, I did.

MS. DE LA VIEZ: -- in response to the subpoena?

Thank-you.

Do the documents you brought fully and accurately represent what we asked?

MR. SAWYER: To the best of my knowledge, yes.

MS. DE LA VIEZ: Sheriff Roth, you are here in response to the subpoena?

SHERIFF ROTH: Yes, ma'am.

MS. DE LA VIEZ: Did you bring the documents with you in response to that subpoena?

SHERIFF ROTH: Yes, I did.

MS. DE LA VIEZ: Do the documents you brought fully and completely comply with the subpoena?

SHERIFF ROTH: Yes, ma'am, to the best of my knowledge they do.

MS. DE LA VIEZ: Thank-you.

Madam Chair, I request that these documents be received into the record and the clerk number them consecutively.

CHAIRPERSON BERRY: Without objection, so ordered.

Please proceed, counsel.

MS. DE LA VIEZ: Madam Chair, I realize that we're running out of time. I'd like to ask that my witnesses be allowed to make a brief opening statement.

CHAIRPERSON BERRY: Yes. No more than two minutes, if any of you would care to make a statement before you're questioned and grilled mercilessly, please proceed to do so.

MR. NUGENT: I'm an elected official. I'll be as brief and succinct as I can. I certainly respect that. Commissioners, Madam Chair, thank you very much for being here and it's of course a very serious issue and subject which we talk about today and I certainly appreciate the opportunity to make my feelings known before this Commission. And thank you being in the Florida -- well, we invite you to the Florida Keys. We know you're in Miami right now.

I, like more than half the residents of the State of Florida, moved here from somewhere else. I originally hail from Louisiana, more specifically, South Louisiana, what used to be the

capital of some questionable politics, but maybe Florida has superseded. I did get many phone calls from residents and family back home asking if I was involved in the election reform that was going on here.

As a child, one thing that was taught to me very seriously was the importance of the election process, the integrity of the election process. And as I grew older and watched civil rights issues as they came forward and sprang forward over the years, the more importantly I recognized the seriousness of the election process.

I was very concerned about some of the things that took place. I feel like the State of Florida, only because of the closeness of the election, but I'm sure that many other States would be ill prepared for such a very close election that took place, and it concerns me for future elections to know that elections can be swayed by just a few votes. And again, the importance that needs to take place is in that election process.

It is certainly something that I was very concerned about, to find out that the ultimate Supervisor of Elections was involved in the election process, which I found something that was concerning to me. And I would hope in the future that the State of Florida recognizes the impropriety, even the appearance of the

impropriety there, not to take away anyone's First Amendment rights of freedom of speech, but I certainly think that whenever the Supervisor of Election is involved in the process, they need to remove themselves from that. And I can say that in speaking very highly of our Supervisor of Elections from Monroe County, and as you well know, the tabulations on the recount were very accurate, to within one vote it's my understanding.

And one of the things as a new elected official that I learned very early on was that our Supervisor of Election, not only does a good job, but he is also a teacher of the perception of improprieties, and on the campaign trail he expressed to me, more than often, how to -- and how important it was to keep yourself from the appearance of impropriety, and I applaud Mr. Sawyer for that, the training that he gave me.

And again, in an attempt to be brief, I would just like to say that and let him take that over. But we're here before you on a very serious manner that hopefully the corrections that need to be made in the future will be made so we can address the election process and the integrity of such.

MS. DE LA VIEZ: Thank-you, Mr. Nugent.

Mr. Roberts.

COMMISSIONER ROBERTS: I was pleased to cede some of

my time to the Mayor. Just very briefly.

Over thirty years ago I made a conscious decision to enter the public service and have spent my entire career there. And that was a time, as you know, when there was great confidence on the part of young folks in this country that they could make a difference and that the public service was the place to do that.

There is, in this country now a concern about what transpired during the past election. I am very pleased to see the Commission involved in analyzing what transpired and hopefully if there are any problems, that you will make recommendations to help solve those problems and I shall be pleased to cooperate with you and answer your questions in any way I can.

MS. DE LA VIEZ: Thank-you.

Mr. Sawyer.

MR. SAWYER: Yes. I will be brief, but you know, I was sitting here thinking, and thinking about this yesterday also, that yes, we are here under subpoena, but if I had been invited to speak to this Board without a subpoena I'd be here today.

I think the issues that we're addressing are very important to not only the voters in the State of Florida, or even Monroe County, they're important to the nation. What we saw in the Florida, I think the Secretary of State's Office in California

addressed us in one of our conferences and stated to their legislature that they wanted to avoid a Florida size train wreck in California, and I think that was an appropriate way to put it.

So I think in the end when all is said and done and everyone looks at what we're doing here and how we're trying to improve things, I think Florida is going to be the stars in the next few elections and the improvements that we made here will be copied in other states and we'll be the right example for what is right and not what is wrong.

Thank-you.

MS. DE LA VIEZ: Thank-you, Mr. Sawyer.

Sheriff Roth.

SHERIFF ROTH: Yes, ma'am. I was asked a little bit about road blocks that law enforcement uses.

In our case we did the research to determine if we had any road blocks for any law enforcement functions on election day. We did not. Our research indicates that we had one road block that occurred in the past year, the period of time that you asked about, the subpoena asked about. That road block was in July of 2000 and it was for a driving while intoxicated road block. It lasted for about six hours. And we have specific rules and regulations that govern the use of road blocks and I'll be glad to go into it if you

wish.

Thank-you very much.

MS. DE LA VIEZ: Thank-you. Madam Chair, I'd like to proceed with the questioning.

CHAIRPERSON BERRY: Please proceed with the questions.

MS. DE LA VIEZ: Thank-you.

Mr. Sawyer, Monroe County is subject to Section 5 of the Voting Rights Act.

MR. SAWYER: Yes, we are.

MS. DE LA VIEZ: It requires you to get Federal clearance before implementing any changes to your voting procedures.

Can you explain why Monroe County is subject to Section 5?

MR. SAWYER: I'm not really sure as to why. I know it goes back -- it goes back many years before I was elected Supervisor of Elections.

I can't assume that when you look at the rules and regulations that are set forth within Section 5, it not only addresses what a jurisdiction may have done wrong, but it also addresses documentation to prove that you did right. And I think in our case the fact that prior to Monroe County being brought under Section 5 our ballots were not bilingual and I think that's part --

that was part of the problem, and the problem that they couldn't really prove to the satisfaction of the Federal Government, that we were complying with Section 5 and at that point we were brought under, not only Section 5, but Section 203 which addresses language minorities.

MS. DE LA VIEZ: Does this date back to 1975?

MR. SAWYER: Yes, it does.

MS. DE LA VIEZ: Okay. When you are subject to Section 5 there's a process to be released from Section 5, requirements called bail-out.

Is there a reason you have not sought bail-out from Section 5, clearance requirements?

MR. SAWYER: Yes, there is, and the reason is that it's a legal process that involves a lengthy examination, court hearings and that. And my particular philosophy is, is that in order to bail out you have to prove that you have a history of bilingual ballots, the way you conduct your elections and that, and if you're going to have to do it any way after going through a bail-out procedure, you're still going to need to comply with Section 5 and Section 203 in order to state out from under it, so I don't really look at it as something that I think is necessary for us to go through all of that process and spend all the money to get out

from under something that we're going to have to continue to abide by anyway.

MS. DE LA VIEZ: Thank-you.

Clay Roberts who came and testified at our Tallahassee hearing in January, and he is the Director of the Division of Elections for the Secretary of State of Florida, testified that the supervisors were, and I quote, "crying out for help," for this election.

What help did you receive from Mr. Roberts for this election in November, 2000?

MR. SAWYER: Usually what we receive from the Division of Elections is the candidates that qualify at the State level, State Representatives, State Senators, we get their names. We get a certification from Tallahassee with the listing of the candidates that have qualified for those offices. At that point we begin the ballot layout and ordering the ballots and setting that up.

The other thing that I rely on them for is in certain cases and it's rare that we need legal advice from their legal offices, call them and talk to them about a question that I may have. I look to them for up-dates on legislation that's being introduced in Tallahassee. Sometimes the Bill, we'll get copies of the Bill and by the time it makes it through the legislature and the

data that's finally passed and signed into the law by the Governor, there's changes that are made that we're not aware of, because sometimes those changes actually happen on the floor of the legislature.

So at that point I look to them for the actual wording and that of the Bills that are passed, that are signed into law by the Governor.

And that's about it.

MS. DE LA VIEZ: Did you seek help for the November election from him?

MR. SAWYER: No, I didn't.

MS. DE LA VIEZ: You did not. All right, thank you.

If I'm a voter in California, if I'm in Monroe County and I go to a precinct and I do not have a photo I.D. but I am on the precinct roll, may I vote by affidavit?

MR. SAWYER: Yes, you can.

MS. DE LA VIEZ: In Florida.

MR. SAWYER: In fact I brought one with me. This is an affidavit that we have at our polls on election day. The voter signs this affidavit, states that that's who they are, and at that point they can receive a ballot and cast their ballot and vote without the I.D.

MS. DE LA VIEZ: And where did you -- did you design that yourself or is that from the Secretary of State, Division of Elections?

MR. SAWYER: No, I designed this -- we did this ourselves.

MS. DE LA VIEZ: Pursuant to what authority?

MR. SAWYER: Actually pursuant to the Statute that sets forth the photo affidavit.

MS. DE LA VIEZ: Okay. If I go to the poll and I have a photo I.D. that has me in that precinct, I'm at the correct precinct with a photo I.D. but I'm not on the registration, may the poll worker allow me to vote with an affidavit without contacting the Supervisors of Elections Office?

MR. SAWYER: I don't -- I'm sorry.. I didn't understand the question.

MS. DE LA VIEZ: If I go to the poll with a photo I.D. and I am not on the precinct poll but I do show that I am a resident of Monroe County properly in that precinct, could I vote by affidavit even though I am not on the precinct roll?

MR. SAWYER: No. I may be misunderstanding your question.

If you're a registered voter of Monroe County and

you're not in that particular precinct register and you have photo I.D. and for some reason that's the precinct that you've moved to or for some reason you're in without -- that you wouldn't be in that book, the clerk would call our office and verify just that you are a registered voter and you would be able to cast a ballot at that precinct, yes.

MS. DE LA VIEZ: If you're able to confirm that. If the Supervisor of Elections is not able to confirm that I'm a registered voter, could I sign an affidavit saying, "Yes, I am a registered voter and I'd like to vote in this election"?

MR. SAWYER: No, you can't.

MS. DE LA VIEZ: Let me then refer to the Florida Code, 101.050, Section 3, and I'll read it to you. It says, "When an elector's name does not appear on the registration books of the election precinct in which the elector is registered and when the elector cannot present a valid registration I.D., the elector may have his name restored if the Supervisor is otherwise satisfied that the elector is validly registered."

MR. SAWYER: That's the key, restored. They would have originally been registered and if for some reason their name wasn't in the register and they are in fact a registered voter, we restore their name on the spot. It's not something that they would

have to do. It is something that would be our area and we would correct at the precinct on the day of the election and they would be able to vote.

MS. DE LA VIEZ: How would I be able to prove that to you?

MR. SAWYER: Usually when something like that happens, if they sign the affidavit that that's who they are, if they had no I.D., or if they had I.D. and that's who they are, that's all it would take for us to say that, "Yes, you're entitled to vote." It's just an error on our part that you were removed from the roll and as long as that person would sign an affidavit swearing that that's who they are or they had I.D., they would be able to vote.

MS. DE LA VIEZ: What was the percentage of spoiled ballots in Monroe County?

MR. SAWYER: We had a little over 34,000 voters. I don't know -- you can figure the math. We had a little over 1,000 spoiled ballots in that election.

MS. DE LA VIEZ: What do you attribute the low percentage to.?

MR. SAWYER: The what?

MS. DE LA VIEZ: That's a low number of spoilage.

What would you --

MR. SAWYER: We thought it was high. We considered that very high. In fact we started to -- on election day became very concerned because we were hearing from our polls, that we don't ordinarily send out that many spoiled ballot envelopes in the first place to the polls, and we worried a little bit about having to send out additional envelopes to our precincts.

As far as what I attribute to that, in talking to some of our clerks, most of those spoiled ballots involved the Presidential race. And to this day, and I have a pretty inquisitive mind, and I still to this day cannot figure out how we ended up with so many spoiled ballots.

Normally in an election, we'll have one or two in a precinct -- not even in a precinct. We might have six in an entire election. So 1,000 was like a huge number to us.

MS. DE LA VIEZ: Thank-you, Mr. Sawyer.

Madam Chair, I do have many more questions for the panel but I realize we are short on time. If you'd like me to turn it over and refer to the Commissioners for questions, I'd be happy to.

CHAIRPERSON BERRY: Submit them in writing and they will answer them.

MS. DE LA VIEZ: All right.

CHAIRPERSON BERRY: They're perfectly willing to, right?

(All answered yes.)

CHAIRPERSON BERRY: Okay. Commissioner Wilson and then Commissioner Meeks and then whoever. I'm sure people have questions.

COMMISSIONER WILSON: Thank-you, Madam Chair.

Mr. Sawyer, were those over-votes or under-votes?

MR. SAWYER: In that case they would have been spoiled because of an over-vote.

COMMISSIONER WILSON: They were over-votes.

MR. SAWYER: In our case if there's an under-vote the ballot is returned to the voter and the voter can go back to the booth and correct whatever problems they may have. A ballot is not going to be spoiled because of an under-vote. It would only be spoiled because of an over-vote or the fact that the voter voted for a candidate and they changed their mind and asked for a new ballot.

COMMISSIONER WILSON: And what's the number of precincts?

MR. SAWYER: We have thirty-three precincts in Monroe County. And just to give you a little overview of Monroe -- are you familiar with Monroe County?

COMMISSIONER WILSON: No, I'm not.

MR. SAWYER: Okay. Monroe County runs from Key West to Key Largo. My farthest precinct in Monroe County is 113 miles away from my office. So --

COMMISSIONER WILSON: Right around the corner you mean.

MR. SAWYER: Yes. We have one precinct that's about four blocks away and then the farthest one at Ocean Reef is 113 miles. It's a challenge and it makes every single election exciting.

COMMISSIONER WILSON: And what is the budget -- well, two questions.

The first is, what is the overall budget for the County and what is the budget for elections?

MR. SAWYER: Overall our budget for last year was a little over \$800,000.00, and our elections run about \$52,000.00 each election.

COMMISSIONER WILSON: Okay, thank you.

CHAIRPERSON BERRY: Is that the overall budget of the whole County?

MR. SAWYER: No, ma'am.

CHAIRPERSON BERRY: What's the budget for the whole

County?

MR. SAWYER: The budget for the whole County, which includes all the independently elected Constitutional officers and the Sheriff, law enforcement, et cetera, is about 237 million.

CHAIRPERSON BERRY: So your 800,000, did you say?

MR. SAWYER: Yes, ma'am, and that's not only our elections, but I have an office in Key West. I have one in Marathon, which is about fifty-three miles away, and one in Plantation Key at the 88 mile marker.

CHAIRPERSON BERRY: Terrible traffic in Marathon.

MR. SAWYER: Yes, it is. Absolutely.

CHAIRPERSON BERRY: It's a real marathon.

Commissioner Meeks?

COMMISSIONER MEEKS: Well, you started to describe Monroe County a little bit, but I guess it's because I don't know much about it.

What's the demographic make-up?

MR. SAWYER: Politically?

COMMISSIONER MEEKS: No, at large, population-wise.

MR. SAWYER: Population, I can only -- I can give you the census information from 1990 and probably Mr. Roberts could give you something more up-dated.

In 1990 we had about 78,024 all together and now what are the projections?

COMMISSIONER ROBERTS: What we're hearing preliminarily out of the census is that we're still a little under 80,000.

COMMISSIONER MEEKS: How is that broken down by race?

COMMISSIONER ROBERTS: I haven't seen the breakdown by race. We have a fairly significant Hispanic population, a Latino population in the southern part of the County.

COMMISSIONER MEEKS: Just a ball park figure.

MR. NUGENT: Fourteen percent.

MR. SAWYER: I could probably give you -- it's probably not much difference from 1990. In 1990 we had -- the Hispanic population was around twelve percent, the African/American population was around five, and the rest were white.

COMMISSIONER MEEKS: And did you have a larger voter turnout this time than --

MR. SAWYER: We had a seventy percent turnout in this election.

COMMISSIONER MEEKS: And how did that compare with --

MR. SAWYER: It compares with the Presidential

election, it's around sixty-nine to seventy percent, in that area, for our general. So we were right in the ball park on this one.

CHAIRPERSON BERRY: Commissioner Redenbaugh, do you have a question?

COMMISSIONER REDENBAUGH: Yes. Thank-you. I have a question for Mr. Sawyer.

How do you -- or what are the criteria that you use and are they set by State Statute or by how, for how you allocate voting machines to the thirty-three precincts that you have?

MR. SAWYER: You know, this is a very good question because it's something that I've been thinking about with people talking about touch screen systems that seem to be the newest thing that they're talking about going to.

We have one voting booth in each precinct for every 125 voters. It used to be, the Statute set forth that number as a requirement, but after the National Voter Registration Act went into effect, that Statute was changed and just allowed at the discretion of the Supervisor of Elections to provide voting booths in those precincts.

But as a rule of thumb, I stick to that 125 voters for every one voting booth in a precinct, which makes me wonder if we go to touch screen systems, how many touch screens are we going to have

to have in a polling place that's going to give the voter the same access to cast their ballots as they do now under our optical scan system.

COMMISSIONER REDENBAUGH: Is it also up to the Supervisor's discretion of how you allocate the specific pieces of equipment?

MR. SAWYER: Yes, sir.

COMMISSIONER REDENBAUGH: So that could vary widely from one County to another?

MR. SAWYER: Yes, sir, it could.

COMMISSIONER REDENBAUGH: In your County, what are the criteria for making that decision?

MR. SAWYER: As far as the booths?

COMMISSIONER REDENBAUGH: Uh-hmm.

MR. SAWYER: I use the 125 voters per booth.

COMMISSIONER REDENBAUGH: That would get us a density.

Do you have some equipment that's new and some old or is it all uniform?

MR. SAWYER: It's all uniform. We try to replace old equipment as we can. As far as the equipment itself, when I mentioned my three offices, the same equipment is stored in all three offices for those areas. The area of Key West is set up for

the first thirteen precincts, Marathon handles the Middle Keys area and the Lower Keys area, and then the Upper Keys will handle the Upper Keys precincts. And equipment is kept in those places for those three areas and they're allocated pretty much by the people that take the equipment out and set them up in the precincts on election day. And we do try to keep our equipment up to date as much as possible.

COMMISSIONER REDENBAUGH: Thank-you.

CHAIRPERSON BERRY: Commissioner Lee, did you have a question?

COMMISSIONER LEE: This question is for Mr. Sawyer.

In Tallahassee and again today we heard very different on experiences from voters relating to what to do when you have a spoiled ballot. Some people got new ballots, some didn't. Some knew where to file complaints, some didn't. Some were told that they could not bring a relative to assist them or friend, and some were able to.

So it seems like there was very conflicted information given, depending on the luck of the draw basically.

What do you think -- what if you have a huge sign at every poll, every polling place, the voter's rights, something like

that, telling them that if you have a spoiled ballot this is what you do, if you have a complaint this is what you do, so both the voter and the poll worker will abide by what is legally required and provided for the voter?

How much would that cost and how much effort would that take?

MR. SAWYER: There's very little expense and probably very little effort. The sign would probably work for some people. We post a whole range of signs at every one of our polling places. One sign is a big huge signs -- and all of our signs are bilingual -- and it basically says that if you vote in this precinct and this isn't your precinct, you're committing a third degree felony, you need to go to the right precinct. And you don't know how many people don't see the sign.

I think what you do in a case like that, if you see a voter that needs assistance or someone's with them, you deal with them on the spot one on one, is probably the best way to do it.

We train our poll workers to look for people who need assistance. When I took office, the very first poll worker training class that we had, I even like for parents to be able to bring their children with them when they go to vote, and even let their children in the booth with them so they can see what the process is and get a

little hands-on. And prior to that they wouldn't let an adult parent in with their child in the voting booth.

And so you know, I don't have a problem with that. Where we do find a problem is sometimes with two people, a husband and wife for instance, you'll have one that's a little more dominant than the other one and they'll be next to that voting booth and they'll be leaning over trying to tell that other person how to vote, and our poll workers will stop them from doing that.

But any kind of assistance that a voter needs in that precinct, our poll workers are trained to identify that and one on one handle it.

COMMISSIONER LEE: What happens if the poll worker provides the wrong information consistently? What kind of penalty is that person going to get? What kind of accountability is there from the Supervisor on to, you know, the precinct Supervisor, if someone has committed gross errors by telling the voters wrong information?

MR. SAWYER: I don't know about the other Counties, but I know in Monroe County if we had a situation like that and the poll worker was told that they were giving out the wrong information, that poll worker would not be asked to come back to work the polls again. That's the only thing we can do.

There isn't any other punitive measures we could take that would -- we've had at least one or two occasions where we sent someone home in the middle of an election. So it's not something that we would tolerate.

COMMISSIONER LEE: But if that person did not receive any training from anybody prior to working --

MR. SAWYER: We don't have poll workers working our polls that haven't been trained, no.

CHAIRPERSON BERRY: Okay, Vice Chair?

VICE CHAIRPERSON REYNOSO: The officials that testified before us have said that Florida does not have a provisional ballot and they think a provisional ballot would solve a lot of the problems, particularly those that came up last election.

But under some circumstances, as you've testified, a quasi-provisional ballot can be cast. I wonder if you would describe for me what you and the other Supervisors of Election in Florida understand to be a provisional ballot in contrast to what you haven't now?

MR. SAWYER: My understanding, and we were just in a conference in Kissimmee, the concept of a provisional ballot was brought up at this conference. My understanding of a provisional ballot is this. This is a ballot that is provided to a registered

voter, or is provided to a person where there may be a question about their registration or for some reason, one example was used that if they walked into a precinct at two minutes to seven and it was the wrong precinct and the other precinct was thirty minutes away and they couldn't make it before 7:00, that they would be allowed to vote this provisional ballot. In that case in the days following the election, we would investigate that particular person and then if it turned out that they were legally entitled to vote in that election, that the ballot would then be cast.

My only concern, and I brought this up at our conference, is that in a place where you normally say you don't have that problem and it's rare that you might have one or two people all of a sudden come up with a provisional ballot that they're signing an envelope with their ballot in it, at what point are you giving away your right to a secret ballot.

And not knowing what the laws are in States where this is provided, I don't really know the answer to that and I'm sure that will be addressed at some point. But sitting here today, that is a concern of mine.

CHAIRPERSON BERRY: Okay. Well, we want to thank this panel for coming. I would like you, Mr. Sawyer, even though we probably subpoenaed it, to leave me a copy of that yellow piece of

paper you have there, and want to say that you are excused and there are some check-out procedures that you must engage in with the lawyers over there and we would appreciate it. And thank you very much for coming.

(Whereupon, the witnesses were excused.)

CHAIRPERSON BERRY: We are almost back on schedule. A miracle has occurred. We've managed somehow not to abuse the record that we've made, try to keep on time. Vice Chair was very helpful in that regard. Thank-you very much.

We would like to call the next panel.

**Palm Beach County Public Officials**

CHAIRPERSON BERRY: The next panel, the Honorable Carol Roberts, Robert Weisman, the Honorable Theresa LePore, and Sheriff Edward Bieluch, please come forward, and once you are forward and have situated yourselves, you might want to keep standing unless you want to sit down and stand back up again, because I'd like to swear you in. And Peter Reilly is the Assistant Counsel who will be here.

Could you please raise your right hands while I give you the oath?

Do you swear or affirm that you will testify truthfully to the best of your abilities?

(Whereupon, the witnesses were duly sworn.)

CHAIRPERSON BERRY: Thank-you very much. Please be seated.

Counsel, could you please proceed?

MR. REILLY: Thank-you, Madam Chair.

Commissioner Roberts, you are here in response to a subpoena?

COMMISSIONER ROBERTS: That's correct.

MR. REILLY: Did you bring the documents that were requested?

COMMISSIONER ROBERTS: I believe all the documents that were requested reside in the Supervisor of Elections Office and all those that I received during the election went to her. So I believe they're all there.

MR. REILLY: Okay, very good. To your knowledge are they a fair and accurate depiction of the documents requested?

COMMISSIONER ROBERTS: Yes.

MR. REILLY: Very good. Mr. Weisman, you are here in response to a subpoena?

MR. WEISMAN: Yes, I am.

MR. REILLY: And I guess you brought the documents that were requested?

MR. WEISMAN: I did not bring any documents. It was my determination that none of those documents were in my possession.

MR. REILLY: Ms. LePore, you are here in response to a subpoena?

MS. Lenore: Yes, sir.

MR. REILLY: And did you bring the documents that were requested?

MS. Lenore: Yes, several boxes.

MR. REILLY: Okay, and they are a fair and accurate depiction of the documents requested?

MS. Lenore: Yes, sir.

MR. REILLY: Very good. Mr. Weisman, could I please ask, who is in possession of those documents?

MR. WEISMAN: The Supervisor of Election, an independent Constitutional officer in our County, and I am responsible only for certain administrative functions on behalf of the Board of County Commissioners. When I reviewed the list of documents that was requested on the subpoena, I determined that none of those were in my possession nor my office.

MR. REILLY: Okay. Thank-you very much.

Sheriff Bieluch, you are here in response to a subpoena?

SHERIFF BIELUCH: Yes, sir.

MR. REILLY: And did you bring the documents that were requested?

SHERIFF BIELUCH: Yes, I did.

MR. REILLY: They're a fair and accurate depiction of the documents requested?

SHERIFF BIELUCH: I believe they are.

MR. REILLY: Very good. I ask the Chair to accept the documents into the record and that they be numbered sequentially.

CHAIRPERSON BERRY: Without objection, so ordered.

MR. REILLY: Thank-you. Commissioner Roberts, we will begin with you.

You have been a Commissioner for fourteen years?

COMMISSIONER ROBERTS: Since 1986, yes.

MR. REILLY: Since 1986. In your fourteen years as a Commissioner has -- excuse me, fifteen years. In your fifteen years as a Commissioner has the Supervisor of Elections made requests for new voting machines?

COMMISSIONER ROBERTS: No.

MR. REILLY: On election day I believe you stopped off at a senior citizens' community and heard complaints regarding the so-called butterfly ballot and the busy phones to the Elections

Office; is that correct?

COMMISSIONER ROBERTS: That is correct.

MR. REILLY: Did you try to contact the Supervisor of Elections?

COMMISSIONER ROBERTS: I did with the mobile phone that's now turned off in my purse.

MR. REILLY: Were you able to get through?

COMMISSIONER ROBERTS: I was able to get through because I happened to have had the Supervisor's private number to her private office. She did not answer at that time. I believe it was her aid that answered. So we were successful. We were the only person in that particular polling precinct who got through.

MR. REILLY: Before you tried her private number did you try the general number that everybody else had access to?

COMMISSIONER ROBERTS: No, because the poll workers had told me that they had already been trying that number many times and they were not able to get through.

MR. REILLY: Okay. I'd like to direct this question to Mr. Weisman, both Mr. Weisman and Commissioner Roberts.

I assume that you both saw the sample ballot that was mailed out prior to the election?

COMMISSIONER ROBERTS: I saw the sample ballot when it

was mailed to my home. I had not seen it before that.

MR. REILLY: Okay. Mr. Weisman?

MR. WEISMAN: Well, supposedly all sample ballots were mailed to everyone's home. I did not recall receiving it nor did I seem to have it in my home.

MR. REILLY: So you never saw it?

MR. WEISMAN: I never saw the sample ballot.

MR. REILLY: Okay. Commissioner Roberts, when you saw it, did the sample ballot show exactly where the punch holes would be positioned on the ballot?

COMMISSIONER ROBERTS: It does now show that at all. There is no indication on the sample ballot of where the punch holes are.

MR. REILLY: Okay. I'm sorry, they did not --

COMMISSIONER ROBERTS: There is no indication on there whatsoever where the punch holes are.

MR. REILLY: Okay. If the punch holes had been shown, do you believe you would have told Ms. LePore that there was a problem with the ballot?

COMMISSIONER ROBERTS: I would -- I'll make an exception, that the answer would be yes. You know, it would again depend on I guess on how they were depicted there. But there was no

depiction at all and I just looked at it and my husband, we had two of them because there are two voters, there are only two voters left in my house.

MR. REILLY: Okay, thank you.

Before I go on, I was so eager to get started with the questions that I neglected to give each of you a chance to give an opening statement. I'd like to do so at this time.

Madam Chair, do we have a time that they are given?

CHAIRPERSON BERRY: If they have anything that they would like to say by way of opener for a minute or two, otherwise we will keep going and if they are answering their question and there is something else that they want to say, they can.

COMMISSIONER ROBERTS: I was just going to tell you why they had the -- I am now the Vice Chair. I was not in November. I was not the Chair, and under Florida law it says that the Chair of the County Commission would be normally on the canvassing board.

The Chair of our County Commission was on the ballot. Because I have served many times on canvassing boards, she asked the Board of County Commissioners if it was all right if she asked me to serve, and the Board of County Commissioners voted to put me on instead of the Chair of the County Commission.

CHAIRPERSON BERRY: I see.

MR. REILLY: Mr. Weisman?

MR. WEISMAN: I have no comments.

MR. REILLY: Okay. Ms. LePore? Sheriff?

SHERIFF BIELUCH: I'll pass.

MR. REILLY: Okay.

CHAIRPERSON BERRY: Good. Let's keep going. We have lots of questions.

MR. REILLY: We do have lots of questions. I'd like to address this to all three of you, Mr. Weisman, Ms. LePore and Commissioner Roberts.

When did it become clear that much larger numbers than usual would be voting in the election, especially from within the African/American community?

Commissioner Roberts?

COMMISSIONER ROBERTS: I don't think I was aware of how much larger the African/American community's turnout was until really at the end of the election evening when we looked at the precincts as they came in. So I was not aware of that.

I have a strange district. It's mostly senior citizens. The greater percentage of my district is senior citizens.

I have about a four percent, I believe it was about two years ago,

of minorities, probably about six percent if you consider the Hispanic and black together in my whole precinct.

So in my particular area I would not have noticed that.

MR. WEISMAN: During the election day I became away through conversations that there was a very high voting rate throughout the County. I cannot single out any particular group and say that was high for them.

MR. REILLY: Did you have any indication, Mr. Weisman, that there was on the horizons a potential shortage of poll workers or phone lines to the Elections Office?

MR. WEISMAN: Quite a bit of time prior to the election, probably about six months to a year, Theresa LePore had spoken to me about a potential of shortage of poll workers and the possibility of having to use County workers in that roll on an assigned basis. We did not set that up but we have spoken about having to do that in the future.

Also, my office is responsible for providing phone lines to her office, and we did provide more than thirty extra phone lines in anticipation of there being heavy phone traffic to her office that day at her request. And those were in service during the day.

MR. REILLY: Very good. In addition to the phone

lines did you have the additional personnel to staff the phone lines?

MR. WEISMAN: The staffing of the phone lines would be her responsibility. My personnel is responsible for installing it.

I did ask them to monitor it during the day, and indicated that most of those lines were being used at the time they monitored it.

MR. REILLY: Okay. Ms. LePore, maybe you could answer both of those questions.

MS. Lenore: Okay. My office became aware of the intense interest in this election during the voter registration drives and voter outreach we did prior to book closing. In the State of Florida the voter registration books close twenty-nine days before an election. And within the last three weeks before book closing we probably added anywhere from eighteen to twenty thousand new registrations under our rolls. So we knew that there was an extreme interest in this particular election. As such we did try to increase our poll workers. We have almost 4,000 poll workers that we have to hire and train for each county-wide election.

In the training for the poll workers I did emphasize to them that this is going to be a busy election, and I'm not going to go into the details unless you want to about the training, but indicated to them that there would be a lot of people not used to

the equipment and make sure they get a demonstration, et cetera, et cetera.

With regard to the telephone lines, the thirty additional lines were in addition to our regular lines that we have in the office. So we probably had anywhere between all of our offices from seventy to seventy-five different telephone lines, incoming telephone lines.

MR. REILLY: Okay. And we will get to the issue of training.

Ms. LePore, in our hearing in Tallahassee last month one of our witnesses was Jim Dixon who is Vice President of the National Organization on Disability. Mr. Dixon is legally blind.

I want to read the following quotation from Mr. Dixon's testimony. Quote, "Commissioner LePore announced that she designed the butterfly ballot to provide assistance for voters with low vision. There are in excess of 60,000 people in her County who admit that they have trouble reading small print and there are probably another thirty or forty thousand who have trouble reading small print but do not admit it. Ms. LePore not only failed to request the assistance of those who know how to develop effective large print media, but she consistently rebuffed the offers from activists in her County to provide assistance," end of quote.

And I have a two-part question. First of all, if you care to comment on Mr. Dixon's testimony, and secondly, in designing your ballot, were different groups asked for in-put?

MS. Lenore: First of all, I'm not sure I'm aware of who Mr. Dixon is.

Second of all, to my knowledge, nobody contacted my office to offer assistance. I had contacted other agencies, not with regard to the sight problem with the ballot, but as far as the language, and received no response in, you know, trying to go out and ask for assistance, and that's another subject.

With regard to the ballot page, I am sure you are aware, in Florida we have a very short turn-around time. By the time we get the ballot certification from Tallahassee and the time we have to print it and get it out with regard to absentees and all of that sort of thing, so there really is a very limited amount of time to have public meetings or forums where people can come in and critique how the ballot looks.

I basically use my own judgment and that of my staff to try to make the print a little bit larger for people that might have a problem reading.

We also supply in the polling place what we call ballot viewers. It's about an eight and a half by eleven, nine by twelve,

page magnifier. That is in each of the precincts. So if anybody -- and they're supposed to be out on the table, so anybody who might need it can pick it up and take it to the machine to use it.

MR. REILLY: Okay. What about the election more generally? Groups that might need additional assistance? Persons with disabilities, language minority groups?

I know that we have heard complaints from the Haitian/American groups who have complained that they needed additional language assistance.

MS. Lenore: . With regard to the Haitians, I'll answer that, the Haitian community. I had spoken to several groups and several individuals. Palm Beach County is very, very large area-wise, population-wise, voter registration-wise. We have a number of different groups. There's not one group for the whole County.

I had spoken to the organizers the beginning of the summer, end of spring, beginning of summer, giving them all of my material and asking them if they will translate this material for me, I will print it for free -- well, I will print it, give it to you for distribution. I made follow-up phone calls. "We're working on it," and nobody ever came back. And quite frankly, we were very, very busy and we didn't follow up. Hindsight is twenty/twenty. I probably should have bugged them some more about that. But I did

make an effort. I did go speak to their groups to try to assist them. I do have a good working relationship with the Hispanic community. I do give them my materials. They print it in their newspapers. They print it, you know, in their little stores and things like that. So that does go out as well.

MR. REILLY: For the future have you instituted a specific more bigger --

MS. Lenore: In the future we will get in touch with County or Courts or someone that actually has a Haitian interpreter and get somebody on my own to interpret. I was trying to work with these groups to get them to get more involved in trying to, you know, come together and help them while they help me at the same time.

MR. REILLY: Okay. This next question deals with spoiled ballots and I hope that it can be an opening for you to discuss more generally the training for your poll workers.

We have heard a great deal of testimony that some voters were not told they could vote up to three times if they made mistakes. Could you tell us a little bit about how poll workers are trained in this area?

MS. Lenore: I have what I consider -- I consider it extensive, my poll workers consider it over-extensive, training of

my poll workers. My precinct clerks, the clerks are the ones that are in charge of the precinct, have to attend a two hour workshop. The inspectors are the ones that give the demonstration, check-in the voter, for about an hour and a half. The precinct deputy who sits at the door greeting people coming in is about an hour.

The clerk and inspectors, because they're the ones that actually deal with the voters, I have a power point presentation and a poll worker manual which is in the documents that I submitted, detail by detail of how to handle a variety of situations.

First, when the voter comes in, all voters coming in are supposed to be offered a demonstration of the equipment. They're not forced to take it but the offer is supposed to be there.

The assistance devices are supposed to be out on the tables so if somebody needs it. We also have, in addition to the page magnifier, a -- we use punch card obviously -- a handicap stylus is what it's called. It looks like a small tennis ball with a stylus on the end of it so people who might have trouble holding the small punching device can use that to punch their ballots.

I explain to them about if somebody comes in and needs assistance in voting, the procedure to do that. They can bring someone of their own choosing in or two poll workers of the opposite

political party to come in and help them.

About the spoiled ballot, the time limit, we go through this in detail. As far as the voting machines, I tell them all to put at least one machine on a table so that somebody who might have trouble standing can sit and vote, or somebody in a wheelchair can come up to the table and vote in private.

I can't guarantee that they all do it. I have 531 precincts in my County and like I said, almost 4,000 workers. I instruct them. They have the written materials. And I can only hope that they do what they're told to do.

MR. REILLY: Did you have enough poll workers?

MS. Lenore: There were some precincts that were a little short. People called in sick or just didn't show up that last few days.

MR. REILLY: Did you feel that your resources for training them were adequate?

MS. Lenore: I feel so, yes.

MR. REILLY: To what extent -- it's been confusing in learning about this. To what extent is the Secretary of State's Office involved in assisting you in executing your duties?

MS. Lenore: The Secretary of State's Office, specifically the Division of Elections, responsibility by Statute is

to provide us with the candidates that qualify with their office, to offer legal assistance when necessary. Specifically, if we have a question on how to interpret a section of the Election Code, we ask the legal department or they have legal opinions that they render, like the Attorney General's Office that are legally binding. We refer to that.

The format of the ballot as far as how the names are to be laid out on the ballot. They don't approve the individual County's ballot.

Basically that's it. They don't provide anything as far as poll worker training, polling location management or any of that sort of thing.

They do supply is with the qualifying forms and things to do with candidate qualifying and some of the signs that are required to be posted in the polling place by Statute, such as it's a felony to vote in a precinct where you don't live and you know, that sort of thing.

MR. REILLY: Okay. I understand that you are considering posting a Voter's Bill of Rights in polling places. Could you give a description of that and why you feel it's necessary to provide that?

MS. Lenore: I participated in several Town meetings with members of our legislative delegation around the County and one

of the reoccurring themes that came up were that people did not know what they could or could not do while in the polling place. Specifically, if they messed up their ballot they could get another one, or you know, whatever the case may be.

I have thirty-seven municipalities in my County. Thirty-one are scheduled for elections March 13th coming up. Usually not all of them actually have elections, but we're going to try it out in that election posting what has been come to known as the Voter's Bill of Rights. Basically, if you're in line by 7:00 p.m. you're allowed to vote, you know, so they're not kicked out; they think 7:00 you got to go. If you mess up your ballot you're entitled to another one, and just a few other points, Statutorily required points.

I might add that we have a tremendous amounts of signs in our precincts that are already there, informational signs for the poll workers, including signs on how to vote your ballot inside the voting machine. They walk up to the voting machine and it's right there. And I've had people bet money, want to bet money with me that the signs are not there, especially the one inside the machine, and it's a label that goes in there. So I don't know how much good this sign will be, but at least I'll try it and we'll see.

MR. REILLY: Okay. My question is directed toward

you, but all Commissioner Roberts and Mr. Weisman.

Why did you decide not to use the felony purge list provided by Choicepoint?

MS. Lenore: The short version or the long version?

When we first received the list -- actually a couple of years ago we started receiving this list from the Division of Elections and it contained a number of errors. They kept trying to refine it so that it did not have errors, but every time we got it we found that there were errors.

The last list we got, the infamous list that's been talked about statewide, which was in summer of 2000, statewide had a tremendous amount of problems. One Supervisor of Elections name even appeared on it and she had nothing more than a traffic ticket.

We did some spot checking, found that there were errors, and I felt that I'd rather err on the side of the voter than to take somebody off with the chance that it was an error and to deny someone their right to vote by mistake. It's very time consuming and tedious to try to verify every single name on that list and to -- if somebody calls on election day, they're on the list and they say they're on there in error, to go through the procedure of trying to make sure that they're eligible to vote, I decided to err on the side of the voter.

MR. REILLY: Okay. Mr. Weisman or Commissioner Roberts, do you have anything to add?

COMMISSIONER ROBERTS: As a member of the Canvassing Board I'm not involved in that particular end.

MR. WEISMAN: I do not have any response in that area either.

MR. REILLY: Okay. Ms. LePore, there has been a good deal of confusion over voting by affidavit. From testimony earlier today the confusion seems to stem from poll workers not knowing when your office, or when a County Supervisor Election's Office, must be contacted before a person is allowed to vote by affidavit.

What are the circumstances requiring poll workers to contact the Supervisor of Elections Office?

MS. Lenore: Very simple. A voter comes in, they're on the voter registration rolls, they're allowed to vote.

If they're not on the roll, they're not allowed to vote unless the office is called, with one exception. Voter comes in, they're on the list, the poll worker is supposed to verify the voter's address, the voter advises they know longer live at the address, they live at another address, we provide a street index to each polling place. The poll worker looks up the address in the street index, "No, you don't belong in Precinct 1, you belong in

Precinct 2." There's an affidavit that that poll worker gives the voter to carry over to Precinct 2. They submit it. No call is necessary because the first polling place has already verified that that person is eligible to vote.

Those are the only two cases where a voter is allowed to vote. If they're not on the list, if they don't have this transfer form, transfer affidavit, then they have to call the office to verify eligibility.

MR. REILLY: So it would be fair to say probably that in the vast majority of circumstances they need to make contact with your office?

MS. Lenore: Yes, sir.

MR. REILLY: So in all those instances when we heard testimony of people not being able to reach your office, if the poll workers had been doing their job correctly they would have been turned away?

MS. Lenore: Yes, sir.

MR. REILLY: Okay.

MS. Lenore: I might add that out of the 462,644 voters that voted that day, in going through all the affidavits and paper work that we had during what we call our clean up process after the election, we found 191, only 191 that were questionable

that were not on the voter registration list. Some were actual address changes from one County to another and they had not registered in our County or had registered after the books had closed.

MR. REILLY: And that's after countless people couldn't contact you throughout the day. It's somewhat begs the question, should they have to get in touch with your office? Do you have a response?

MS. Lenore: That's true. One thing that we're going to do in the future, again, hindsight's twenty/twenty, we are going to have several back-ups in place. One is to provide a CD of the voter registration rolls to all of our municipal clerks, and I've already spoken to them about it; they're in agreement, so that if the poll workers cannot -- and they will be trained how to answer the questions as well -- if poll workers cannot get through to my office they can call one of the city clerks -- again, there's thirty-seven, so that's thirty-seven more phone lines -- to verify if somebody's eligible.

Also, I'm not sure I'm going to be able to get the funding for all 531 precincts, and probably more because we have reapportionment next year, but in the majority of the precincts have a laptop in them so that we can provide the CD rom with the voter

registration list and train someone in the precinct to do the look-up right there to try to alleviate some of the telephone calls.

MR. REILLY: Okay. And that will be right at the precinct level, not at the city level?

MS. Lenore: Right, or both.

MR. REILLY: Okay, very good. Thank-you all very much.

Madam Chair, I have no more questions.

CHAIRPERSON BERRY: Does any Commissioners have any questions for this panel at this time?

Yes, Vice Chair.

VICE CHAIRPERSON REYNOSO: Ms. LePore, I understand that in Florida there's a local option on sending absentee ballots?

MS. Lenore: Yes. You can either -- under Florida State law you can either publish the sample ballot in a newspaper of general circulation, or mail it to each household. In Palm Beach County we choose to mail it to all registered voters. We mailed out approximately 655,000 sample ballots. We had 100 variations of our ballot, because of the size of it. Those were mailed out in addition to the two major newspapers, also reproduced it in the papers.

VICE CHAIRPERSON REYNOSO: And did you send sample

ballots both for the primary and for the general?

MS. Lenore: For the primary we publish them in the newspaper, the first primary. The second primary, because it was so small, we published and mailed it as well. We did it both ways.

VICE CHAIRPERSON REYNOSO: Do most Counties in Florida send out a sample ballot for the primary or not?

MS. Lenore: Very few do because of the expense. For me to send it out in a general election was about \$200,000.00.

VICE CHAIRPERSON REYNOSO: And is there a law that requires that the sample ballot be the same design as the former ballot on which the voters will vote later on?

MS. Lenore: I believe it says it's a similar facsimile or something. I'm not sure of the exact wording. The sample ballot that was sent out, it's in the material, I don't have one handy, is an actual booklet. So it looks like what is in the machine. The only difference is the holes not pictured on there. The arrows are there but the actual holes are not.

We have been mailing out in Palm Beach County sample ballots to registered voters since the last '70's when we first got the punch card system, and I've been in the Elections Office since 1971 and I have never heard of anyone complaining because the holes were not depicted on the sample ballot.

VICE CHAIRPERSON REYNOSO: You no doubt read the declaration about the difficulty of fitting the sample ballots in the machines.

Have you had occasion to investigate that? Were there some ballots that were harder to fit into the voting equipment? Was there more than one printing of the ballot? What is your reaction to the published reports and the testimony we had today that there was difficulty with a great many of the ballots?

MS. Lenore: The actual punch card fitting into the machine?

VICE CHAIRPERSON REYNOSO: That's what I understand.

MS. Lenore: From Palm Beach County?

VICE CHAIRPERSON REYNOSO: That's what I understand.

MS. Lenore: I'm not aware that -- unless staff received some calls and they didn't tell me, which I find hard to believe. I'm not aware of any problem of putting the card into the machine.

I'm aware of a problem, confusion with the actual ballot page, because we use the facing page ballot, with voters being confused with that. But as far as inserting the ballot card into the machine, the ballot cards are all purchased from the same company and they're all printed at the same time. I'm sorry, I

can't --

VICE CHAIRPERSON REYNOSO: As far as you know, all of the ballots were printed at the same time and they were exactly the same?

MS. Lenore: Yes, sir.

VICE CHAIRPERSON REYNOSO: Thank-you.

CHAIRPERSON BERRY: I have a number of questions myself this time, but I'll recognize -- did you have a question, Commissioner Meeks?

COMMISSIONER MEEKS: I'll go ahead and -- I think we have some more questions.

CHAIRPERSON BERRY: Commissioner Wilson?

COMMISSIONER WILSON: Thank-you, Madam Chair.

I guess my first question is, in listening to what you said and in listening to the testimony -- well, to begin with it seems as if there were two sort of editions of this butterfly ballot. In the testimony this morning there was a ballot that was -- well, we didn't actually see it, but the witness said that this was one version of the ballot -- it was a sample of the ballot, and then when he actually saw the ballot, the ballot was different. And I think that the only question I have, and I know that you've had a lot of time to really think about this, is what happened? What

really happened with this ballot?

MS. Lenore: I wish I knew. The only thing, when people say that the ballot they saw when they went into the polling place was different than the sample ballot they received, the only difference between the two, because we used the exact same proof copy, if you will, for both the sample ballot and the ballot page that is in the machine, is that the sample ballot did not have the holes depicted on it, which is something we had never done, and to my knowledge, anybody in the country that uses punch cards does not do that. So I'm not really sure.

From what I have heard in my travels around the County and otherwise since the election, were several things. One, people were told to -- you're familiar with the layout of the ballot?

COMMISSIONER WILSON: I am now.

MS. Lenore: Okay. Were told to punch, since Gore was the second one on the ballot, to punch the second hole, which he was not the second hole; he was the third hole. He was the second name on the ballot but the third hole. Voters were told to vote for Lieberman.

COMMISSIONER WILSON: Just say that again. It's confusing even in your saying it.

MS. Lenore: Okay. The ballot -- I wish I had it with

me.

CHAIRPERSON BERRY: She just meant repeat what you just said.

MS. Lenore: Okay. The way the ballot is set up, Bush was the first name on the ballot, then it was Gore, and then other names, and then the second page had some more names. In Florida we had ten Presidential candidates.

Bush was the first hole to punch. The first name on the second page was Buchanan. He was the second hole to punch. Gore was the third hole to punch.

So people were told to punch the second hole because Gore was the second name on the ballot.

COMMISSIONER WILSON: But they were told to punch the second hole by whom?

MS. Lenore: The different community groups -- this is just feedback that I'm getting.

COMMISSIONER WILSON: They were saying when you go into the voter booth, this is what you do?

MS. Lenore: Right. We have a tremendous number of condominiums in our County, a large senior population, and there are a lot of different clubs, political clubs that provide information to their residents, their citizens, on suggestions on how to vote.

And there were two things that I heard that were going around. One, punch the second hole because Gore's the second candidate. The other was to vote for Lieberman, not mentioning Gore or anybody else's name, just vote for Lieberman. If they followed the line where Lieberman's name was, it punched another hole down below because the President and Vice President are grouped together.

COMMISSIONER WILSON: And this is what you pieced together after the election?

MS. Lenore: Yes, ma'am.

COMMISSIONER WILSON: But in some instances, maybe this is what you're saying, even the arrows weren't aligned next to the names that people thought they were voting for. Not that they thought they were voting for the second name and they voted for the third name, but even the arrows had been misaligned.

MS. Lenore: They all come off the same press. They're all printed on the exact same size paper. The machine that is -- it's called a crimping machine that puts the little metal edge on the page to put it inside the machine, is all lined up exactly so there's no way one could be cut or put in higher or lower than the other. The arrow, you've got the candidate's name, the arrow pointing to the number and then the hole. So it's all -- if you follow straight across then you'll hit the hole.

CHAIRPERSON WILSON: I guess so.

MS. Lenore: There's one in your materials as well as the actual ballot pages.

CHAIRPERSON BERRY: I have the sample ballot also.

Commissioner Meeks?

COMMISSIONER MEEKS: Well, I guess -- I mean there's probably no bigger controversy than the butterfly ballot, and I guess, you know, was this the first time this was used?

MS. Lenore: No, ma'am. We have used it in Palm Beach County. The last time we used it was in 1988. We had a tremendous amount of amendments on the ballot, questions on the ballot, and it was used at that point. We've been fortunate and not had to use it since then. There are other Counties in the State of Florida that use it. There are other jurisdictions in the country that use it, specifically Chicago. Chicago's ballot was even more confusing, if you will.

COMMISSIONER MEEKS: This doesn't seem to be a problem that just affected people that were first voters. I mean it really affected people that had voted for years too.

MS. Lenore: Yes. I think it was something different that the voters were not used to looking at, which you know, in my business, if you will, you always try to do everything you can as

far as voter education, voter awareness. I joke, I kill a lot of trees at election time because I do send a lot of information out to the media in hopes that they will print it. Some things they do, some things they don't. And there's always something that, you know, you should have done better.

COMMISSIONER MEEKS: Just one more question. We had testimony this morning, and I'm pretty sure it was from Palm Beach County, that people were turned away from the polls even though they were in line at 7:00, that the doors closed.

Do you use deputies for every precinct as did Broward County?

MS. Lenore: Yes, ma'am. There may have been a few precincts that didn't have them because they didn't show up, but we do appoint deputies for every precinct.

In the instructions at all three levels the poll workers get, there's very specific instructions that everybody in line at seven is allowed to vote. At 7:00 p.m. when the clerk declares the polls closed, the deputy stands behind the last person in line to establish a cut-off point, you know, et cetera, et cetera. They are told several times in the presentation not to turn anyone away at seven. Anyone in line is allowed to vote.

Without specific information, you know, I don't know.

COMMISSIONER MEEKS: And so you're sure that every precinct followed that process?

MS. Lenore: I would like to think they did. I don't know factually. Nobody has come to me to give me specifics on which precinct they were turned away from so that I could do the investigation to see what exactly had happened.

CHAIRPERSON BERRY: I have a number of questions, if I ever get to ask them.

Commissioner Lee?

COMMISSIONER LEE: Thank-you, Madam Chair.

We heard testimony earlier that some of the Counties had citizens, I don't know what they do because we didn't have time to ask them, but on the face of it it sounds really good, that if you have local residents to advise you how to carry out the elections and then point out different concerns.

Do you do -- number one, do you have such boards that you involve the community in your training, education of this process?

MS. Lenore: We do not have, as far as my office goes, a citizen's advisory board. It might be something to look into for the future.

I do a tremendous amount of voter outreach. I do a lot

of it myself because I think as an elected Constitutional officer it's my responsibility to be out in the community as much as I can, and I speak wherever they'll allow me to speak. I have very extensive programs in the elementary, middle and high schools with regard to voter education, registering high school students, going out to the communities, going to the nursing homes. We have assistant voting, that my staff goes into the nursing homes and assisted living facilities to get those folks registered and vote them by absentee when it comes time to do that.

So we do a lot of outreach. Again, it's probably never enough, but we do as much as we can, yes.

COMMISSIONER LEE: So before each election do you do any trial runs to make sure that there's no kinks involved, either internally or involving outsiders?

MS. Lenore: With regard to the outreach, it's an ongoing process we do, whether we have elections going on or not. So that's a year round thing that we do.

As far as trial runs, we really don't have time. We have barely enough time to put on the real election because of the time frame that we're under. And it takes a County my size about six months to prepare for an election. By the time you do everything that's Statutorily required, procedurally required, and

then everything else on top of that, that happens, there really is not time for trial runs.

CHAIRPERSON BERRY: I have several questions. The first one is, what is the budget of your office?

MS. Lenore: My budget goes up and down, depending on the election cycle. And the fiscal year 2000 was just over -- or just under 3.4 million. The 2001 was around 3.6 mil.

CHAIRPERSON BERRY: And Mr. County Administrator, what is the budget of Palm Beach County?

MR. WEISMAN: The total County budget is 2.3 billion dollars. The operating budget is 900 million dollars.

CHAIRPERSON BERRY: Does your office -- how long have you been Supervisor of Elections?

MS. Lenore: I started in the office in 1971. I was elected in 1996.

CHAIRPERSON BERRY: Is your office adequately funded?

MS. Lenore: I thought so, but Commissioners are going to in for a surprise the next time. There's a lot of additional things.

CHAIRPERSON BERRY: So it was your belief until the November 7th election that your office was adequately resourced?

MS. Lenore: Yes, ma'am.

CHAIRPERSON BERRY: Switching -- I'll come back to you. Sheriff Bieluch, do you believe that it is necessary or a good idea, aside from public safety emergencies, such as a crime having been committed or you're looking for a felon or some, you know, public safety emergency, that a Sheriff's Department should conduct check points on roads leading up to precincts where people have to vote on election day, for purposes of checking whether their vehicle's in good condition or things like that?

SHERIFF BIELUCH: Absolutely not.

CHAIRPERSON BERRY: Okay. So you think it's neither a good idea or particularly necessary?

SHERIFF BIELUCH: Well, I don't think it's a good idea. I think it would be political suicide for a sheriff. You know, I just don't think it's the right thing to do.

CHAIRPERSON BERRY: All right. Would you --

SHERIFF BIELUCH: We don't do them anyhow.

CHAIRPERSON BERRY: In your County does the Highway Patrol set up check points on residential streets in your County?

SHERIFF BIELUCH: The Highway Patrol?

CHAIRPERSON BERRY: Right.

SHERIFF BIELUCH: The only check points that I'm aware of that the Highway Patrol sets up would be DUI check points, which

are normally done at night from about 9:00 to 2:00 in the morning, in that time frame, and once in awhile we do a system of those, but those are the only kind of check points that I'm aware of in Palm Beach County.

CHAIRPERSON BERRY: Does the Highway Patrol perform -- I just want to make sure I've got this -- check points for condition of vehicle on residential streets in your County?

SHERIFF BIELUCH: I haven't seen them do that in probably twenty years, and I don't believe that they do it.

CHAIRPERSON BERRY: Okay.

SHERIFF BIELUCH: And we don't do it.

CHAIRPERSON BERRY: All right. County Administrator Weisman and Ms. Roberts, do you both think that the elections in your County went very well indeed and that you're satisfied with both the results in terms of -- I don't mean the political results, but I mean service to your customers who are the voters or do you believe that changes need to be made?

COMMISSIONER ROBERTS: I'll tackle that one, and he can tackle it too.

No, I am not satisfied with this election and I do believe we need to have changes. My Board of County Commissioners I believe agrees with me. They have pledged that practically whatever

Theresa gives us as a budget they're willing to spend right now.

I believe that we need to look at many things. I've heard about voter -- the precinct education. I know that Theresa thinks that she has done a fine job, and I think she has. I think part of the problems we have in Florida, and certainly in Palm Beach County, is the fact that our population is about thirty-three percent considered senior citizens, and many, many of her poll workers are senior citizens. I think we need to look at the age of our poll workers and perhaps bring the age down, because I think that, and I am a senior citizen so I'm trying not to be discriminatory, but I believe we need to have younger people who can be more --

CHAIRPERSON BERRY: Careful.

COMMISSIONER ROBERTS: I'm trying to be. That perhaps have better stamina to go for a twelve hour day and perhaps don't get as tired as they would be at the end of a twelve hour day.

I think that we need to have a better education process that would allow industry to perhaps do the same thing that you do as far as a jury, and that's let people have time off to be poll workers, and perhaps to pay them; it's a one day thing, so that we could have people who are as fresh in the morning -- at night as they are in the morning after a long twelve or thirteen hour day.

And it's usually a thirteen hour day because you get there earlier and you leave later.

That's been one of our problems, in that even though we have 4,000 workers, many of them, because of age, get very tired, may not be as alert and perhaps miss a lot of things.

CHAIRPERSON BERRY: You're describing some of the students in my class who are under-graduates between the ages of eighteen and twenty-two.

(Laughter.)

COMMISSIONER ROBERTS: That's true. I understand that also.

Some of the comments that I had heard from my younger constituents, and as I said, I'm one of the Commissioners that -- my district is mostly senior citizens, it's probably fifty or sixty percent considered a senior citizen area. Even the seniors who were in the -- those who voted felt like they would have liked to have seen perhaps younger poll workers. And I know that Theresa's had a problem getting poll workers that perhaps would be younger.

CHAIRPERSON BERRY: Mr. County Administrator Weisman, do you have anything to add to that, or what is your response?

MR. WEISMAN: Yes, I do. I think the issue here was the closeness of the race and the high voter turnout and it

demonstrated that the present level of the capabilities of the system could not handle that. And in anticipation of that, in the future we have to change the way we do this. We need to have the ability to handle more voters and to have a more accurate count, due to the closeness of this race demonstrated.

CHAIRPERSON BERRY: And so even if we were to have younger poll workers as opposed to older poll workers, let's say we substitute every poll worker who worked on election day with a young poll worker, would that have solved the problem?

MR. WEISMAN: I'm not going to touch the age relationship on the quality of poll workers. I think the question - there's always the case of having well qualified and well trained people doing the work you have, whatever service you're providing by Government.

But I think the issues here really arose from the inability of the system to handle the high voter turnout, the calls, the questions that arose, and the fact that the race was very close, which made every weakness of the system stand out even more.

CHAIRPERSON BERRY: And we I suppose want to encourage high voter turnout. As I understand the genius of our system, our job is not to discourage people from voting, our job is to encourage them. So that we should be pleased when turnout is high.

And isn't it the case that everyone knew or should have known that there were increased registrations in some precincts? We had evidence, testimony and it's in the Statute and we've had testimony that reports are required of the registration, so that everyone up and down the line in the system should have known that there were increases in the numbers of registrations in some districts and precincts; isn't that correct, or am I wrong? I'm asking anyone there who knows.

MR. WEISMAN: Yes, and I think that in our case, as far as my responsibilities were concerned, the placing additional phone lines in anticipation that we were going to have an unusual response into the Supervisor's Office is an example of trying to deal with that.

CHAIRPERSON BERRY: Did you -- Ms. LePore, what would you suggest as ways to have increased the number of poll workers? Would recruiting people and paying them a lot more help?

MS. Lenore: Paying more may have helped. The problem is actually getting them. We went through every means we knew how, from trying to solicit some businesses, putting ads in the paper, doing mailings to target precincts where we knew we had a problem with getting poll workers, putting notices up in clubhouses, notices in newspapers, community newsletters. We tried to do everything we

could, even trying to get substitute teachers, but then if they get called to teach they'd rather go teach than come work at the polling place.

Increasing the pay may be a solution and I will look into that. We did increase it for the fall 2000 elections from previous elections, but it's still difficult.

CHAIRPERSON BERRY: Isn't it the case, wouldn't you think, that we can take notice of the fact that in our society compensation; that is, paying for work, salary, is usually an important consideration to people who apply for jobs?

MS. Lenore: That's part of it, but when you consider the long day, poll workers have to report for duty at 6:00 a.m. and they're usually not finished until 7:30, quarter to eight in the evening. Depending on how busy the precinct is during the day, they may or may not have time to have a lunch break or you know, break or whatever. People don't like that. They'll come one time and then they won't come back.

Also, we found that there's a segment of the population that do not feel they -- they don't have the same sense of responsibility as the more mature generation, if you will. It's let somebody else do it, it's somebody else's responsibility, I don't want to be bothered, whatever the case may be.

We have tried in Palm Beach County and have not had a whole lot of success. Again, we will try to do more.

CHAIRPERSON BERRY: Is there some law or rule that says that people have to work thirteen hours? Why can't you have them work part-time?

MS. Lenore: Under Florida law, once you're there you're there for the whole day.

CHAIRPERSON BERRY: And so they have to work thirteen hours. Have you made any recommendation that that law be changed?

MS. Lenore: We had talked on a number of different boards and task force that have come in to testify, speak to different groups and all, and one of the suggestions was to split it up. The problem that comes in with that is the security aspect of it. If you've got half the crew leaving and another crew coming in, you've got a security issue of transferring voted, non-voted ballots over to the new crew. So you've got to stop what you're doing. Nobody can vote until that transfer takes place. And then what happens if the second half of the shift doesn't show up and the first half wants to leave?

So there's other considerations in there. I have spoken to some legislators about it and perhaps we could do where, you know, a certain core group has to stay there the whole time and

you can supplement with half shifts or something like that.

CHAIRPERSON BERRY: Well, I mean if you really thought that it was necessary to do so, the money could be spent and the inclusion could be done to have people stay there even when they're not on duty. You could even set up cots and they could go to sleep.

That way they wouldn't leave the building. I mean that happens in situations. It's done in emergency rooms and all sorts of places. It just depends on whether one --

Are you really telling us that, and not just you but other Supervisors, that no one suspected until this election took place that the resources weren't sufficient, that there were problems that might occur, and no one really projected that there was anything that they should ask to do anything any different? Is that basically --

MS. Lenore: Yes, ma'am.

CHAIRPERSON BERRY: What about Water Works? Are you familiar with a polling place, it's Precinct 162J it looks like, where it's a gated community called Water Works, and we had testimony on that this morning, and we were told it was in your County. Does anybody know whether -- it says Boynton Beach. Is that in your County?

MS. Lenore: I have Boynton Beach and 162J, but I'm

not familiar with Water Works.

CHAIRPERSON BERRY: Well, we were told in testimony this morning that this poll worker was working at this precinct and that the gated community's gate automatically closed at 6:15 so that no one could get in and out after -- get into the place after 6:15, so the voters who were outside were not able to even get through the gate in order to register to vote -- I mean to actually vote. And so there were these people who weren't able to vote and the poll workers were quite upset about it. They couldn't get through to headquarters and that there wasn't anything anyone could do.

Do you know about this situation?

MS. Lenore: First of all, that was never reported. Second of all, we have a 162J, but it's in Delray Beach, not Boynton Beach.

CHAIRPERSON BERRY: Well, maybe the number was wrong.

MS. Lenore: And lastly, most of our gated communities, the voters within those walls are the only ones that vote in that particular polling place.

CHAIRPERSON BERRY: It's located at the Water Works Department on Jog Road, it looks like, in Boynton Beach. It's a municipal facility. It's a Water Works Department apparently.

MR. WEISMAN: It's a County facility. The County has

water plants along Jog Road in more than one location in Boynton Beach and Delray Beach. I cannot imagine why they would have a gate that automatically locked when there was polling going on, certainly. We would have staff there to open it.

CHAIRPERSON BERRY: This location is in Palm Beach County?

MR. WEISMAN: Yes.

CHAIRPERSON BERRY: And so the testimony was that they were not able to get through to -- could it be possible that someone was not able to get through to your office?

MR. WEISMAN: That set of circumstances seems very unlikely to me, but --

CHAIRPERSON BERRY: I'm asking Ms. LePore whether it is possible that someone, the poll workers or the clerk tried to call your office and was not able to reach it on that day?

MS. Lenore: That is very possible, but the Government facilities that we use, there's usually a staff person there during the hours that we're there. The Water Department is one of those facilities and that's a waste water treatment plant, I believe. It could be a water treatment. Those are generally staffed on a twenty-four hour basis. I'm not sure if this person was relating, and I'm sorry I interrupted, but I've heard many people tell me

things and then I ask them whether they themselves experienced it and they said, "No," they heard it from somebody else. And I wonder if this person actually experienced that themselves.

CHAIRPERSON BERRY: "On Tuesday, November 7th, I was working for the Palm Beach County Board of Elections," that's the witness' testimony which we had this morning. In six Water Works, at the polling place for the precinct, in six, located at the Water Works Department on Jog Road in Boynton Beach, this person says that they were working there, they didn't just hear it from somebody, and that "The access required that voters pass through an automated iron gate outside the Water Works. Although the Palm Beach polling places were not to close until 7:00 p.m., these gates were automatically locked on or about 6:15. I tried to telephone the Palm Beach County Board of Elections headquarters a couple of dozen times to help resolving these issues, but unable to get through as the line was always busy."

So I just wondered -- they called the police at 911. I don't know who they'd get if they called 911. Approximately twenty minutes later the gates opened again after they called the police, but while the gates were locked the voters who were there went away and they couldn't get in and they left.

Now you may not be familiar with this. I was only

asking whether you thought it was possible that something like that could have happened in your County? We have several other affidavits from voters, sworn affidavits, complaining that the same thing happened to them in this. "My husband, Joel and I were at the polling place at 6:15. The iron gates were closed preventing entrance. Several cars pulled up and tried to honk horns and wait and wait and we drove off thinking we were wrong about the closing time. The polls must have closed at six. Then a police car came up to check what they were doing and verified that the polls are supposed to be open until seven."

MR. WEISMAN: Madam Chair, I have not heard about this issue previously. I'd like to opportunity to respond in writing to the Board after I review that.

CHAIRPERSON BERRY: You may do so.

MS. Lenore: Likewise, I've not heard of it.

CHAIRPERSON BERRY: The only other thing I would ask - - I guess I won't ask anything else, except to say that I appreciate very much your testimony, the Commission does, and the testimony of all of the witnesses at this hearing. We have heard very little up in Tallahassee and here -- oh, I do have one other question.

One of the points that have been made by some of the Commissioners is that many of the complaints that we have come from

areas in which the voters identified themselves as wanting to vote for democratic Presidential candidates and that the public officials in those locations were also democrats. So the question for them was, why would democratic party officials be willing to run an election system in such a way so that their parties' voters weren't able to have their votes cast and counted on election day? Is it that these officials were so negligent or so inattentive, or for some reason we don't know they didn't want their votes counted, even though they were democrats? And was there some kind of, you know, conspiracy in the democratic party to reduce the democratic vote?

So what is the relationship, if any, between the party affiliation of the people who -- for example, in your County. Are you a democratic?

MS. Lenore: Yes, ma'am.

CHAIRPERSON BERRY: Are you, Ms. Roberts?

COMMISSIONER ROBERTS: Yes, I am, and the third member of the Canvassing Board, which it turned out was a democrat also.

CHAIRPERSON BERRY: And the people who -- many of the people who complained, for example, about the butterfly ballots, said they were trying to vote for democratic candidates, at least they said they were.

Is it just that you didn't suspect that there were

going to be any problems, and if you had you would have figured them out, and there's no correlation or relationship between these?

MS. Lenore: I did not obviously anticipate any problems, and I'd like to put on the record that yes, I am a registered democrat. In the State of Florida the Supervisor of Elections is a partisan office in most of the Counties and we are sponsoring, we the Supervisors of Elections around the State are sponsoring legislation to make it a non-partisan office.

I have always run my office and acted as non-partisan as possible in conjunction with my duties. I feel that it should be. Hopefully this legislation will pass and if so, I will change my party to no party, so that there is no perception that I'm favoring one party over the other. I feel that as an elections official that I need to be as non-partisan as possible and there was no conspiracy on my part to sway the vote one way or another. Mr. Gore won Palm Beach County by, I believe it was over 120,000 votes.

So I did not intend for any candidate to win or lose or any of that sort. And my staff feels the same way. There's a long-standing joke we have in the office that we don't know who won the election until the next day, we read it in the paper, because we're all so wrapped up in doing our job we don't have time to look at the election results.

CHAIRPERSON BERRY: All right. Well, I want to thank everyone again for coming and to just say that these hearings have been very informative in Tallahassee and here. They've been characterized by some people taking responsibility for their actions, but many of the people who have been involved have taken the position, from what I've heard, that either nothing happened or whatever happened was wrong or that they were not responsible. So it is refreshing to have someone be responsible for something.

I want to thank you all very much. And if there is no objection, this hearing is recessed for dinner.

Thank-you very much and please check out with the attorneys.

(Whereupon, the witnesses were excused.)

CHAIRPERSON BERRY: We will return at 6:45 p.m.

(Whereupon, a dinner recess was taken, to be reconvened at 6:15 p.m.)

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(6:45 p.m.)

CHAIRPERSON BERRY: We will come to order again and we -- the sign language interpreter, have I sworn you, ma'am?

THE INTERPRETER: Yes.

CHAIRPERSON BERRY: Could you please ask if anyone is in need of sign interpretation?

THE INTERPRETER: (Complies.)

CHAIRPERSON BERRY: Thank-you very much.

We will now begin a session where the Commissioners will hear testimony from concerned citizens.

We have several panels of individuals we will be calling. These individuals have previously signed up and had a brief screening with our staff. They are being called on a first come, first serve basis.

If you have something you would like the Commissioners to hear, but you're not among those who will be speaking at the open session here this evening, let me remind you that you may submit a written statement.

The record for the hearing will remain open for sixty days, during which you may do so.

For those of you who will be speaking, I know that many

of you have waited through long hours of testimony to have a turn at stating your concerns. We thank-you for your patience.

We ask that you limit your comments, if at all, to three minutes if you can, so that others will have an opportunity to speak as well. Thank-you for your attention.

General Counsel, please call the witnesses for the first panel.

MR. HAILES: Thank-you, Madam Chairperson.

At this time we will call Congresswoman Carrie Meek and Ms. Stephanie Desir of Rep. Alcee Hastings' office.

Please come forward at this time.

CHAIRPERSON BERRY: I hated to have you sit down and then have to stand back up, but I have to swear you in.

Please raise your s and, seated.

It's so good to see you, Congresswoman Meek and give Alcee my regards.

CONGRESSWOMAN MEEK: I definitely will.

CHAIRPERSON BERRY: Please proceed.

We will begin with you, Congresswoman Meeks. Could you please make comments to us in whatever way you wish.

CONGRESSWOMAN MEEK: Thank-you. Good afternoon to the Commission members.

I'm Carrie Meek. I represent the Seventeenth Congressional District here in Miami. It runs from the Dade County line north to the cities of Homestead and Florida City.

I'm really pleased that you're here to investigate the voting problems that we experienced during the last presidential election.

We all know the problems we had. I'm pleased that you're here to hear our personal story.

My thesis, Madam Chairman, is that we came to have these serious electoral problems because of a systematic failure of government to provide efficient services for the electorate.

If there is anyone who is the person who is at fault here most of all, it's government.

The office of the Supervisor of Elections should be more than a bureaucratic maintenance office.

The Dade County Elections Supervisor did very little to improve reported voting irregularities and patterns in the black community.

We had three days of what we call early voting. And of course there was no support from the elections department for early voting.

As a matter of fact, the supervisor told me that

there's no such thing as election early voting.

We had really mobilized the community, and groups like Alive with Five had really done a significant job of having people in this community understand the pleasures of early voting.

We went out but we received hardly any, any support from government. There was a pattern of place and inefficient voting machines in our precincts.

Additionally, the Dade County Elections Department has no outreach services to educate voters in our community.

And of course after this debacle of this vote happened, now they're beginning to do what they should have done all the time, to try to educate voters and to have them come out and vote.

Very little has been done throughout my 30 years here in dealing with elections when we have received criticisms through elections toward government. So the culprit, in my opinion, is government.

My personal voting experience is a good indication of the attitude of the elections department to the voting public.

I contacted the Supervisor of Elections two weeks prior to the election to let him know that many people in the black community intended to vote early.

He said there is no such thing as voting early.

That is, several days before Election Day this was done to ensure that his office apparatus and staff levels would be adequate to accommodate the needs of the people and ensure smooth operations.

And we continually get the criticism with my having come from many times a disadvantaged voting area, people are saying if they don't know how to read, that's bad for them.

What people don't understand that you're supposed to be able to vote regardless of your level of educational achievement, regardless of what walk of life you're from, and it appears to me that there was some kind of sophistication, a so-called phony sophistication, on the part of government in terms of allowing all the people vote.

First of all, I feel that there have been so long critical of the black community to say, oh, they don't come out and vote, and when they did come out, nothing -- very little was done to encourage it.

To my surprise, not only was government uninterested, but they were reluctant to adjust early voting operations to meet the new anticipated demands.

Because of this lack in providing services for these black voters, I waited in line for two hours to vote.

And what was so terrible about this, there were some Haitians who were voting for the first time that received -- did not receive any help at all.

As a matter of fact, when many of them got up to the front, they were even allowed to vote, and they had their voting registration cards with them.

To me this was a very myopic view of our rights and our voting rights were trampled upon. They did very little here.

The early voting debacle was a precursor of what was to happen on election day on November 7, because it would disenfranchise thousands of voters and they had a chance to test this thing out and correct any irregularities that would happen.

So that's why I blame government. The turnout of black voters was a phenomenal 88 percent in Miami-Dade County, mostly in my congressional district.

However, problems were many and included the following major issues which you have already heard, inaccurate master voting lists, where longtime registered voters were mysteriously omitted from the voting rolls.

This had happened before, but this time it was just an amplification of an old problem which government refused to try and correct.

While our people were turned away, we would find out that in other places in the County, ballots were cast by persons not listed on the voting rolls.

All they had to do was sign sworn stats that they were eligible to vote.

They voted and we found out later they were ineligible to vote.

Black precincts had a different standard than other precincts. Some voters complain of being sent from polling place to polling place. We know that that's true -- with no real effort to determine.

Some claimed of being turned away from not just one but three or four polling places.

I want the Commission to realize that this is a very sensitive thing here. This is a very diverse county, and when you have people like Haitians, minorities, Asian Americans coming up to try and vote and turn around because government's insufficiency or government's lack of support, that's a very, very, very bad feeling.

There was a lack of an adequate communications systems.

We do better in Dade County in Florida in communicating on the Lotto, on the lottery, but we do very little to communicate when

it's time for voting. That's another problem of government. So much of this can be laid on government's back.

And we spend taxpayers' money, but we undermine the voting rights of the people in this county when poll workers had a very tough time getting in touch with election headquarters.

There was very little effort in the black community to give them with all of the ability and capability that there is in this county, very, very little was done. And while we find that laptops were given to some precincts to remain in touch with headquarters' database, none were provided for our community.

So as a Congressional person in this community, I really feel the problems that government had here. And much of it is on my back and on my watch. So each of us is aware of the fact that these things did happen. I was there for a lot of this.

I've heard this over the time government knew about it, all the way from the Supervisor of Elections to the County Manager, to the Mayor. They all just do it hands off and decided this is not within our purview, that even though this eclipse is happening, it's not within our purview, it's not within our Constitutional power to do anything about it. Just let it fall apart.

Even if you appeared on the master roster and you did not have a photo i.d. in many instances, you could not vote. A lot

of Haitian-Americans come again to my vision here. First time voters needed assistance in voting but were not given the help.

Polling places were changed. They would run into their earlier polling places. Many became frustrated, did not know where to go. The result is we lost lots of voters.

Some polling places closed at 7 p.m --government again -- despite the fact that many people had been in line hours. I ran to the Mayor, I ran to the County Manager, and they says, we've given all the resources we can.

But obviously they did not give enough, obviously government did not plan for this voting frenzy that we had. Large numbers of black voters were discarded as being as many as one in ten ballots cast in some black precincts in Liberty City.

Now, I want the Commission to understand that for many of these voters, this was the first time they voted. Some gold teeth voters voted in this election, with gold teeth all across the front of your mouths. It was the first time that we had gotten these people out. Think of the disappointment and the disillusionment that's happening because of this.

And this in my opinion takes away their voting rights when they cannot read -- and I'm not saying they cannot -- we have had people to call in to me and say well, what about those little

old ladies on North Miami Beach, you going to tell me that they couldn't read that butterfly ballot over in Palm Beach County when if there's something missing on their report from a -- if they get a receipt from a waitress when they go out to eat, they know how to count that.

So you must look at some of the kinds of prejudices that exist in our community, and that is why no one wanted to do anything about these voting irregularities. They were there. It was government's fault why they were not followed up on.

The department used large numbers of untrained poll workers. Government again. Not the people, government. Some of whom had never worked in election before, never. But they had them there.

They were unprepared for the massive turnout, and they were unprepared for the unclean voting machines. I wish some of the people who clean those machines could talk to you, just one on one.

You could see some of the many things that government was responsible for.

I'd say that is a violation, when government doesn't do what it is supposed to do.

So after the election we could find some of the holding areas here and some Miami-Dade County voting machines had not been

emptied out in eight years. Think of all the chards that hung there all that time.

So it is just government being just, just oblivious of the voting rights of people. And we know that scientifically that's why those chards probably packed down and caused some people not to be able to vote.

As it continued, there were major voting irregularities, and I could go on and on.

Madam Chairlady, if I go over time, I want --

CHAIRPERSON BERRY: Well, you have, ma'am.

CONGRESSWOMAN MEEK: Well, may I submit it for the record?

CHAIRPERSON BERRY: Yes, indeed. Absolutely.

CONGRESSWOMAN MEEK: All right. Thank-you, ma'am.

CHAIRPERSON BERRY: The total thing. And Thank-you very much for coming here.

CONGRESSWOMAN MEEK: Thank-you.

CHAIRPERSON BERRY: Yes, Ms. Desir, please.

MS. DESIR: Good evening.

CHAIRPERSON BERRY: You going to compete with Congresswoman Carrie Meek.

MS. DESIR: I can't compete. I can't compete.

Good evening. My name is Stephanie Desir, and I come here before you all on behalf of Congressman Alcee Hastings of Florida's Twenty-third District.

This evening I extend to you the Congressman's regrets for not being able to attend today's events. He would have liked to be here.

The Congressman would like all Americans to know today that voting is a responsibility that is of paramount importance to the well-being of our democratic society. Many have paid with their lives in order for their loved ones and future successors to be able to exercise their right, not privilege, but their right to vote.

Congressman Hastings has not and will not remain silent knowing that there have been attempts to silence the voice of the American people by the dreaded practices of disenfranchisement.

Although the tactics for disenfranchisement have changed, we must remain aware that whether it's in levying poll taxes or staging a police checkpoint, the result and intent are the same.

Congressman Hastings urges American citizens not to give up on voting. Remember, had you not voted this time, the injustices that occurred would remain unknown to us today.

Furthermore, by voting in future elections, you help in the war against disenfranchisement and demonstrate that you will not allow this unfair practice to be victorious.

Since November 7 -- since the November 7 election, Congressman Hastings has engaged in several activities to demonstrate his commitment to the cause that the voices of the American people be heard and that the practice of disenfranchisement come to an end.

On November 21, 2000, Congressman Hastings sponsored a town hall meeting at the Seminole Indian Tribe in Hollywood, Florida. Citizens voiced the anger and frustration about the events that took place on election day. They also gave testimony as we have seen people do here today on their personal experiences of election day.

He also spearheaded an enormous effort that vehemently objected the inclusion of Florida's 25 electoral votes on January 6, 2001, during a joint session of Congress. He was assisted by members of the Congressional Black Caucus and my partner here, Congressman Carrie Meeks.

At present, Congressman Hastings serves as co-chair on the democratic caucus special committee on election reform. The committee's goal is to work with election experts to find methods

that will fix the cracks in our current system and make sure that the voices of the American people are heard.

Finally, ladies and gentleman on the Commission, I have come here today on behalf of Congressman Alcee Hastings of the Twenty-third District of Florida to let you know that he remains committed to being an instrument of change that will bring about significant electoral reforms and that he has heard the voice of the disenfranchised voter and hopes that you as well have also heard it by the testimony that's come here today.

And he wants you to know that this should have never happened and he hopes that your efforts, along with the Congress's efforts and everyone involved, this will never happen again.

Thank-you very much.

CHAIRPERSON BERRY: Thank-you very much and let me say again how much we appreciate your testimony and we appreciate you coming here Congresswoman Meeks. All right. Thank-you.

Now we want to hear from the other people in your district here. Let's see what they have to say. Unless somebody has a question they want to ask.

Okay. Counsel, could you call a panel of next witnesses.

MR. HAILES: Yes, Madam Chair. Our next witness for

this open session is Senator Darryl Jones.

Will you please come forward.

CHAIRPERSON BERRY: Could you please raise your right hand Senator Jones.

Do you swear or affirm that you will testify truthfully to the best of your abilities?

SENATOR JONES: Yes, I do.

(Whereupon, the witness was sworn.)

CHAIRPERSON BERRY: All right. Thank-you very much. Please be seated.

Could you please proceed with your testimony -- and welcome -- in any way that you please to proceed.

SENATOR JONES: Thank-you, Madam Chair, Commissioners.

First of all, I want to Thank-you for being here today and for participating in a very important process.

I'm also delighted at this point that you're still here, that in light of the new administration, I trust that you will not be intimidated and that you will proceed and provide a report that will be substantive and reflect your true views.

CHAIRPERSON BERRY: We'll try not to be intimidated.

SENATOR JONES: Thank-you. I'm the State Senator for Senate District 40 here in Florida, and it ranges from Northwest

62nd Street, Martin Luther King Boulevard, all the way down to Key West. It's a large area.

From my perspective there are two, basically two types of people who were disenfranchised during this last election.

The first were those who went to vote and whose votes ultimately were not counted, approximately 179,655 people in the State of Florida.

The second type were those who tried to vote but were not allowed to vote. These numbered in the several thousands. At least we know about 8,000 who were purged from the voting rolls. And it's almost impossible to determine what the real numbers of those are.

There is a third category of those people who actually got to vote but were not supposed to vote because of one reason or another. Either they weren't registered voters or maybe they were former felons.

And while I don't agree with that policy, I do believe that a person who has served his or her time in our system, who has paid their debt to society, who is now a good taxpaying citizen and has not recidivated, should have the opportunity to cast their vote for the persons who are going to spend their tax dollars. I think that's what the Boston Tea Party was all about.

I'm also a member of the election reform task force. We've had several meetings around the state, and I want to report to you that I'm pleased with the sets of recommendations that are coming out of our election reform task force. We will take them to the legislature.

I feel very comfortable in putting forth these recommendations, and I also think that whether or not the legislature will actually implement these recommendations remains to be seen.

I think if you take a look at all the voting irregularities that occurred, you take a look at the State of Florida, and you can see that there are basically three types of people who are easily identified who if you were purposefully trying to inhibit their right to work, you would be fairly safe in doing that and not working against your own party.

By that I mean blacks, the Jewish population and the Cuban population. Blacks and Jews in this state tend to vote democratic. Cubans tend to vote republican.

All voting irregularities occurred in democratic precincts, at least the ones that have been documented thus far. And so while I'm not sure -- and I don't necessarily buy into the fact that it was all racially motivated, I do think that there was

quite a partisan effort going on.

And while I may not necessarily buy into the fact completely that it may have been a conspiracy, just as our history has demonstrated, at least from the sixties and before, you didn't have to make phone calls to tell people to inhibit others to vote, there was a national mind set that made that occur. And that may have been happening, not only here, but also across the nation.

Florida just happened to be the place where it was highlighted this time because of how close our election was.

We've come up with a number of different recommendations from the election reform task force. We'd intend to recommend to the legislature to<sup>35</sup> replace the punch card ballot system. Clearly, the U.S. Supreme Court has indicated that there may be some equal protection problems if we maintain the systems that we have.

We also are going to clarify the recounting process. We're looking at online voter registration statewide, and perhaps even providing for overseas absentee voters the opportunity to vote by Internet.

We also believe that those who had problems interacting with poll workers in which the poll workers ended up denying people the right to vote, needs to be clarified; and we've conceptualized a

voter bill of rights which would be posted in every precinct in large font, in the appropriate languages, so that both the poll workers and the voters can see what their rights are and that there will be little debate about who is able to vote and who is not.

In the event, for example, that a person's identity is in question or whether or not their name appears on a voting roll, we're looking at the concept of a provisional ballot, whereby they will be able to vote anyway and have that checked at the Supervisor of Elections' Office; and once verified as a registered voter, have that vote counted.

I'll tell you one thing about Supervisors of Elections that I've learned over the years. First of all, voting irregularities are not occurring in the year 2000 for the first time. I think all of us are aware of that. And they didn't stop in the 1960's.

In the State of Florida, in particular, most supervisors of elections are elected in partisan elections. We think they should be voted on a non-partisan basis.

Secondly, they have unfettered discretion to throw out ballots and in many cases decide on their own the results of close elections.

While I think that most supervisors of elections are

good people who have the desire and the will to do what's right in their positions, such unfettered discretion I think is difficult for some people to handle, and we have to be aware of that.

Add so my goal today is to bring to light some of the things that I've thought after going through this past election were problematic.

In particular, I had in my district a number of people who called my office on Election Day who said I voted in the primary in September, I voted in the runoff in October. Here it is November, and they're telling me that I'm not a registered voter.

And so with that, I will conclude my remarks and I stand ready to answer any questions you may have.

CHAIRPERSON BERRY: Thank-you very much, Senator Jones.

I only have one question.

SENATOR JONES: Sure.

CHAIRPERSON BERRY: Just I didn't understand something probably.

SENATOR JONES: Okay.

CHAIRPERSON BERRY: Did you -- did I hear you say or imply that the Democratic Party may have conspired because the voters who reported irregularities were in Democratic precincts to keep their own voters from voting?

Was that what you were saying?

SENATOR JONES: No, it was the opposite.

CHAIRPERSON BERRY: Oh.

SENATOR JONES: The Republican Party may have done that.

CHAIRPERSON BERRY: I figured I didn't hear you right, because that didn't seem to be --

SENATOR JONES: No, the irregularities didn't happen in Republican precincts.

CHAIRPERSON BERRY: I see.

SENATOR JONES: As I mentioned to one of my colleagues on the election reform task force who was a Republican, when I made note of that, he said of course no irregularities occurred in our precincts, we don't permit it.

CHAIRPERSON BERRY: I see. So Democrats permitted things to happen at their precincts.

SENATOR JONES: No.

CHAIRPERSON BERRY: That's the point.

SENATOR JONES: We don't prevent it.

CHAIRPERSON BERRY: Okay. Do you believe that the -- if the Governor's task force recommendations are accepted and implemented, if they were, that it would solve all of the problems and we could then be sure that no one could conspire ever again to

interfere with the vote or would it still be at risk?

SENATOR JONES: Well, that depends. It depends on how those recommendations are implemented.

For example, I favor precinct based optical scan systems which leave a paper trail of how people actually voted and allow you not only to count by machine, but also to count visually and to be conclusory in those counts as opposed to punch card ballots with hanging chards.

A lot of people are pushing the touch screen systems, and I asked in our last election reform task force of a person who is a computer expert associated with one of the companies pushing the touch screen system whether or not this was possible.

Is it possible, I asked, for one of your touch screen systems to be programmed so that prior to seven o'clock in the morning when the systems are tested, that you put in the 50 ballots or so that you're going to test, and that it gives you a count that reflects what you put in, but programmed so that from seven in the morning until seven in the evening when the people come and touch the screen and have their votes, even if it prints out a receipt reflecting exactly how the person votes, for that machine instead to record those ballots 75 percent for one person and 25 percent for another, regardless of how people voted, and still give you a

receipt showing what you voted. Is that possible? The answer was yes.

CHAIRPERSON BERRY: Okay.

SENATOR JONES: And so I don't buy into touch screen systems --

CHAIRPERSON BERRY: For that reason.

SENATOR JONES: -- when that is possible.

CHAIRPERSON BERRY: Did anyone else have a question?

VICE CHAIRPERSON REYNOSO: I have a quick question.

SENATOR JONES: But it's still one of our recommendations.

CHAIRPERSON BERRY: Even though you didn't agree.

SENATOR JONES: I didn't agree with that part.

VICE CHAIRPERSON REYNOSO: In light of the legislative politics, how possible is it that your recommendations will indeed be accepted by the legislature?

SENATOR JONES: I think that the major ones will be accepted in some way.

I think that punch card ballots will probably come to an end and will not be present in the State of Florida during the 2002 elections.

I think that we will have a voters' bill of rights that

will help people whose registration is in question at the precincts.

VICE CHAIRPERSON REYNOSO: So you have a provisional ballot also?

SENATOR JONES: I think we'll have provisional ballots.

I feel that the legislature is willing to do those things.

There are a number of things that the legislature is not willing to do; and depending on the cost associated with it and how many people we can get involved to help split the cost of changing the ballot systems, that will also have impact.

CHAIRPERSON BERRY: Yes, Commissioner Lee.

COMMISSIONER LEE: Senator, does the task force recommend that the Governor's office provide additional funding, not only for purchase of technical equipment, but also on other areas such as voters' education, outreach, that type of important programs?

SENATOR JONES: Yes, Commissioner Lee, the task force has recommended a substantial amount of dollars for educational outreach in a number of different venues, and not only for machines.

We're also recommending to spend money on a statewide registration system as well, and to do it all online if possible.

It's a number of different -- if we were to implement

everything, it would probably be in excess of several hundred million dollars.

I don't think that we're going to do that. I don't think the price tag is going to be that large.

CHAIRPERSON BERRY: All right. Well, Thank-you very much, Senator Jones, for your testimony. We appreciate it very much.

SENATOR JONES: Thank-you.

CHAIRPERSON BERRY: Thank-you for coming.

Counsel, could you call the next panel, please.

MR. HAILES: Will Dr. Brad Brown, D.P. Misra, Venghan Winnie Tang, Stacey Power and Randall Benston, please come forward.

CHAIRPERSON BERRY: Could you please stand and raise your right hands, please..

Do you swear or affirm that you will testify truthfully to the best of your abilities? (Whereupon, the witnesses were duly sworn.)

CHAIRPERSON BERRY: Thank-you very much. Please be seated.

I want to welcome everyone and welcome first Dr. Bradford Brown who served faithfully as chair of the state advisory committee to this Commission a number of years. We appreciated so

much your service and all that you continue to do. And so we would like you to lead off, please.

DR. BROWN: Thank-you very much, Madam Chair, members of the Commission, General Counsel.

First, I want to speak as first vice president of the Miami-Dade branch of the NAACP representing our president, Bishop Victor T. Curry, Senior Pastor of New Birth Baptist Church, who was not feeling well tonight and sends his regrets. So I want to first present his statement.

We thank-you for coming to Miami and for continuing to investigate the important issue of voting rights and the nightmare which was our experience on November 7 and the days following.

Our branch, including its youth unit, was heavily involved in voter registration, get out the vote, and voter education efforts.

Our youth council even held a workshop to explain to new voters how to vote, a task for which the County Register's Office was derelict in its responsibilities.

During ~~November 7,~~ our get out the vote ride to the polls headquarters began to receive calls telling of difficulties at the polls.

The next night we had a rally at New Birth Baptist

Church, and it was standing room only with individuals angry and frustrated because effectively their right to vote was tampered with.

Our own State NAACP president had to challenge poll workers to take her to jail if they would not allow her to vote.

This led to the national NAACP holding a public hearing in Miami and taking detailed testimony.

I understand that you have that testimony which has led to the NAACP lawsuits, so I won't repeat any of it here.

Unfortunately, many of our Haitian-American brothers and sisters are still too frightened of the government to give formal testimony.

In fact, their treatment at the polls was all too reminiscent of previous experiences in Haiti and reinforced that mistrust.

We have heard many aspersions that voters did not know what to do.

In fact, it was what happened at the polls with workers who either had not been properly trained or properly supported with sufficient resources to accomplish their task that were the basic problem.

And that responsibility rests with State and County

election officials, not the individual poll workers.

The failure of these officials deprive many of their franchise.

We've been informed of the inadequacies of the punch card systems, but we have not seen an inspection of individual machines, as there's been a desire to blame the voter.

Where were the newer, more recently serviced machines placed?

Were the poor and older functioning -- older machines concentrated in black precincts?

The lack of ability to contact the central office to verify registrations was a key issue.

Why were the laptop computers placed where they were?

Was the increase in registration and increase in expected turnout taken into consideration, as well as size of the precinct in making that determination?

Were they in fact placed in precincts where the demand would have been greatest?

Has there been any post-election checks to determine that?

Staffing of voting places needs to be examined specifically to determine why adequate staff was lacking in Haitian

precinct, where increased assistance was obviously expected.

What about staffing in locations with reference to parking for those precincts where there were complaints of polls being closed before everyone voted.

Why was the elimination of supposed convicted felons done in the way it was, without reasonable opportunity to correct errors?

What about the failure of persons who registered under the motor voter provisions to receive their cards?

Why weren't such persons notified that their forms were incorrect if that in fact was the case?

Were forms from different sources, say social service offices, those sent in to groups like the NAACP, the vehicle office, were they treated differently?

These records need to be examined. All of these actions taken together are difficult to understand as purely random.

Were they deliberate or were they just understood but deliberately ignored and not addressed because it was obvious where the impact would be?

When the NAACP held a major rally just before the election and people marched to the absentee booth set up in the county government building, there were only two booths available,

despite our having told the registrar's office that we were coming.

The line stretched forever and many had to leave without voting.

That tells us much about the attitude of the office towards an increased black vote. Never again should this travesty be allowed.

And I want to just speak briefly of my personal experience on election day where I worked on our get out the vote and drive to the vote drive.

I drove to Homestead in the far south end of the County to our homeless housing area. I picked up a woman who came out and told me well, she had not received her registration card, but she had registered at the Caleb Center, a social service center in the central part of the County.

So immediately my wife began calling the Registrar's Office so we could find out where to take her to vote, assuming that just the mails hadn't caught up with somebody in her situation.

And she dialed this way, you dial the number, you get a busy signal, you hang up, you punch redial, you repeat it, you repeat it. And so you're constantly coming, hoping that that moment will come where you'll catch somebody there.

Well, we drove for about 25 minutes and came near our house which was being used as one of our local points and we still

hadn't got through.

So we went in and tried for the equal length of time before finally getting through and finding out that indeed they had no record of her.

I wonder how many other people may not have had their records there.

Fortunately, she said well, I have my card from where I registered before I became homeless.

Well, at that point, I switched cars, took my truck, drove her 30 miles into Broward County where she lived before she had gone homeless and come back to Dade, and she was able to vote.

But how many other people when polling offices couldn't -- had other things to do and couldn't just sit and constantly dial.

So it's easily understood why they didn't get through and many people's opportunity to vote was missed, because they weren't able to make that kind of contact.

Thank-you very much.

CHAIRPERSON BERRY: Thank-you very much.

Ms. Misra?

MR. MISRA: Yes.

CHAIRPERSON BERRY: Mr. Misra, I'm sorry.

MR. MISRA: Good evening, Madam Chairperson, and

Commissioners.

My name is D.P. Misra. I have served in the past as the president of the Association of Indians in America and president of the Asian-American Chamber of Commerce.

When I say Indians, I mean Indians as from Asia.

My experiences are three-fold. One part of it I don't even know is under the purview of this particular exercise, but that is getting the people from Asian origin to be able to eligible to vote, which means the INS citizen naturalization process.

And the kind of experiences we have had with different people from different nationalities, not just Indian, but many other Asian countries, where we have tried to get help people, elderly people or people who don't speak enough of the language, but we really didn't get anywhere, at least not in time. When we will, we don't know.

The next part of the exercise is registering to vote. Naturally, we were actively interested in the voting process.

We did try to go out and get people and we respected the deadlines given by the Dade County election system, that this is the last date for which you must register to do this, all that we told everybody.

We went we collected registration papers, we went to

people and we gave them.

No other than my own son, we took his paper, we registered it and everything. He never got his card. And several others that I have talked to never received their registration cards.

We tried calling. It's not coming and November 7 is coming along. Oh, don't worry, it will be there. If it not there, you go there and they will let you vote, and it never happened.

And the card didn't come. As on today, my son's card hasn't come. I checked before I left for this meeting. I said maybe it came today in the mail, and it hasn't. And it's been three months at least.

The other part of the exercise is individual machinations.

Madam Chairperson asked the question of Senator Jones that if all these changes are done, will that be over, will there be no problems.

There will be problems. In this last election, towards the afternoon a friend of mine who is a Republican himself, but we are close friends, and he calls me, he says D.P. you will not believe what's going on. I said what? He said there is this -- he is voting in Pinecrest -- and he says there is this long line and

there are guys walking down that line and telling them that if you are a Democrat you don't vote today, you vote tomorrow, go back, and come back tomorrow to -- for Democrats it's on Wednesday. It's only for Republicans today.

Now, that kind of machination will never go away unless there is something to prevent it, and I don't even know what can prevent it, what form of policing or what.

And one other issue that everybody else has brought up before me, I heard at least several witnesses, is that if there is a long line, if this man stood there in a 300 strong line at seven o'clock, he should be entitled to vote that day and not be chased away saying we close our doors at seven o'clock. You still there -- anywhere there are lines, whether it's for a ticket or for paying your telephone bill or for anything, where there is a line of 50 people or a hundred people, you go there, and the cut off at that point, he says okay this is five o'clock and everybody that's inside this building at five o'clock or in this line at five o'clock, you take them on.

But in this case, ~~arbitrarily they closed the doors.~~ And all these people that stood for hours, they probably left their jobs, they suffered the big traffic, and they got there so they could exercise their franchise and they failed to do so.

Thank-you.

CHAIRPERSON BERRY: Thank-you very much.

Ms. Tang, please. Venghan Winnie Tang.

MS. TANG: Yeah.

CHAIRPERSON BERRY: Nice to see you here.

MS. TANG: Good evening, Madam Chair and Honorable Commissioners.

Thank-you for hosting this public hearing to hear our voters' concerns. I think you've been the whole day long already.

As a record, my name is Venghan Winnie Tang, and I live in Miami-Dade County, but I got involved with the Asian community not only in Miami-Dade, Broward and Palm Beach, but also around the countries.

Currently, I serve as the president of Organization of Chinese Americans South Florida chapter.

Many of you may know of what OCA is about. It's to let you know civil rights, advocates and educational organization.

But also I serve as chairperson for Asian American Alliance, which is the one to help to work with the Asian community educating about the voting, the political process, and as a director at large of the Asian American Federation. So those are a few or ones I can say what we are doing in the Asian Miami-Dade community.

asked to go to the police station and when the police officer look at his record say, well, your record is cleaner than mine, let me teach you a lesson. At that time he was booked, under arrest.

So he stayed in jail -- one even led to another event later on and somehow the second event happened his brother got involved in that event without doing anything wrong, but somehow got how you say plead guilty and then later on have a records. And at that time he already filed naturalization application.

So right now three year passed and he have such a hard time to become a citizen because have a record on that. So from that I'm looking at it is really he got prevent to become a citizen and in that kind of instance it prevent him to become a voter so to exercise his right.

And also there is 70 years old lady who had been applying for citizenship over three years. And we done a lot of lumbo jumbo, three years later today and she still hasn't received her citizenship yet.

Not only her -- how you say benefit was withhold because of the process and also her vote to -- her try to register to vote will also be preventing to become a voter.

So I really urge you to maybe look into this one to

writing some letter to the INS say what happened to our old lady, over 75 years old, how many more years she will still live here, luckily another year, maybe ten more years in that way.

So and those are a lot of issues because Asian community most -- 60 percent of us come from -- is foreign born. We are not American born. So we have to go through the naturalized process to become a citizen.

With all these little instance happening, it's really preventing us to become a citizen and then even though we want to exercise our right to be a voter and that is also be impact by all these little instance.

So INS may have something to do with that and as D.P. also mentioned about Asian community, we are quiet, we are silent. We are not only minority, we are silent minority.

A lot of time it's been much easier for people to really look at us say oh, you don't talk about anything than -- may just move away the problem. But I think we are learning to be vocal, to be really let you know this is some issue happening to our community and hope you will look into that to help us to -- you see some of this issue for INS and then for also the police, cultural diversity, insensitivities to our cultures and them have the training. But somehow when I talk to them they still think we are

Today I would like to bring a few things to your attention from the Asian community.

As a community organization, we work with our community with citizen who drive, voter registration drive and voter education.

Last year we also organized many our voter registration drive prior to the election.

As you heard from D.P. that we have people who registered before the election but didn't receive their card and they got turned away when they go to vote, because they are not on the roster.

And also have a friend who moved from Broward County to Miami-Dade County, but is so busy didn't have time to change their address. So on the Election Day, she drove -- she left early, drove all the way from Miami-Dade to South Broward to vote.

When she arrived the post station and when they look at her driver license as i.d. and the i.d. say live in Miami-Dade County, say no, you cannot vote here, go back to Miami-Dade County.

But she said I live here before, my registration card is here. Go for about over an hour type of conversation back and forth, back and forth.

Finally another worker come to talk to her saying that

wait a minute, what happened. So he checked the list and her name was on that, so she got to vote.

But come to think about it, if someone who -- she is a Chinese-American, speak fluently English. If someone who doesn't know the language that well can't really talk about it, so that person most likely would be turned away without vote.

And also some of my friends who volunteer on the Election Day and they vote the day before the election in Pembroke Pines, Broward County. And they didn't think about anything wrong at that time. They vote, they give their ballot to the poll worker.

But later on they found out -- they realized their ballot wasn't put in the box, it was leave on the table, and then they talk about this, find something is wrong over there, but it's too late for them to try to go back to do something. So right now they been wondering about what happened to their ballots

Another issue may not be relating to the voting rights but also really to immigration, police discrimination, it's a chain event, it happened and how the police really treating the Asian community that we are silent minority, we are easy to take on than - go properly.

And the police office look at one of my friend who he

successful people, but when it come to a point, they think about we don't speak English, so they don't talk to us for information. So that would prevent us to advance to -- to telling our right. Thank-you for your time.

CHAIRPERSON BERRY: Thank-you very much for your testimony. Ms. Power, Stacey Powers.

MS. POWER: Yes, ma'am. I came from Tampa, Florida, today to tell you what happened and I'm a news director, and I'm also the producer of the Tom Joyner Morning Show in Tampa.

And on Election Day, we covered approximately 13 polling sites, all of them predominantly heavily black polling sites. Out of those 13, I covered six.

There were several problems that I encountered early on in the day, but in keeping my statement somewhat brief, I will tell you the worst case scenario that I saw.

I went down into a polling site in the Progress Village area, and we were giving out lift every voice and vote posters that Tom had sent to anyone that asked us, not just registered voters but anyone that asked.

And I had parked the van and I saw an elderly gentleman and I noticed him right away. He was coming out of the polling building, out of the election building.

And I noticed him because he was walking with a cane and he had on -- it looked like a church suit, and it just really kind of touched me to see him coming out.

So I turned back into the van and it was just a couple of minutes later and he came up behind me and he said, hello, I'm here for my poster.

So I turned around and I rolled up two posters and I handed it to the gentleman, and he had then proceeded to tell me that he had just voted for the first time in his entire life.

And he was sixty some odd years old, and I was just -- I was amazed. I said why did you wait so long to vote. And he said he did not think his vote would count.

And then he proceeded to tell me how his father and his grandfather were not ever given the right to vote but that he came -- he was so proud, he was proud.

And we spoke for a couple more minutes and then he walked off, and I watched him walk away.

About five to seven minutes later, I left. And the area that you have to go down in, the polling site is at the very end of a residential area, and there's one way to get in and one way to get out.

When I approached the stop sign to get out, I looked to

the left to see if I could make my turn safely. Then I looked to the right, and I saw the gentleman standing underneath the tree by a house, and he waived to me and I waived back and I smiled.

And I started to make my turn and that's when the law enforcement vehicle pulled up on the grass quickly.

Had I took my foot off the gas any farther than when I did, we'd have collided.

And the officer on the passenger side jumped out first and then the officer on the driver side jumped out, and they approached this gentleman and they were yelling at him what are you doing here.

He said I just voted, and he -- I have to say it the way he said -- I just voted, because he was so proud, he was so proud.

But they didn't want to hear that. They were asking for i.d. They were right up in his face. They were yelling at him.

And at that point I was still sitting there and they turned to me and said what are you doing sitting there, and I jumped so high off the seat I just turned.

So I watched the man in my rear view mirror and he had his hands up in the air like I didn't do anything. I couldn't, of

course, hear what they were saying, but I could see him and they were still very close -- in very close proximity on there. And I went ahead and made my turn.

A few minutes later I did a live report and I called it as I saw it and I felt like -- I can't say I'm somewhat of an expert witness on what I saw because it was -- that area was heavily, heavily populated with law enforcement vehicles marked and unmarked.

And I know what I'm saying because for six years before I was in the news business, I was a police officer, and I knew what was going on.

After I did my report and I did call it as I personally saw racial profiling, I looked behind me and there was a law enforcement vehicle behind me, and he followed me for several blocks and I went to make my left turn and that's when he pulled up to the right of me and finally looked in the van. There's only one way you can actually see in that station van and that is through the driver's window and the passenger's window, and I had both of them down.

And he looked in and he saw me and he looked kind of surprised because I work for a very well known black station in the community, and he saluted me and went on by.

And I just want to say, and I will say this until I

take my last breath, I will never forget the look on that man's face, the way it changed from being proud, to being very confused.

And this has hit me very personally because I as a single parent, I have two children that are multi-cultural -- multi-racial, and I don't want that to be my son in 50 years.

When he goes to vote -- when my kids go to vote, I want the police officer to go by and wave and say thank-you for voting.

So Whereupon, the witnesses were duly sworn.

CHAIRPERSON BERRY: Thank-you very much for testimony.

Counsel, did your staff take a deposition from her?

MR. HAILES: No, no we did not.

CHAIRPERSON BERRY: But you will. Okay.

Mr. Randall Benston.

MR. BENSTON: Yes. Thank-you. I appreciate your having me here.

My role here is just as an individual as a witness of what I saw on Election Day.

I just want to very succinctly tell you a couple of things about my background, my role, what I saw, what I recommend.

The background is perhaps relevant because I'm not a registered democrat.

I did choose in the last two weeks to volunteer to work

on the Gore campaign, but I'm certainly not a great fan of quite frankly either of the major parties.

I am also founder and past president of a commercial bank here in Ft. Lauderdale -- excuse me, in South Florida, called Gateway American Bank, so I'm used to -- fiduciary responsibility is such that I think you can give a little bit of credibility to what I'm going to be telling you.

My role in the campaign was to be what's called an area chair and that meant that I oversaw three precincts.

These precincts were 6-Z as in zebra, 5-Z as in zebra, and 7-B.

The first two are heavily Democratic and the last is heavily Republican.

As an area chair, I was able to leisurely look at things, because I did not have to watch, as a poll watcher does, to see each individual person voting.

I was actually -- turned out to see everything that I did in precinct 6-Z which I'll be referring to simply because the clerk refused to allow the poll watcher in, not being aware that each major party is allowed to have a witness.

So I was there to maintain our rights until she finally got persuaded otherwise.

While I was there for a relatively brief period of time, I witnessed the following. This had to be less than 20 minutes.

First of all, under the category of lack of training, the clerk did not know, as I mentioned, that we could have poll watchers there.

They did not know how to operate the cell phones, and they had no ability -- excuse me, they were not allowed to communicate with the voting board except by the cell phone for, I presume, security reasons.

So they sat there with cell phones. They had never used cell phones evidently. They were never given instructions on how to use the cell phones.

If I wasn't there, I don't know if they would have tried to call.

Thirdly, they were not aware that voters who are not on the rolls were allowed to fill out affidavits and vote, and therefore continued to refuse to do that while I was there.

They finally, by the time I left, were persuaded to let voters fill out affidavits. But I spoke to specifically one voter in the parking lot saying I guess that was worth the trouble -- or hoping it was and she told me she was allowed to fill out the

affidavit but not to vote.

Earlier on C-Span I saw that Jane Carroll, the Broward County Supervisor of Elections, said that she was not aware of any specifics, and we've heard a lot of people saying generically.

I'm here to tell you that she couldn't be aware if you couldn't call her.

You could not call her.

We sat there because I knew how to operate a cell phone, I was allowed to assist, and there was nothing but busy signals, before the polls even opened.

When I finally got through, no one answered.

Therefore, the last issue, beyond this issue of training and their inability to get through, I specifically saw one Haitian gentleman trying to vote.

There was no indication in writing or otherwise that there was assistance in Creole, because there was none.

There was no one there who could speak Creole.

I could speak French so I jumped in and I asked him once he was told like an extraordinary number of people within the first couple of minutes, ten minutes, there had to be no less than eight voters who were told that they were not on the rolls, and I'm telling you about people who were insisting that they voted at that

precise precinct previously in many elections, some of them saying decades.

But for some reason, they weren't on the rolls this election.

So I thought perhaps the gentleman was confused. I asked if I could see his card, and it was in mint condition, so obviously it was relatively new.

And this is a computer system that generates the computer card. The computer system had his card, it was in mint condition, it said 6-Z, but he was not on the computer printout.

This led me finally, and now I'll move on to my recommendations, to call the 800 number that was listed for voter fraud, and I had the number for the Florida Department of State, I guess it is, or whoever answers that. You would know better than I.

And I had -- I gave them my concerns about so many people being not on the rolls.

Finally, about an hour later, someone called me back saying that they were an attorney and I had to persuade -- first of all, she didn't know why I was calling, so I had to persuade them to take my testimony and they simply said, well, that's not fraud.

And I said, I'm sorry, I come from a place called Chicago and that's how we do it, and I'm telling you as a reference

point, and the point isn't that this is in itself fraud, it's when you see a pattern.

Just take my testimony, take my name please.

And this is where the recommendations come, to wrap it up.

First of all, I think that there's plenty of activity going on from what I see on C-Span of people within the State of Florida and probably across the country talking about reform, about technology, et cetera.

But I believe that the people in this Commission have a separate power and perhaps responsibility, and that is to assume that they will not get it right, to assume that when they do get it right, it will not be implemented correctly, and when it does get implemented correctly, it will not be implemented uniformly.

And therefore have your own 800 numbers, so that those of us in the citizenry, people in NGO's like these people here at the table, have a way to communicate as it happens, give you specifics, collect affidavits, take videos -- it works for the police -- I don't know what, specifically, again, that's outside of my area of expertise.

But the point is, there are many people who are like myself, regardless of party affiliation, who do not want to stand

for this but have no power.

Give us the power to help you. That's my recommendation, and I guess that's it.

Thank-you.

VICE CHAIRPERSON REYNOSO: Very good. Thank-you very, very much, all of you. It's been enlightening, indeed.

Counsel, would you call the next panel.

MR. HAILES: Yes. At this time, we call forward, Johnny Ballard, Bill Zannie, Ismailia Rashid, Dr. Mae Christian, and Paulette Sims Wimberly.

Please come forward.

VICE CHAIRPERSON REYNOSO: I'll wait until you're all seated before asking you to stand up.

(Laughter.)

VICE CHAIRPERSON REYNOSO: Will you all please stand up and be sworn.

Please raise your right hands. Do you solemnly swear the testimony you will present before us will be the truth, the whole truth, and nothing but the truth? If so, please say I do.

(Whereupon, the witnesses were duly sworn.)

VICE CHAIRPERSON REYNOSO: Okay, please sit down.

MR. HAILES: It should be affirm.

VICE CHAIRPERSON REYNOSO: Or affirm.

You may proceed, counsel.

MR. HAILES: Will each witness please proceed with a three-minute statement, beginning with Mr. Ballard.

MR. BALLARD: Yes, on -- I submitted a voter's registration application about six weeks before November 7.

After a period of time I hadn't received the voter's registration card, so I tried to reach the Board of Election, but each time you try the line is busy.

So I talked to my brother, and my brother told me to go over to the precinct and see what's going on.

So I went -- I got there maybe about ten-thirty, and the supervisor and the assistant supervisor asked me what did I want, and I told them that I had registered to vote but I never received a voter's registration card.

So they said well, what is your -- what are you voting, Republican or Democrat?

I said Democrat, so they -- like they were startled when I said Democrat.

I said what that got to do with it, I want to know what happened to my voter's registration card.

They said well, we got to talk them downtown.

So they tried, we tried to call and tried to call. Line was busy. So after awhile, almost two-and-a-half to three hours, we finally received, you know, the answer from downtown, you know, trying to reach somebody.

And the supervisor told them who I were, my name any everything, and so she asked well, who stay in the house. The person downtown was asking the supervisor who stay in the house.

So I told her my brother Marving Ballard, Sr., and his wife, her son. I said what that got to do with it.

So she said well, we don't have no information -- they don't have no information, you know, on me.

I said, well, okay. So at that time I pulled my investigation license out, and I said well, I don't have no reason to lie.

I did submit the information six weeks, you know, prior to the election.

So she didn't say nothing, neither one of them.

So on December 1, I received a letter from the Board of Elections, dated on the envelope Decemer 1, but no date is on this letter here, I'd like to read as follows.

It says:

Dear Voter's Registration Applicant: This notice is to inform

you that your voter's registration application could not be processed because information was missing. Citizenship information, box one; felony conviction information, box two; mental capacity, box three; date of birth, box five; name, box six; address where you live, box eight; social security number, box 12; signature, box 20. The Florida statute requires that you complete a new voter's registration application. Please complete this application and be sure that all of the items above are filled in as we cannot process your application if any are missing. Be sure to sign the application. Mail your complete application to the Supervisor of Election. Thank-you for your cooperation. □

The individual signing this was Shirley White, Update Supervisor.

I do intend to file a complaint, also back to the Board of Elections, letting them know that I am a licensed private investigator, been a licensed private investigator since 1987 in the State of Florida.

Then had an agency since '95 and coming May 24 and May 23 of this year, I've been a notary, a clerk for the State of Florida, almost eight years.

So I find it very hard to believe that I don't know how

to fill out a simple form.

CHAIRPERSON BERRY: Okay. All right.

MR. BALLARD: Thank-you.

CHAIRPERSON BERRY: Thank-you very much.

MR. HAILES: Madam Chairman, if I may.

What County do you live in at this time?

MR. BALLARD: Dade County. The precinct was Southwest 160 Street, which is Colonial Drive, and 112th Avenue. It's an Episcopal church and a Methodist church.

There was no address on the church where our precinct was, but the one cross in front of it is 16000 160 Street S.W.

CHAIRPERSON BERRY: Thank-you very much.

Mr. Zannie, please.

MR. ZANNIE: Yes, Thank-you for the opportunity to be able to speak.

I'm going to tell briefly what happened to me, since I never get a chance to make a public statement.

I would like to make a public statement hoping that certain government officials might be listening.

This is coming from an ordinary citizen.

I take the opportunity to vote for the candidates who mostly reflect -- closely reflect my positions very seriously.

Since I became eligible to vote 32 year ago, this is the first presidential election I missed.

I relocated to Delray Beach in Palm Beach County, Florida, from Buffalo, New York, in October 1998.

Shortly after arriving, I applied for a Florida driver's license and Florida car registration.

At the driver's license office, the Department of Motor Vehicles, I was asked if I would like to register to vote, and I said yes.

During the completion of the licensing process, I asked two workers from DMV if I could have some sort of written confirmation that my voter registration was being taken care of.

They said I would be contacted by mail.

Since there was no pressing election in the immediate future, I didn't make it a priority to follow up, and I also never received anything in the mail.

In June of 2000, I moved to Pompano Beach, which is in Broward County, and in the following month of July 2000, I resolved a traffic ticket I was contesting and found myself back in Delray Beach, Palm Beach County.

I resolved everything and proceeded to reinstate my driver's license. Because of its proximity to the courthouse, I

went to the driver's license office in Delray Beach to get my license back.

I also had a new address, Pompano Beach, Broward County.

I had the new address put on my license and asked again about my voter registration, specifically can they notify the board of elections of my new address in a different county.

The DMV worker said they would take care of it.

Again, I asked for some sort of written confirmation that it was in process, and they said there was none, but that I would receive something in the mail.

Now, at this point in time, I had been in Florida for almost two years, and I had become aware of how very different this state is from the State of New York, where I spent most of my life, in the areas of operational procedures, especially.

I had no idea how different it was.

Less than a month before the election last November, a friend asked me about my voter registration, and if I had received anything in the mail.

And I said no and hadn't really thought about it since the seven times that I moved in New York State in 32 years, I had never had a problem with my voter registration or casting my vote.

Then again, this is the State of Florida, and everything is different here.

It was also too late to contact the Board of Elections at that point, in the event that something went wrong with my registration and I had to reregister.

I hoped something would come in the mail in the next three weeks. Well, nothing come.

But I went to vote anyway in November, and the Board of Elections, of course, had no record of me.

I've thought about this situation a lot since then, and I've heard much debate about the whole election debacle.

In one radio call-in show, I heard one election expert comment about the motor-voter bill, but that the State of Florida's Board of Elections and the Department of Motor Vehicles are not able to electronically communicate with each other.

Now, I don't know if this true or not, but it seems like a strong possibility as evidenced by my situation.

This is a system or a non-system that warrants investigation.

Why would one government agency, the DMV, perform a service, voter registration, for another government agency, the Board of Elections, and not give that voter some sort of simple

confirmation that the transaction had taken place, thereby assuring all parties involved that the act of registering had taken place and that the voter's registration was in process.

You see I have no proof that any of this took place.

How convenient for DMV and the Board of Elections. There's no paper trail.

There could be an electronic one, however, if their respective computer systems are indeed linked. Personally, I don't believe the system exists.

My last incident with DMV, and I want to illustrate an attitude here.

My last incident with DMV came two weeks ago. My car registration needed to be renewed.

I called the DMV office and they directed me to an office in Pompano Beach.

When I arrived there, I knew immediately I had been directed to the wrong place.

It was the office for Florida drivers' licenses.

Now in Florida, there's a specific -- there's a separate office for car registration.

I guess the efficiency of having the two in one location is something that hasn't occurred to the government

officials.

I proceeded to the information desk and asked the worker where a nearby office would be to renew my registration.

Now, I'm going to quote her exact words to you, her response was, "I can't tell you."

So I responded with, well, do you mean you don't know or you won't tell me.

She said, "I won't tell you. It's my job."

I was at my wit's end. This was lunacy as far as I was concerned.

Her co-worker saw this and added, "She's only doing her job. She's not allowed to tell you."

Now, it might surprise you, but I didn't find this reassuring.

He finally, apparently at the risk of losing his job, volunteered the correct address to me.

Now, my question is, why did I have to go through this, just to find the right place to renew my registration.

Does this -- does it need to be this complicated, and I can only imagine what a time the people who use English as their second language must go through.

Should I have called my congressman's office to get the

location of the car registration office?

Who can justify a policy as crazy as this?

Has the Florida taxpayer been reduced to just another revenue source?

CHAIRPERSON BERRY: I think we get the point.

MR. ZANNIE: One does -- we feel powerless.

CHAIRPERSON BERRY: Yes.

MR. ZANNIE: And it's no wonder that so many Americans have lost their faith in government and I regard this as a policy that comes down from the top.

It's a permeating attitude from government agencies to the people.

CHAIRPERSON BERRY: Thank-you very much for your testimony.

Ms. Ismalia Rashid, please.

MS. RASHID: Good evening, Commissioners. Thank-you.

On Election Day, my husband and I went to vote at a relatively new polling place.

We had been switched from a community center to a school a few months before.

We were waiting in line to sign in to be able to get our ballot to vote, when all of a sudden the fire alarm went off.

We were in the cafeteria, and looking around couldn't believe that there was actually a fire alarm going off.

A man came running out of the kitchen and said, everybody out, everybody out.

And we looked at him for a few seconds, everybody in there, and he kept insisting that everybody had to leave.

So we left and went out into the school yard. We were out there for maybe ten to 15 minutes, and then we were told we could go back in.

When we went back in, we got in line again to be able to sign in and had to wait a few minutes until the person who was signing us in got back to her chair.

I had asked who was watching the ballot box, and there was no one to answer.

When she got back to her seat, I asked again, and she said that she was and pointed to another woman, that they were both watching the ballot box.

And then I asked, well, if that was true, why is it I saw both of you outside. And they didn't respond.

CHAIRPERSON BERRY: Okay, all right. Thank-you very much.

Dr. Mae Christian, please.

DR. CHRISTIAN: To the Chair and to the Commission, my name is Dr. Mae Christian.

I pledged a copy of the Miami-Dade Democratic Executive Committee Forum, and I was given this by a party member that dealt with a large membership, and I submitted it to the Dade County Election Department. They stamped it. It met the deadline.

Later on I found out that they had a ballot listing and my name wasn't on it.

So when I went and talked to Mr. Leahy, he informed me that I didn't have the proper form.

So my question was if it was received and stamped by your department, and if there was another form, why didn't you all give it to me in order for me to meet the specifications.

So I asked him what happened to my application, he said he couldn't find it.

So thus I gave him a copy and then he recommended that maybe I could see party members who could run at large.

My statement and feelings were that I had a right to be put on the ballot, and I had met the deadline.

Also, in terms of the election procedures, I am in support of all of the witnesses thus far.

I interviewed one of the poll workers, and she stated

as follows, I was asking her about the machines.

And she said she worked for the polls for over three years and that she found that when machines were not operable, they would set them aside.

So then I said well, what happens to the machines after they are delivered and you find that they are not working? She said well when they come to pick them back up, they are mixed back with the bunch of machines that was working, so there's never a paper trail in terms of what was not working and what was.

Also in relationship to -- I think that there should also be a clemency procedure that does not just rely upon the Governor and his two cabinet members, and if a person has restored -- their rights should be restored if they have paid their debt to society.

And a lot of the institutions are selected to be in rural areas where they are counted and have contributed to those areas, but yet they have no right to vote.

I voted, but right now I'm still not sure of whether my vote was counted, uncounted or part of the over vote or the under vote.

And I noticed that the Supreme Court ruled that a recount would be a violation of equal protection under the law.

So I would say to you dealing with the chards or butterfly ballots, if that be the case, then we all were not equally protected by the methods on which we voted in this state, because we didn't all vote the same way.

And I recommend that there be a standardization, because it would seem to me that out of all of the monies that were spent for this election and all of the recounts, that it was only one vote that put the president in office, and that was on the Supreme Court level, so we all really didn't vote.

And I appreciate the fact that the Commission is here, and I do hope that we have some standards to change, because we as African-American, I'm tired of waiting at the back of the lines and waiting to have my rights to be secured.

CHAIRPERSON BERRY: Thank-you very much, Dr. Christian.

Ms. Paulette Sims Wimberly, welcome.

MS. WIMBERLY: Thank-you, Commissioner, Chairman Berry and the other Commissioners.

My name is Paulette Sims Wimberly, and I wear quite a few hats.

I am also a Miami-Dade Councilwoman for area four and a heavily populated African-American area.

In that area I have 21 precincts that I run in, and

when I'm running for election, and I want you to know that when the election was finally said and done, no less than a hundred of those voters that voted in each one of those 21 precincts was not counted.

You had one figure of the ballots that were cast, one went to Gore, one went to Bush, and one might have went to another candidate, but no less than a hundred of those votes were not counted.

Four days after the election, I went to the Supervisor of Election, Mr. Leahy's office, and I went on the line, because I wanted to know what these chards were.

So I went to the computer, I found out what they were.

When I went to Leahy's office I said listen, I been getting phone calls and everybody asking me what the chards are, and I can't -- you know, and going to the computer I'm finding out that chards are the little droppings off of the card that falls into a Chad box.

I was the one that brought up the clogged Chad box. It was me that brought it to Leahy first.

And I said how often do you tell you people to clean out the Chad holders during an election day.

He said that's not their job. They never do that. And

of course, you know what the story is, eight years later, they've never been cleaned out.

He stated today that one computer was put in a black precinct that had 27 voters or more. Let me tell you, we have 11 black precincts that have 50 percent or more blacks in an area, 11, and he put 18 within Dade County and we have 11 in our particular area.

There's quite a few questions that you asked today about -- did the Katherine Harris department, did they give monies to help out the Counties.

No, they did not, but they spent \$35 million on the Lotto, but they didn't give us money.

There was another question that was asked today about - - did they expect a big turn out.

How could they not? Tom Joyner said get out to vote, Tavis Smiley said get out to vote. We all --

You know I was instrumental in getting a lot of the folks out to vote.

Five hours before the polls opened on South Beach, on Miami Beach, we had 60,000 voters out there at a rally when the vice president came into town and those 60,000 folks went to the ballot.

This vote that we had -- this election was not a close election.

They say it was a conspiracy. No, I differ.

It was treason that happened to us. It was outright treason.

It happened to us 1963 and it happened again.

And I don't appreciate my votes because within my precinct which is 225, a hundred and thirty-six votes were not counted.

That could have been my vote. It could have been my daughter's vote.

And I want justice. I am not over with this and somebody, before it's all over, Commissioners, somebody is going to go to jail over this.

Trust me, this is another Watergate. It looks like it's not going anywhere, but trust me, somebody better travel with their toothbrush because they won't be able to go home, and I want to thank you.

CHAIRPERSON BERRY: Thank-you very much.

(Applause.)

CHAIRPERSON BERRY: Now, now. Now, now. Let us act with decorum.

Thank-you very much, Ms. Wimberly, for your remarks.

I want to thank the entire panel.

I'm sorry we don't have time, because we have to go on.

There are a lot of people waiting.

But thank-you very much for coming, and you are dismissed.

We want to bring on the next panel, Counsel.

MR. HAILES: Madam Chairperson, at this time, we will call forward Dorothy Townsend, Shynthia Townsend, Robin Ricks, Felecia Ricks and Crystal Lee.

CHAIRPERSON BERRY: Now, don't sit down. I'm going to swear you in first.

Could you raise your right hands.

Do you swear or affirm that you will testify truthfully to the best of your abilities?

(Whereupon, the witnesses were duly sworn.)

CHAIRPERSON BERRY: Thank-you. Please be seated.

We're going to begin with Ms. Dorothy Townsend. Please proceed, Ms. Dorothy Townsend.

MS. D. TOWNSEND: Good evening, Madam Chairman and Commissioners.

My name is Dorothy Townsend, and I'm a member of AFSME

Local 1363, and I was also the Dade County coordinator for Operation Big Vote.

First, I want to talk to you about my role in my local as far as registering our members to vote.

I took my membership roster down to the Department of Elections Office to compare my roster with the voting roster, after which time we went out to find the members who were not on the Department of Elections' voting roster.

What we found was we had a lot of members who were not on the voters' roster down at the County Elections Department, but when we got to them, they had a valid, a new Dade County Voter's Registration Card.

After that, I went down again and spoke with one of the assistant supervisors down there. His name was Milton. I can't remember his last name.

And I asked him straight up, had they purged the rolls, because a number of my members had valid voter registration cards, and he said the rolls hadn't been purged in ten years.

At that point, I went back to my committee members and I said, we're going to go back to these people and we're going to register them again and send the cards in as replacements.

If we had not done that, a lot of our members would not

have been able to vote in the election.

Mind you, I used their rolls, and I only did half of my 3,000 members.

The other half of the rolls, they checked them for me. So they couldn't find them either. But they had valid cards.

The second thing was we joined in with the arrival at five piece motivating people to vote early in case something happened and they couldn't get to the polls.

In the primary there was a big rain that turned into a flood, and a lot of people didn't get to the polls.

When we got down there, just like the Congresswoman said, a lot of people were turned away because the lines were so long.

I didn't vote that day. I went back November the 6th to vote, and the line was still long and they still only had two people there.

I waited in line for an hour to get into the voting room, and once I got into the room, it was utter chaos.

When I pulled my ballot out of the voting machine, I noticed that the holes weren't all the way through.

And politics is a big part of my life, so I checked.

But the average person would not have checked, and

their votes wouldn't have been counted.

And another thing, when you vote absentee ballot, if you don't close up your ballot and seal it and sign it, you know, if you don't know to do that and you didn't do that, they didn't count your vote.

So I know a lot of my people didn't do that.

I also need to point out that the members that had the new voter registration cards, they were black members.

And the last thing, after the election was over and we started mobilizing people to protest in Tallahassee, on January 19, on that night, we were expecting 600 people at the Unite office to load buses.

And on 826 West, both exits that, you know, you would exit on the highway to get to the Unite office, were closed.

You know, so when you would exit on 12th Avenue, you would have to go all the way down to 27th Avenue, come all the way back around. There's only one way in this building.

So I talked to the supervisor of the project, and I told him, I said, listen, in about an hour we're expecting about 600 people here and 17 buses, could you open one of the exits so the people could get in. He said he would radio back.

Forty-five minutes later, both exits were still closed

off, so Monica and Sherman and I went all the way back down to 12th Avenue to talk to another guy about it, and he said there's nothing he could do.

We went to the highway patrolman, and he wouldn't give us his name, which I found strange. So when he saw me writing down the tag number on his car, because the tag number will tell you who the officer was driving the car later on, he said it's just the buses to Tallahassee.

What do you mean "just the buses to Tallahassee"? You know, and our numbers were off, and we paid for those buses. You know, people couldn't get in there.

And by the time I got back down to the union hall, they had big dump trucks lined up, you know, in the street with big rocks on the back of the truck.

Where they had the trucks lined up, that's where our buses were picking our people up from.

So they delayed us from taking off, and if I wasn't as -- how do I want to say it -- advocate, I would have got pissed off and went home. I wouldn't have kept trying to get into, you know, the union hall to load up, you know, on a bus for a long ride to Tallahassee.

And we work with kids and that's why we have the kids

here. We try to teach them the importance of voting and get them involved. So they'll testify on their own.

CHAIRPERSON BERRY: All right. Ms. Shynitha Townsend.

MS. S. TOWNSEND: Good evening. My name is Shynitha Townsend. I am 17 years old. I attend Miami Jackson Senior High School.

I am the vice president of -- CPTU Future Labor Leaders.

I've worked with Operation Big Vote this year.

Every Saturday for two months until November 7, I went canvassing trying to encourage people to vote.

My peers and I were up at six a.m. to try our best to help someone decide to get out and vote until 7 p.m. at evening.

All through school we were taught how important it is to vote.

I learned how my people fought and died just so they can vote.

My question is for the next election, why should I go out and vote if my vote is not going to count?

Thank-you.

CHAIRPERSON BERRY: All right. Thank-you.

Ms. Robin Ricks, please.

MS. R. RICKS: Good evening. I'm Robin Ricks.

(Telephone ringing.)

CHAIRPERSON BERRY: Someone has a cell phone on. Will you please turn it off. Thank-you.

I know it's not you, Ms. Ricks. Go right ahead.

MS. R. RICKS: I'm here today to just to testify about my disappointment at the election process here in Florida, and I've sat here today, and I'm just -- I'm very emotional about what happened.

I worked very hard to get the votes out. I work with Operation Big Vote, and I myself I'm personally responsible for getting out hundreds of voters, first time voters, over 30 years old, never voted.

And as I said -- and the voter registration cards, a lot of people came back to me, I have my card, I have my card.

And all I would say to them was okay, good, be sure to use it. Use it on Election Day.

And that made me feel good. It just made me get a sense of doing something good for my community and my people.

CHAIRPERSON BERRY: Now you feel bad. That's all right. I understand. We understand. Take your time.

MS. R. RICKS: (Crying). It's just very discouraging,

and I try to teach my kids the importance of voting.

My daughter voted for the first time, and I try to teach them the importance of voting, and I just feel like we've been robbed.

CHAIRPERSON BERRY: Okay. We understand. Thank-you, Ms. Ricks.

Ms. Felicia Ricks.

MS. F. RICKS: Good evening. My name is Felicia Ricks, and I'm 19 years old.

I'm the treasurer of William Lucy's CBT of Future Labor Leaders.

In the November election, I really got involved with helping the people to go vote.

Even though I was going through chemotherapy, I still wanted to spend my Saturdays educating the community on getting out and voting.

Every weekend for two months, my fellow Future Labor Leaders and I would canvass neighborhoods passing out literature and on Election Day we picked up and we dropped off people to vote.

It was my first time voting, and I was really excited about it.

But after everything was done, I was disappointed and

discouraged, and I felt like everything that I had done, it was like useless, and this makes me wonder like why even bother.

CHAIRPERSON BERRY: Okay. Thank-you.

Ms. Crystal Lee.

MS. LEE: Good evening. I'm here to express my concerns of things that I witnessed during the November election.

First, inadequate staffing at the polls, inadequate training of the staff. I witnessed people actually taking their ballots to the cars, having to have them brought back.

There was no such -- I've gotten a wealth of information today.

I never heard of curbside polling or voting -- I mean we lifted a lady that was almost 300 pounds off and on the van to get her inside to vote and almost had to call a cab to get her home because we couldn't put her back on.

I mean these are the kinds of things, and if Dade County or the State of Florida was really making the voters aware of their rights and things that they can have access to -- senior citizens -- we had to physically carry -- take them off and on the van the entire time to take them to the polls.

I witnessed young men, African-American men, because we worked in the polling sites that were highly populated with African-

Americans, Hispanics and Haitians, with their voter's registration card, the new ones, the valid ones, and picture id's being told that they could not vote, turned away from the polls.

Accessibility to the polling site -- they would put it in the back of the building instead of putting it where a person who is disabled or a person who has severe arthritis could not ambulate, who had to use a walker, didn't have to walk to the end of a school hall, then to put it in an auditorium where there are chairs and seats that are impeding them getting to the polling equipment.

It was ridiculous what went on November 7 in Dade County.

We registered so many voters at Jackson Hospital, because that's where we work and we're a part of AFSME Local 1633, and to this day people are still saying we never received our voter's registration card and they were hand delivered to the Election Department by Dorothy Townsend.

And I thank-you for being here. We really, really appreciate you coming, and we cannot stop talking about this.

This room should have been filled with people this evening, but I am appalled that this city and this county government has allowed a man to be 21 years too long in his job, because they don't even care about what goes on in our community.

Thank-you.

CHAIRPERSON BERRY: Yeah, well, I hate to just leave you like this, because I know how upset you are, and we appreciate your coming; but you know, in the African-American community we are accustomed in our history to having to pay taxes to support government and institutions and some of them are supposed to help us and protect us and then we have to spend our money extra to mobilize to help ourselves, even after we paid taxes, know we have to give to the NAA, and we have to organize Big Vote, and we have to do all that, and then unions used to that too.

So maybe next time, whatever happens out of this process, from now on, people have to mobilize as much to go and defend the vote, the right to vote at the polling place, even if there are dirty tricks, as you do mobilizing to get out the vote.

Maybe the message is -- maybe that's one of the messages coming out of here, that maybe we just thought that with the voting rights struggle and all that happened in the sixties and the rest of it in getting the laws that all we had to do was get the people to turn out, and we forgot that there are ways and there are ways.

But anyway, I'm not reaching any conclusions, but I'm just saying that out of our history.

And I want to thank all of you for coming and don't be depressed and turn away from the process, just be even more committed and more vigilant about it.

Thank-you very much.

Could you call the next panel, please, counsel.

MR. HAILES: Yes. Madam Chair, at this time I will call forward Ms. Rosalyn Brodsky, Mr. Leo Casino, Jacques Jeseionesse, Robin Sheriff, and Wessel Clarke.

Please come forward at this time.

CHAIRPERSON BERRY: Could you find your place and please sit down. You have to wait for me to swear you in, so just find a place and if you can stand, remain standing.

If you can't, then sit down.

MR. HAILES: Is Ms. Mary Hill present? Please come forward, Ms. Hill.

CHAIRPERSON BERRY: So we have Mr. Brodsky -- where is Mr. Brodsky? Ms. Brodsky, sorry about that, Ms. Brodsky.

Casino -- oh, I see, it's -- no, not Jacques. We got you, Jacques. Leo Casino. I don't see Mr. Leo Casino.

MR. HAILES: No Casino available?

CHAIRPERSON BERRY: Not here. Then add another one

then.

MR. HAILES: Okay. We'll call forward Alvaro Fernandez.

CHAIRPERSON BERRY: Okay. Could you raise your right hands.

Who is standing behind there? Maybe Mr. Brodsky showed up -- not Mr. Brodsky, Casino.

Could you raise your right hands and then could you swear or affirm that you will testify truthfully to the best of your abilities.

(Whereupon, the witnesses were duly sworn.)

CHAIRPERSON BERRY: Okay, Mr. Jacques Jeseionesse. How do you pronounce it?

MR. DESPINOSSE: Despinosse, D-E-S-P-I-N-O-S-S-E.

CHAIRPERSON BERRY: Oh, I see, they didn't spell it right. Despinosse, okay.

Please proceed.

MR. DESPINOSSE: Okay. Good evening. My name is Jacques Despinosse.

I am an immigrant coming from the Republic of Haiti in the late sixties, moving here to Florida in 1979, and I become citizen of United States May 1979.

Since I become citizen of this great country of ours

and I voted every election, not only I voted in election but I encourage thousands and thousands of my fellow Haitian-Americans to register to vote.

But they could not register to vote unless they become U.S. citizens, so therefore I've been very engaged in the Haitian community from Dade, Broward and Palm Beaches to become a citizen.

And I always say a good example is the way I look at the Jewish community and look at the Spanish community here. If you are so concerned for Haiti or so concerned for what's going on here, you have to be part of the government, registered to vote.

I'm always teaching citizenship, voter education and voter registration, Dade, Broward and Palm Beaches.

What's happening here in last November election, it's a shame.

By being a Haitian-American, we have seen two election, one in Haiti November 26 and one here November 7.

I engaged in taking people to the poll.

Wake up early in the morning. You tell the person be at the poll at seven in the morning until seven p.m.

If you're in line, no matter how long is the line, you will be able to cast your vote. That's the law here, and some people were totally unable to do so.

People are telling now it's seven o'clock, you have to go.

Some people went to the poll in town because precinct was changed overnight.

If their voter registration card say precinct 15, if that person get over stand in line precinct 15, by the end of line, you tell them now you have to go to precinct 51 that's far away, that is just totally not right.

This is a big country, supposed to be the godfather of democracy. The example of November make is make it very, very ugly.

If this election happened here in November would took place in Haiti, in any third-world country, United States would be the first country to say well, you know, that's -- they will not accept it.

So it's a shame, and I hope this doesn't repeat again.

It's making those of us activists who are giving our time, free of charge, at the end of the day, that's what we get..

It just is not fair. We can care less, you know, Gore win the election or Bush wins the election, but at least there's a process people can say, well, the thing was fair. But this election was a mockery in our face.

Every one of us activists, nobody here, no one here can

say it, can ever say it, their vote was counted.

Because when you take 22,000 uncounted for here in Dade County, this could be my vote, your vote, anybody else vote. We don't know.

That's why if you see my car in the street, there's a big sign in it, my vote wasn't count.

I am a victim, and I hope somewhere, somehow, this doesn't repeat again, it doesn't repeat again.

You don't look at the people, the Haitian, we're still nothing in Palm Beach. They say you can't vote today. It's not for you, where you live, the precinct is changing, are you Democrat or Republican. That should not be.

The civil right of 1965, it wasn't a gift. People died for it. People gave their lives for it, and that should not be taken for granted.

CHAIRPERSON BERRY: Thank-you very much, Mr. Despinosse.

(Applause.)

CHAIRPERSON BERRY: Ms. Roslyn Brodsky, please.

MS. BRODSKY: My name is Roslyn Brodsky, and I was a poll worker at precinct 12-F in Coconut Creek, Florida.

CHAIRPERSON BERRY: Which county is that?

MS. BRODSKY: That's Broward County. I'm sorry.

And I want to go back to September 5, the primary election. I had something to report before the main election which I felt was not right.

First of all, before I went to vote on September 5 I was thinking overtones of things I had heard on television, like stories that Governor George W. Bush had asked his brother Jeb Bush what his chances were of getting the State of Florida, and the reported quote was, "It was a done deal."

Okay. Now, I went to a job on September 5 and what happened was that I was handed one of the voter registration books like I had for about nine years before, because I had been doing this for about nine years.

I opened it up, and I looked and I took a double take. All of a sudden, I realized that there were no voter facsimile signatures, so that all you had was the name of the person signing in at that moment with nothing to compare.

So naturally I looked around to see what the other inspectors had at that precinct, and not one of them had it like I did. Mine was the only one without any facsimile signatures to check it to.

I heard Jane Carroll say that that was supposed to be in the book today, but my book never had it, so that I got very

upset and I made everybody know about it. Publicity was my aim.

And so I began to think back of what I had heard about the "done deal", and I said this would be a sure way of getting a done deal for the election with all it entailed.

And so they reported it to the clerk. At that time you were able to get through on September 5. Not so later.

So in other words, what I felt about this was that the lack of the facsimile signatures created a test situation -- I have so many papers here -- it created a test situation to enable voter fraud, because anyone could drum up and get illegal picture IDs, anyone. And so that with nothing to compare with a signature, it was a shoo in.

CHAIRPERSON BERRY: I see. Okay.

MS. BRODSKY: You see, so immediately it really blew my mind.

Then I reported this to the clerk and she checked -- then checked with my other poll workers. I was the only one without a facsimile signature.

I thought of George Bush, Sr., and his connection with the CIA.

I got the clerk to notify headquarters -- immediately, you know, I have an imagination that I could write stories. But

this was open for my imagination.

In either case --

CHAIRPERSON BERRY: Well, we thank-you. Is that --

MS. BRODSKY: That's -- oh, no, oh, no. I was fortunate this year. I had a lot of things that could be reported.

CHAIRPERSON BERRY: Well, you have to do it rather quickly.

MS. BRODSKY: So in any case, the second thing was on November 7 -- on November 7, 2000, I noticed that in some instances when there were two registered voters in the same family, one of the two family members had been removed from the voter list. But the name of the family remained on the books.

So it was ingenious to be able to take away one out of two voters, to disenfranchise them, but there they have the name of the family still there. You know, that's really clever.

So that the result was that one voter could vote and the other could not.

CHAIRPERSON BERRY: We had some testimony about that today. Yes.

MS. BRODSKY: Yeah, okay. I'm sure.

All individuals involved had legitimate voter i.d. cards.

When the polling clerks attempted to telephone the Supervisor of Elections to resolve the matter, they were confronted with a cut off of power. They couldn't get through for three solid hours, three solid hours.

Two hours after those three hours, they had phone calls constantly back to back that nobody could get through.

Then after those five hours, some people -- in one hour, a thousand odd people got through to Jane Carroll's office, and she got so upset and so sick she picked herself up and went to North Carolina.

They had to take a subpoena to get her back to Florida, to the Broward County.

(Laughter.)

CHAIRPERSON BERRY: Well, Ms. Brodsky, we are going to have to stop you there, because your time is up.

MS. BRODSKY: I have two --

CHAIRPERSON BERRY: No, let me just tell you that we will -- the second matter that you discussed with us, we had testimony about today, and in part the third matter.

The first matter I'm not sure I have sorted out, and we don't have time to do it, but I'm going to ask counsel to have someone talk to you to sort out the first --

MS. BRODSKY: And I have something about the dimples and the chards.

CHAIRPERSON BERRY: All right, well, you can also --

MS. BRODSKY: It will be fast.

CHAIRPERSON BERRY: -- discuss that with them.

MS. BRODSKY: You think so?

CHAIRPERSON BERRY: Yes. Please and we'll put it in the record.

MS. BRODSKY: But you will get someone back to me?

CHAIRPERSON BERRY: Yes, indeed. We're going to do it right now. As soon as you're finished. As soon as the panel is finished. All right? Okay. I don't mean later. I mean tonight.

All right. Thank-you very much for your testimony.

Mr. Clarke, please.

MR. CLARKE: Yes. Madam Chair, members of the Commission, I thank-you for this opportunity.

On Thursday, November 7, 2000, I felt I was robbed, disenfranchised here in America.

Please permit me to inform you that I participated in the early vote on November 2, and I went to the government center right here in downtown Miami.

As a matter of fact, it's made famous by the debacle

that place there after the election when the mobs actually crashed and persuaded the officials to do otherwise -- of the right thing.

I went there because I was part of the organizing committee here in Dade County, been chairman of my union, been the then-president of the Democratic Black Caucus, Miami-Dade Chapter, been a member of the DEC, and been a new immigrant to America.

And that is important because when you join something for the first time, you're full of energies, and unfortunately, not being disrespectful to people who've always been American, but the energy that I feel I bring to America, I wanted to demonstrate.

And I did this by going out and getting my fellow Caribbeaners and people from overseas to register and be part of the program. This process lasts some seven, eight years.

And I was voting in my second presidential election in November. So I was really excited.

However, on Thursday, November 2, when I went to vote early, I had to try five different machines, because the machines would not line up with the ballot cards. I'd put them in and I could have voted for Bush a million times if I wanted.

But I wanted to vote for Gore, and it wouldn't line up, and unfortunately being new, I took my card out to look to see where I voted and being a mechanical engineer I realized that it wasn't

lining up, and it wasn't.

And so repeatedly I'd call a clerk over and show her and she'd get me another machine. And she didn't even protest my insistence. She immediately got me another machine.

And we tried five machines before finally we settled on number six and cast my vote appropriately.

Now, I really had faith in the system then. Maybe it's because I'm new, because I didn't personally ask what would happen to these five machines that I personally had rejected, and I assume the election department and the personnel --

And I work for Dade County and I know how they work. I'm in the maintenance division for the Metro Rail.

So I know if you have a defective piece of equipment, it's red tagged and it's sent off to a vendor if it's not repaired in-house.

So I really assumed the system would not fail me when it came, you know, to something as important as my vote.

I assumed someone was going to red-tag these five machines that I personally discovered and get the appropriate mechanical electrical attention to repair them.

I later found out that this was not the case as I've heard from testimony today.

But I just want this panel to understand that there's a lot of people like me here in Dade County.

I know a lot of them. I personally insured a lot of them became citizens, were registered to vote and until today, they asked me the same question, what happened to my vote, do you know, have you heard.

When I informed several of my friends to come here today, unfortunately, it's a holiday weekend and people are going out of town, couldn't make it. They were working, couldn't make it, didn't make arrangements.

The story was, try and see if the panel have some answers as to what happened to my vote.

Obviously, today you haven't got answers, you're still in the fact-finding mode.

But please use your powers, please use your connections and come back to us if need be.

We will help you to ensure that America and the world does not suffer this fate again, because when we discard our votes or refuse from counting them, democracy goes out the door.

Thank-you.

CHAIRPERSON BERRY: Thank-you very much.

Mr. Alvaro Fernandez, please.

MR. FERNANDEZ: Good evening, Madam Chair, Commissioners.

Thank-you very much for the opportunity and thank-you very much for your work.

My name is Alvaro Fernandez. I am the Florida representative for a group called Southwest Voter Registration Education Project.

It's a national group whose work is in voter registration and education.

And I would hope when -- in the November election, I was sort of disgusted after that election. Time has gone by and I thought I put it behind me.

I have spent most of today here, and I just hope based on what we have seen today, you leave here today outraged, because, you know, there is reason for that.

But I'm not here because of that outrage. I'm here because I have made observations, and I believe one of the solutions is -- not the solution, but one of them -- is education.

I'm talking about education not only of the voter, but also of the poll worker.

It's interesting to note the person from Broward County, the supervisor, and a supervisor from Miami-Dade, who

mentioned their budgets.

And I was doing numbers back there, and a department, which I feel the elections department, is the basis, the foundation of a democracy, you know, when you vote, receives in Miami-Dade it's .0001 of one percent of the budget.

In Broward County, it was a little more, .0002 of one percent.

Senator Jones, while he was here, mentioned that they were doing studies, that it would -- to do it all correctly or whatever, it would cost a hundred million dollars.

Well, it's a hundred million dollars that might be wisely spent.

In Miami-Dade County here, they're thinking about in a matter of months giving away 300 million to the owner of a baseball team for a stadium.

For a hundred million dollars, if that's what it's going to cost to start fixing this, then it's something we have to consider, money should be spent.

Thank-you very much.

CHAIRPERSON BERRY: Thank-you very much.

Ms. Mary Hill, please.

MS. HILL: Good evening. My name is Mary Hill and my

title is founder, CEO and director, national director, of the Economic Opportunity Acts and Amendments and also the founder of the grants and the funding that come through these states under the Economic Opportunity Acts and Amendments.

And I'm speaking from the United States Code books of the United States.

My concern here is from my experience in noticing the voters and the voting that took place recently and previous before now.

We have an educational programs that is not notifying or letting the public know exactly the intent of what to expect of the elected officials that they're putting in office.

They're not getting the right information. It's ill information that are being filtered out to our areas, it's not helping the poor people. It is hurting the poor people, because we are supposed to come under these laws and a continuation, a consideration of H.R. Florida and H.R. 6394 which call for the extension of the economic opportunity program beyond its expiration date of 1971 and continuation of EOPR, regional office Florida 2 U.S.C. 2979-A, section 638(A), give me the right as director and national director to implement the titles of these acts. We're not doing this.

And I saw some of the witnesses here today. They are very familiar with this.

I was very surprised to see this, but they never mentioned this to the voters.

We got to get on track. We got to get the right information --

CHAIRPERSON BERRY: Okay.

MS. HILL: -- out to the public --

CHAIRPERSON BERRY: All right.

MS. HILL: -- in order for them to vote intelligently and put the person offered to represent us to carry out our needs and what need to be done to help us according to these statutory laws.

They're very familiar with it, but it continue to be ignored and I'm calling on this Civil Rights Commission to look into it and check it out and put us on track, and this educational program with the outreach not working with me to put the information to the public.

We having a lot of problems on account of this, because what we have here under there is labeling, you know, affirmative action and different things like this.

It's not according to this -- it's not Republican, it's

not Democrat program. It is the poor people's program. And we need to get the information out and let the voters be aware of what's going on.

In my presence in meetings and different places I am there, I notice that they are not telling what supposed to be here, and please work with me Mary Hill so we can implement the titles of the act under the regional -- to be established in Dade County, and not Dade County government.

CHAIRPERSON BERRY: All right. Thank-you very much, Ms. Hill.

I want to thank the panel very much indeed for coming. Thank-you. We appreciate your testimony.

Counsel, someone is going to talk to Ms. Brodsky?

MR. HAILES: Yes.

CHAIRPERSON BERRY: Counsel, could you organize the next panel, please.

MR. HAILES: Yes.

Madam Chair, at this time, we will call forward Mr. Eddie Lewis.

CHAIRPERSON BERRY: Oh, I had forgotten Mr. -- what's his name, the guy who was only taking pictures.

MR. HAILES: Yeah.

CHAIRPERSON BERRY: Where did he go?

MR. HAILES: He left.

Fatih Shakir, Mike Calhoun, Deidre E. Newton and James S. Borona.

Can each of you identify yourself at this time as you stand.

MR. CALHOUN: Mike Calhoun.

MR. LEWIS: Eddie Lewis.

MS. NEWTON: Deidre Newton.

MR. HAILES: At this time, we'll call forward Mr. Robert B. Kunst.

CHAIRPERSON BERRY: All right, could you raise your right hands, please.

Do you swear or affirm that you will testify truthfully to the best of your abilities?

(Whereupon, the witnesses were duly sworn.)

CHAIRPERSON BERRY: Thank-you very much. Please be seated.

We will begin with Mr. Eddie Lewis, please.

You each have three minutes to testify.

Please begin. The clock here will indicate when your time is up.

MR. LEWIS: Madam Chair, Commission, I'd like to take this opportunity to welcome you to Dade County, Florida.

Let me give you a brief history of myself. I am a product of the sixties.

I was in the -- rode the back of the bus a lot of times when I was coming up.

I was part of integration and was one of the first blacks that went to an all white school here in Dade County.

From there, I left there and went to the University of Tampa and entered a -- my grades were not good at the University of Tampa, so I -- in order to avoid the draft, I volunteered for the service.

I volunteered for the Marine Corps. I saved 17 years in the Marine Corps, came out as a gunnery sergeant in the Marines.

I came back down to Miami where I seek employment as a law enforcement officer here in Dade County.

This year -- I'm sorry, last year, I made my mind up to participate in the political process of the County.

I volunteered to be a poll watcher.

When I volunteered, I was not only thinking about things that I had been through in my life itself, things that I

would not want my kids to go through in the process for civil rights.

I think it's not everyone -- we call it here in the United States civil rights. I think it should be a moral right that we vote or participate in the political process here.

As being a military personnel in other countries, what had took place here in last November, if I was in the military, one of the Commander in Chief would be the President of the United States would have directed us to go in another country and take over that country political process that took place here last November when the voting process was.

As a military personnel, we would have went in there with arms, tanks and everything else to make sure everyone would got a right to vote.

As a poll watcher here in Dade County, I was assigned to four different precincts, Carol City Senior High, New Way Baptist Church, Parkview Elementary and Myrtle Grove.

I worked there from six-thirty until eight-thirty p.m.

At these precincts, I noticed a lot of people who came in to vote did not have an opportunity to vote.

Some came in with voter registration cards and was told that they was not allowed to vote.

Some had their driver license and was told they had to go to another precinct to vote.

In one precinct, Myrtle Grove Baptist Church, had a line 30 yards long, all day long. People was turned out.

We're talking about out of these four precincts anywhere between 50 to a hundred people that was turned away for voting.

People at the poll, the inspectors or the clerk, made an attempt to call the election department to say, hey, this guy's not on the main master list to vote or whatever else.

But what happened, the phone lines was busy, busy, busy. And these are working people who came out to vote.

If they sit in line for anywhere from 30 to 40 minutes, they took time out for their jobs to come.

Some jobs allow people to take off and come back. Some jobs did not.

I know my time is running out very quickly.

I think it was disenfranchise for these people who stand in line who wanted to vote, could not vote because the clerk office did not have a back-up system with the phone system, that people could not get in contact, see why these people were turned away, and people had got really impatient by not voting during that

time frame.

I thank-you again for giving me the opportunity to speak and voice my views.

My views are not only mine, this is other people that may not be here, and I wish that my son and my daughter will keep faith in American way of life, that they will get out and vote and this will not discourage us from voting.

CHAIRPERSON BERRY: All right. Thank-you very much, Mr. Lewis.

Mr. Mike Calhoun.

MR. CALHOUN: Thank-you, Madam Chairman.

My name is Mike Calhoun. I'm a former Dade-County Commissioner, and this is the third meeting that I've informed the panels of a law in the State of Florida that voids everything that you have heard here today.

Florida has a law that allows the ballot boxes to be opened, the seals broken at each precinct, at seven p.m.

I've been in politics for almost 50 years here in Dade County and in Florida, and I never knew this until about a year or so ago when I was a candidate for mayor of Miami Beach and this was presented to me under oath at canvass board meetings.

Florida Statute 101.5614, you have a copy of it. Did

you get a copy?

CHAIRPERSON BERRY: Yes, we have it right here.

MR. CALHOUN: I wish you would check that out. I'm really not here to plead with you to do something.

I'm here to remind you that it's your responsibility, and really not mine, to have this law changed.

There are a number of us that were in total shock when we heard this, because any reform that you pass that you've talked about here today, and at the Davie meeting I went to, the Governor's panel, and at the Dade Delegation, no matter what you do, as long as that ballot box is broken into and emptied on tables and blown all over the place and all kind of hands touch it.

It doesn't matter if it's one ballot or all of them. Miami Beach has 31 boxes.

Once that box is breached, your whole election is void.

And the Republicans didn't want to talk about it, the Democrats didn't want to talk about it.

I'm registered non-party purposely to get this information out.

I have my own reasons as to why this law was passed in 1978. I won't get into that here. It's in the information I gave to you.

Be that as it may, it is the law, and until we address that law and get it changed, no matter what you do, and all these hearings you are having, and one lady said that she -- is absolute corruption, it's legalized corruption.

It's legalized corruption that these election superintendents have been doing this since 1978 and you don't know about it, and I didn't know about it.

I don't think you knew about it.

Did any of you up there know that this was the law?

I would appreciate if you would read it and take it upon yourself to get this law changed before we can get around to any of these other changes.

CHAIRPERSON BERRY: All right. We will read it, and we thank-you very much.

MR. CALHOUN: In fact, I challenge you to do it.

CHAIRPERSON BERRY: All right.

We thank-you very much.

MR. CALHOUN: The state legislators on the governor's panel, including Senator Darryl Jones, my challenge to him was the same.

He said oh, we ought to take this -- the other one there said we ought to take this to the legislature.

Well, why should it be my responsibility? It should be elected officials or yourself to bring this up and let's talk about it.

CHAIRPERSON BERRY: All right.

MR. CALHOUN: Thank-you.

CHAIRPERSON BERRY: We will read it and thank-you for bringing it to our attention.

Ms. Newton, Ms. Deidra Newton.

MS. NEWTON: Thank-you Madam Chair, thank-you Commissioners.

And I want to say thank-you for being here for us.

I live in Palm Beach County and many of my Palm Beach County citizens and voters want to thank-you for being here to listen to us.

And I'd like to thank all the other people today that have testified. The stories that I heard are both shocking and moving, and everyone who testified here today should be commended.

My name is Deidre Newton, and I'm the owner of Community Real Estate Services in West Palm Beach.

I'm also an elected official in Palm Beach County as a district supervisor for the soil and water conservation district.

I'm not here in that capacity today.

I am a registered voter in West Palm Beach. My precinct is number 105, and I have been a registered voter as a Democrat since 1978.

What happened on November 7, I became a volunteer for the Democratic party, and opened up my business to become a phone bank.

And at 8:30 when I voted, I kind of figured there may be a problem.

I heard Theresa Lapore say today that she didn't hear of any problems with any ballots lining up, well, the ballot was not only confusing as we all know, but my ballot didn't line up, and I'm an educated professional.

And there were many, many problems at my voting precinct.

And when I left there, Sheriff Bullock's (phonetic) campaign person said to me, "Did you vote okay?"

And I thought, my god, this is really -- this is going to be a problem.

And I got to my office, and it was quite busy, and my job was to call mostly Afro-American communities in Riviera Beach at Belle Glade.

And I started calling these people, and the stories

that I heard were unbelievable, and that's why I'm here today.

I've become sort of a reluctant sounding board in my community.

People know that I was involved and the stories -- I hear stories daily, just as you're hearing it.

I guess people are looking at me and saying, gosh, you know, she's involved, she'll be a good person to tell this story to.

The stories that I heard about -- like many of the vote didn't line up.

One lady told me that she was a registered voter and she was an Afro-American lady, and they told her that they were going to call the police on her, and they did, to come get her out of there, because they couldn't find her on the voting ballot -- I mean on the voting register.

I also heard a story from a lady -- I was a grief counselor. I mean I was taking down this information because, well (a) you couldn't get through to Theresa Lapore's office, and (b) the democratic party was too busy taking down their own information, so I became a grief counselor for angry, frustrated, crying hysterically voters.

I turned those in to the Democratic Party, and therefore they have those testimonies.

But the stories I heard, again, I saw -- somebody told me that they let a convicted felon vote and they watched the poll workers try and shake the ballot out of the box.

I mean stories like -- and this is -- I'm hearing this, I didn't personally see this, but the stories were what I would call unbelievable.

And in my capacity as a volunteer, I have been at everything that happened after that election.

Obviously, I voted for Gore. I hope I did anyway.

And I have been at every function that's happened, and I'm again a reluctant sounding board.

And I feel that what happened to me like most of these people in this room is amazing, and again, I just want to say thank-you all for listening. And I hope something does happen.

Thank-you.

CHAIRPERSON BERRY: All right. Thank-you very much.

Mr. Boron, James Boron.

MR. BORON: Madam Chair, esteemed Commissioners, my name is Jim Boron. I am a registered voter and a resident in the City of Coral Gables, Miami-Dade County, great State of Florida.

I too champion the same cause as Mr. Calhoun.

All the testimony you have heard today, the panels, the

allegations, the stories, et cetera, probably have a very strong basis in fact and merit attention and investigation.

However, I personally feel that without some address to the existing law, Florida Statute, Chapter 101, nothing really is going to happen, and that all voters, regardless of race, creed, national origin or color, will continue to be disenfranchised.

Now, the votes are tainted, subject to all kinds of chicanery as soon as the seal at the box is broken -- ballot box.

This is being done at a precinct, and I suggest that within the same law, a resolution is contained, because as Mr. Leahy, the election supervisor, a non-elected official here in the County, testified this afternoon to procedures, that is in accordance with subsection 1(a) of Florida Statute 101, Section 5614.

Subsection 1(b) of the same law allows for the ballot boxes to remain under seal and be brought to a central location or some central subsections to be opened then and officially counted.

What is happening is that we're handling things all together too much.

The long story short is that unless this happens, we're going to have elections that are suspect.

So it is a civil rights issue, and I as an American

citizen feel that at once I am desirous of and deserving of equal protection under existing law.

CHAIRPERSON BERRY: All right. Thank-you very much.

The next witness if Mr. Robert Kunst, is that right?

Yes.

Mr. Kunst, please.

MR. KUNST: Thank-you. First of all, welcome to South Florida, and I want to also suggest that we're not the scapegoat for the rest of the country on what needs to be addressed here.

And I'd like to paint another picture being both a native of Miami Beach and a longtime activist, having taken on Anita Bryant and Jerry Falwell and 63 demonstrations since November 7, through my organization Oral Majority, and we are Oral Majority online dot com for you to use as reference with an evidence room that's collected a great deal of data on what's going on here.

I want to just put out a perception that exists.

One is Gore won this State.

Secondly, this State was stolen by Bush.

And thirdly, we are the scapegoat for the country that doesn't want to act on it, as if we're all a bunch of looney tunes, we're all a bunch of rip offs, nobody here knows how to vote, we're just a complete insane group of people.

And quite honestly, I think what you've heard in testimony, at least what little I've heard here, and I could tell you in 63 demonstrations, including one we had this morning right in front of your building here, that we got a very different feedback from the grassroots community that is totally angry and is not letting it go of this issue.

So this puts another burden on you, which is not that you're a Commission on Civil Rights, but are you going to be like the Democratic senators that have decided to cover it up or the media that's decided to cover it up, when in essence we have a huge amount of evidence already of what is going on here, and you're just looking at the tip of the iceberg.

On November 7, when we had a close election here, 20 out of 67 counties did not do a mandatory required count in this State.

That's 1,800,000 voters in Florida have yet to be counted. It's not happened yet.

We had a Supreme Court, of course, that decided to play politics and even when they set a supposed state-wide standard, the standard was set in Broward County, accepted by Katherine Harris. Nobody want to talk about it.

Fifty-seven thousand over-votes. There is already

rumor to the fact that these ballots have been tampered with and double punched by individuals.

Eighty percent of those would have gone to Gore.

The Herald has had to sue Duvall County in order to have access to 24,000 votes.

Duvall doesn't want to give up its votes because it might be suspect of all sorts of tampering there.

Two thousand illegals voted in the State. I'm quoting now just newspapers stories. Okay?

You need to get yourself a very serious news clipping service of everything that has come out in this State.

Just because the national media is covering it up, doesn't mean it's all happening in this State.

Lots of people know what's going on, and this is transferred around the country.

Four thousand people were disqualified from voting as being so-called felons when they were only misdemeanor people.

Katherine Harris managed to spend \$4 million to manage that little business.

The butterfly ballot is only one issue. Quite honestly, as a voter from Miami-Dade, I am totally outraged that the people in Palm Beach were so concerned about having Thanksgiving

dinner they couldn't count their ballots to even turn into Katherine Harris. That's another 400 votes for Mr. Gore.

Here in Miami-Dade, 17 hundred ballots were already counted that were misaligned. Misaligned, that means people were voting for both candidates, and Gore was 316 votes ahead.

Now, if I can paint the picture really very clearly, our Senate Democratic candidate Bill Nelson won by 280,000 votes in this state over Mr. McCullum who was on the impeachment panel.

Now, if you're going to tell me the 537 votes separating Gore and Bush here means that all those people came out to vote for only a senate candidate and not the presidential candidate, if you don't smell a rat, the rest of the country does.

Okay. What we need to look at here is the fact that 200,000 Floridians were disenfranchised and that every county is suspect.

And what's happening now is we have a bunch of media in trying to investigate everything and probably in another three weeks, we'll come out with a lot more outrageous things that are happening. The Orlando Sentinel found another 203 votes for Gore in Orlando just a few days ago.

When you start adding it all up, what we're looking at is somewhere between 23,000 and 50,000 votes for Gore, not for Mr.

Bush 537 votes, which means in a sense we have an illegal, impostor, illegitimate president who has no problem going to Mexico today to tell everybody about how he is a new elected president like Mr. Fox.

On the other hand, Mr. Fox probably won legally when he did not here in this country.

In the meantime, he is bombing Iraq to let us know that there's a diversion that we shouldn't count and talk about any of this stuff here, anymore than we should have to keep on beating Clinton to death on every single issue is to make sure we never get back to the bottom issue, that the election was stolen.

The bottom line in all of this is that Florida isn't taking it anymore, and we're not taking it anymore.

We have organized massive protest, and we're going to do it all over the country.

I can tell you right now on Sunday at Daytona Beach we will have a banner flying over the Daytona 500 that says Bush stole the election with our website.

And we already did it at the Super Bowl in Tampa, and we're taking it to the Kentucky Derby and the Indianapolis 500, every single place we can, including the Academy Awards.

We are not allowing this issue to die, no matter what any of the politicians do, no matter what anybody else does.

We're running a candidate against Jeb Bush to make sure in the Democratic primary that we clean his clock and Katherine Harris and the whole gang.

What we need from this Commission is a commitment not to be another political organization.

CHAIRPERSON BERRY: Thank-you, Mr. --

MR. KUNST: I would just like to end my comment. May I, please?

Okay. I will submit all of this in writing to you.

CHAIRPERSON BERRY: Oh, sure. Thank-you.

MR. KUNST: All right. What I want to make a suggestion to you is really very simple.

The public has been had. We have four members of the Supreme Court, we have 13 members of Congress, thank god for the black caucus that opened up their mouth January 6, we have 655 law professors around the country that have signed on to say that the Supreme Court went off bounds to play out this coup d'etat.

The bottom line is, do we have anybody we can trust and believe in any longer to take our case to the rest of the community.

This is a major disaster what's happened to our country and not to talk about it and to trivialize it and allow it to go on is unthinkable, it's unconscionable.

We've been raped. We've been had. We're not putting up with it anymore.

Thank-you.

(Applause.)

CHAIRPERSON BERRY: I understood your testimony. I want to thank the panel, but I have one quick question.

I'm not sure I understood something you said. It went by me too quickly.

MR. KUNST: Okay.

CHAIRPERSON BERRY: You said something about the standard set by Katherine Harris in Broward County. Do you remember saying that?

MR. KUNST: Yes, I want to suggest --

CHAIRPERSON BERRY: What were you talking about?

MR. KUNST: Okay, the Supreme Court when it decided not to further count any of the votes said we must have a state-wide standard.

So when they were ready to do their anointing of Jeb -- I mean George W. Bush, they said we needed a state-wide standard in order to stop the count.

The fact is the standard had already been set by Broward County.

It was the most liberal interpretation of all the chards, all the dimples and pimples and everything else that was going on.

Broward County decided to work on Thanksgiving.

Broward County turned in its numbers ahead of time and at the proper time, and Katherine Harris accepted it.

CHAIRPERSON BERRY: In other words -- I just want to make sure I understand you.

MR. KUNST: Right.

CHAIRPERSON BERRY: It's an important point. They are all important, but this one confused me.

You're saying that in accepting the Broward County count --

MR. KUNST: Yes.

CHAIRPERSON BERRY: -- with the standard that they used, which was announced by them, Katherine Harris accepted their vote, which meant she accepted that as an appropriate standard.

MR. KUNST: That's right. And it wasn't applied in any other county.

CHAIRPERSON BERRY: Wait, wait. Which means that if the Supreme Court, as I understand Bush v. Gore, the opinion says that there was a need for a state-wide standard and that Katherine Harris

was the person who was in charge of elections and ostensibly makes these decisions, you're saying she's already made the decision and all they had to do was to incorporate her decision about Broward County, and since she's already made up her mind as to what is acceptable -- is that your point or not?

MR. KUNST: That's my point, and my point is they stopped the count in order to give the election to Bush.

CHAIRPERSON BERRY: Well, I heard that part, but I was trying to understand --

All right. Thank-you very much for testimony. Appreciate it.

Counsel could you call the next panel, please.

MR. HAILES: Madam Chair, at this time, we're going to call forward Jean R. LaFortune, Frederick Bryant, Enos Schern, Richard N. Friedman and John D. Pace, Jr.

Please come forward at this time. And remain standing if you will.

CHAIRPERSON BERRY: Please find your place and remain standing while I swear you in, please, unless you'd just like to sit down and then stand back up again, which is fine.

I'll wait until everybody finds his or her -- his place.

Could you each raise your right hand.

Do you swear or affirm that you will testify truthfully to the best of your abilities?

(Whereupon, the witnesses were duly sworn.)

CHAIRPERSON BERRY: Okay. Mr. Enos Schern, please. Would you please sit. Yes.

MR. SCHERN: Pleased to be here this evening. I'm glad you're down here checking on voter fraud. That will be my subject.

I'm vice president of Citizens of Dade United.

We've been tracking voter fraud for many years.

We looked into the situation of Ileana Ross-Lehtinen running against Gerald Richman, found out quite a bit of voter fraud in that race. She only won by six percent.

We looked at pages of the voter rolls down at the Dade Elections Department under David Leahy, found many pages written with the same handwriting but different names.

We took at random quite a few pages of voter registration rolls and sent them over to the INS for a name check for citizenship verification, and sure enough we found some illegal aliens and a whole bunch of names that we believe are actually outright illegal aliens that voted that the INS can't find any record of.

The INS said there's no definite way of knowing that some of the names could be verified as citizens, because there's too many aliens with the same Spanish last name.

The records were difficult to determine for verification because the records were kept in such a disarray in different INS locations, also because the handwritten records were very difficult to read, also because some computers were around the United States.

Some of the other factors that we found, we sent this documentation, by the way, to the State's attorney. They didn't do a very good job on it.

As a matter of fact, I sent them a -- two pages of an affidavit which I sent to you. The affidavit was of a retired lieutenant-colonel from the Air Force, working at Florida International University.

He asked the registrar out there one day why would foreign students be registering to vote, and he was told, it's okay to register to vote, so long as they voted for Arnhilla Gonzalez Cuivado, a bilingual professor there at the University running against a sitting representative, John Cosgrove.

This fellow's name is in the documentation of papers I sent you there.

He's asked his State Representative Art Simon to look into it, his State Senator Jack Gordon to look into it, and even John Cosgrove who the lady was running against.

The State Attorney told me they didn't have enough people to track it down.

I mean I'm not even an investigator. He said they didn't take the case, because they didn't know the date.

What's luck enough that I take thousands of pictures, because I actually had a photograph of the date that Arnhilla Gonzalez Cuivado actually ran her campaign.

So I sent that to the FBI, would you believe.

These are some of the things that go on in Dade County here.

It's so much corruption with voting you would not believe this.

Now, really, this David Leahy has been warned so many times because our organization actually has 20 poll workers that work with us.

And they're been telling us for numerous years there's corruption going in the voting system, what can we do about it.

So I looked at all this matter, and that's we found.

The last time we went the documentation, we took it

away from the State's attorney because they weren't doing a thing about it, another smokescreen.

We sent it to the FBI, including would you believe six tapes of Immigration Naturalization Officers calling in to a radio station, U.S. Border Patrol calling in to a radio station.

The -- I forget what they call these service agents that check the goods coming in.

CHAIRPERSON BERRY: Customs.

MR. SCHERN: Customs, that's it. They were Customs Agents calling in and policemen were calling in, they all documented that they catch illegal aliens with voter cards. Now doesn't that tell you something.

I mean you really need to get under the nuts and bolts of this operation, because there's so much voter fraud, people say why should I go to the poll when it doesn't count.

I mean, you know, it's really ridiculous.

CHAIRPERSON BERRY: We understand, and we have to -- you have to sum up, because your time is up.

MR. SCHERN: Okay, I'll try to sum up fast.

Here's another thing. When I was dealing with the INS under the Freedom of Information Act, I made a name check for verification of citizenship.

I spoke to the chief of -- Freedom of Information Act officer over there, and she told me please don't send us anymore of these names for citizenship verification, I may lose my job.

Doesn't that tell you something? I mean this is really -- it's amazing the things that we found out when you just make like telephone calls as a private investigator.

And look at here, as far as the State Attorney saying that they didn't have the date and they were short on manpower, that's why they didn't check foreign students registering for citizenship, I mean getting voter registration cards.

I mean all you had to do was figure out when Arnhilla Gonzalez ran against John Cosgrove down at David Leahy's office. That would have told you the date.

Now, here's another funny thing. Several years ago, Mr. David Leahy, who I taped this morning down here, he was asked a question by the County Commissioners, how could 30,000 votes get counted twice? And do you know what he did, instead of giving an answer, he fainted at the podium.

If you think it's a -- I mean I actually have other people that can verify this. He fainted, he never gave the answer to date.

CHAIRPERSON BERRY: All right, all right.

MR. SCHERN: And one other thing -- ma'am, I just want -

CHAIRPERSON BERRY: Yes, but you have to conclude, because others are waiting.

MR. SCHERN: I'm going to wrap it up. It sounds ridiculous but why would a guy faint for 30,000 votes.

Here's another thing. I was watching a voting election come down in 1986 between Christina McKenzie and a sitting commissioner by the name of George Valdez.

Well, the voting machine went down at nine o'clock, and I have this on video tape, an uninterrupted video tape. I don't want any -- put holes in it and they say that it's fake. I left it run.

The voting machine by David Leahy went down at nine o'clock, ten o'clock when it came -- well, before -- I want to back up.

Before it went down Christina McKenzie was ahead by 15 percent. The machine went down. When it came back, guess what? Mr. George Valdez was ahead by 15 percent.

Now, I'm no computer whiz, but I'm smart enough to know that you can make a transposition on columns from column A to column B at the press of a switch. You know what I mean? It goes from

this side to that side.

CHAIRPERSON BERRY: Thank-you very much.

MR. SCHERN: You need to look into voting fraud around this place.

CHAIRPERSON BERRY: Well, thank-you very much.

MR. SCHERN: I certainly do appreciate it.

CHAIRPERSON BERRY: Appreciate it.

MR. SCHERN: Thank-you for coming.

CHAIRPERSON BERRY: Thank-you. Thank-you very much.

Mr. Jean LaFortune, please.

MR. LaFORTUNE: Madame Chair and members of the Commission, good evening.

My name is Jean LaFortune, chairman of the Haitian-American Coalition -- an umbrella group of 16 local organizations here in Miami.

America is a nation of immigrants. I got into the census data for 2000. Dade County population is about two-third foreign born and from those foreign born about 13 percent of the Dade County population is Haitian, is made of Haitian nationals.

For us Haitian-American the right to vote is very dear to us. Many of us we have family members, we have friends who have lost their lives.

Myself, I spent 15 years in exile for fighting for democracy, for fighting for the right to vote in Haiti.

At 44, November 7, 2000, that was my first time that I was voting as a human being.

Earlier you have heard Congresswoman Meek spoke about Haitian-Americans and also other members of the panel saying that many Haitians that was the first time to vote, and I am one of them.

I was very displeased when ten days after the election that I found out that my absentee ballot was not valid, was not counted. The reason is because of the literature that comes with that ballot was not clear enough.

That ballot was printed in the English and the Spanish language.

I hold a Master Degree. I spent one hour going over the indication on how to fill out that ballot.

From that ballot there, I make 18 choices, my last choice I accidentally punch a Republican instead of for Democrat.

I said to myself, instead of giving my vote that that Republican, I'm going to punch in the Democrat so at least that -- those two they will not get any vote from me.

But two weeks later I found out that any ballot that has two punch holes in it, with two competing candidates, that

ballot become automatically invalid.

So in that respect, all those, all those with I did correctly from one to 17 were okay, but the 18 was not.

Because the 18 was not okay, so the whole ballot was invalid.

So I'm urging the Commission to take a very hard look on a -- as far as absentee ballot, this information should come very clear.

Because the information I was given, it was not mentioned that if you punch your ballot twice, it's going to become automatically invalid.

That information was not in there.

It is my hope that when the new book comes out -- I don't know -- the last time was '84 -- it is my hope, it is the hope of our community that on page 51, under the provision of -- language provision, that we will see Haitian Creole be in that book as well as part of the language.

Because being about 13 percent in the County, I think it's entirely wrong not to provide a comprehensive ballot information in the language that Haitian-American can understand.

And thank-you very much for your attention.

CHAIRPERSON BERRY: Thank-you for your testimony.

Mr. Frederick Bryant, please.

MR. BRYANT: Good evening. My name is Frederick Bryant. I'm a resident of Miami, Florida.

The first thing I would like to say is that every time I turn around it seems like the Republicans are asking for an investigation of William Jefferson Clinton, and they get an investigation.

Well, this night I would like to call for an investigation of George W. Bush and John Ellis Bush and see if I can get an investigation of them for what occurred during the last election.

In 1985, I was a candidate for mayor of Miami, and I saw -- I sat that night in the County Center, I watched the count on television on the monitor.

And all of a sudden, things stopped as the gentleman at the end of the table said. And when the count began again, I don't know how long it took, but all of a sudden there was a flip flop, topsy turvy. The order had changed.

At the end of that count that night -- but the count really stayed until two or three o'clock that next morning.

And as the young man at the end of the table said, I, Frederick Bryant, asked David Leahy about voter fraud that night,

and he fainted. That was me who asked the question. Never got an answer.

And nothing until this day, since 1985, has he still -- I cannot hardly conceive how he can still be in that position and now we still see that in 2001 something is not right.

But what's being done about it?

We're talking about civil rights, the rights of people to vote and this was allowed to happen, no question.

We're talking about -- okay, let's talk about changing machines.

To me it doesn't matter what kind of machine we use, whether it's punch cards or whether it's computers high tech.

Who operates computer? Who makes computers? Man or woman, whoever it is.

Just like you can control punch cards, people can control computers. So that can even be flip flop. That's not the point.

Now, let's get back to talking about people.

I am under the impression that George W. Bush and Jeb Bush had something to do -- as I watched the election that night, and watched the map, and all of a sudden, things stopped -- no, no, before it even stopped, the reporter went into the room of -- George

W. Bush's room and Bush said wait a minute, something is not right here yet. This State cannot belong to Gore yet. Something is wrong. Something is rotten in the cotton.

We can investigate Clinton and this and that, and now we have a new investigation, why can't we vote civil rights voting rights. I can't understand it.

Now the purpose of this panel -- I was reading something about this panel, and you're going to report to who? The president gets this report.

If he can do something about the election, rig the election however he want to, what he going to do about us being here.

What's the use? Is this a good feeling thing here? Is this supposed to make us feel good?

What's going to be done? What's the purpose of this panel?

You know, there's a whole lot to be said. I called Al Gore during his court battle, and I spoke to the -- I called the executive office.

And I spoke to a lady named Amy in the executive office somewhere, and I said, you know what, he's fighting a -- that ballot can't what he's talking about -- why don't he talk about fraud?

And she got mad -- she was mad at me. She hung up.

I said he's waiting his time. She hung up. She was mad.

But you know, if there was any justice, George W. Bush would be removed from the presidency, and Jeb, John Ellis Bush, would be removed from the governorship of Florida.

What is this Commission going to do?

The sanctity of the vote no longer exists.

If this is allowed, George W. Bush and John Ellis Bush will never lose an election again.

CHAIRPERSON BERRY: Thank-you.

MR. BRYANT: Can we get fairness?

CHAIRPERSON BERRY: All right.

MR. BYANT: What's this Commissioner going to do? That's what I would like to know.

CHAIRPERSON BERRY: We will answer when we come to the end. Thank-you very much. We will answer you.

Thank-you for your testimony, Mr. Bryant.

Mr. Friedman, please.

MR. FRIEDMAN: Good evening, Madam Chair, members of the U.S. Commission on Civil Rights.

My name is Richard N. Friedman. I'm an attorney and a

concerned citizen.

In the last 25 years, I've been involved in seven referendum, five of which were successful, I'm pleased to say, six local, one statewide. One I just would mention to you very quickly.

When I -- I was bemused by the Chad problem involving the election, because I was victimized by it 22 years ago.

On March 7, 1978, there was a vote on the question whether to repeal transit bonds in connection with the construction of Metro Rail in Dade County.

It so happened that there was about almost a quarter of a million votes.

The difference in the election was 2,450 votes to the side I was opposed to -- in favor of the other side.

And there were 3,450 votes that were disqualified.

It was an issue of one single purpose issue. It was the first time it was a countywide election.

The people weren't educated as to how to put the ballot into the little prongs that stand up on the punch card ballot.

At the time, people were counting votes were from the opposition. They were counting them and tearing chards off.

They had a rule that a Chad had to be on by at least three corners -- excuse me, by at least -- if it was off three

corners, it was valid. It could be on one corner.

They later changed that to two corners. So you have different rules that existed even in 1978 than may exist today and in different counties, whether it's a two Chad corner rule, a three Chad corner rule or a one Chad corner rule.

So these things exist. Throughout the State of Florida and in various counties, we have different rules and that's the -- one of the problems. We need greater uniformity as to what ballots count.

I think the best thing we can do is get rid of a punch card ballot system, because apropos of Mr. Sherer's remarks, when 76 percent of the vote was counted, we were ahead 750 votes, with our best precincts coming.

And ten to fifteen minutes later when the computer break down was rectified, we were behind 750 votes, a very curious situation.

There is an institutional disdain for voting in Dade County.

They like to have balloting at the wrong time of the year like in July 1999 to increase the penny sales tax, but we fought them and beat them badly on that.

And most recently, on October 3, 2000, when we had a

rain storm of monumental proportions, like a Biblical flood in Dade County, 3.64 percent showed up, and the vote was counted.

I filed a pro bono lawsuit which is now pending in the Circuit Court of Dade County to try to overturn that election.

But if we spent as much money on improving our voting procedures and to educate the voters as we do to convince people not to smoke, we would have a better democratic society.

The State of Florida is taking in \$11 billion from a settlement for smoking. Perhaps they should use some of this to improve our voting so we'll have a more and better democratic system.

The point is that voting is a very elegant and a very simple concept.

It goes back to John Locke in the 17th Century, to Montesque and other French philosophers in the 18th Century, that the consent of the governed as reflected in voting should determine who rules the roost for a period of time.

And that simplicity is based upon another very simple concept. If you're a citizen, you can vote. If you're not a citizen, you cannot vote.

So we then have set up another procedure. It's called registration to vote. And that is to determine who is eligible to

vote..

Then we have roadblocks to people registering to vote.

So what we have to do is have a system of government to make it simpler to register to vote and to ascertain those who are properly registered to vote so that people are not impeded from voting when the time comes to vote.

That is something that I think you can look into as a matter of a civil right to vote.

So in Florida, as you probably know, we have four types of voting.

The Supreme Court's ruling of equal protection was nonsensical.

I've been a lawyer 35 years. I respect the Supreme Court, but that ruling is nonsensical because they knew or should have known that in the State of Florida we have four different ways in which we voted, and that each county had its own way of determining that vote.

So it was impossible to meet the equal protection standard.

And not only that, the State of Florida's rules were different than 49 other states which had each of their state laws.

To suggest, there's a federal equal rights standard or

federal equal protection standard on voting was totally ludicrous.

Elections are all about one --

CHAIRPERSON BERRY: Sum up, please.

MR. FRIEDMAN: -- being able to vote, who can vote and that the vote should be counted and counted correctly.

That's all the people want in any election.

Now, we have doubt in our voting system. That is a tragedy for this county.

We must not have doubt as to whether the result of an election is what the certification is or is not, whether it's president or for the local county coroner.

Apropos of that, just very quickly, 50 percent of people registered to vote, didn't vote.

Now, have we discouraged them to come out to vote or we have encouraged them to come out to vote to overrule the kind of nonsense that we saw on this past election?

I would hope that we encourage people to vote, because that's what this country is all about.

Voter motor laws should be looked into. We should let former felons vote who have served their sentence and are now back into society.

We should get rid of the dead people problem by simply

having the coroner inform Tallahassee and the State of Florida and other place a person is dead.

If I as an attorney want to find out about a corporation, I make a phone call to Tallahassee, I can find out whether the corporation is in existence and who their officers and directors are and get a printout faxed to me all within two minutes.

It seems to me if we want to know whether dead people are dead or not, there should be a rule that says a coroner -- there's a felony if you don't report if somebody is dead.

The coroner only has to say look, in addition to putting it into the local county, I'm informing Tallahassee, there's a central registration, a person is dead or not dead.

And as far as persons who move, we have dual voting problems within counties and between counties.

That could be addressed again with a computer, absentee voting, same thing.

All we need is uniformity, better use of computers.

You can have a hand-held computer. Today we have hand-held computers that can go into the Internet that can type into your own computer.

All we have to do is give every precinct person, who is head of the precinct, a hand-held computer to get rid of 90 percent

of the problems that we now face.

CHAIRPERSON BERRY: Mr. Friedman --

MR. FRIEDMAN: We have to improve our voting system so America is a democracy where we trust the ballot. Without trust, there is revolution. With trust, we have a quiet society that accepts the results of elections.

CHAIRPERSON BERRY: Mr. Friedman, are you ignoring me? I've asked you, please, you have over-run your time, three times as much.

MR. FRIEDMAN: I'm done. Thank-you very much.

CHAIRPERSON BERRY: Thank-you very much. I appreciate your testimony.

Mr. Pace, Jr.

MR. PACE: Good evening, Madam Chair and the Commission.

Welcome to my community as I tell folks often that our diverse community is one of the world's greatest cities.

We have everyone here, as you can see, with all the problems.

I'm here to represent myself. I'm John D. Pace, Jr. I'm a law enforcement officer, and I work with grassroots organizations.

I represent public housing, I represent the

disenfranchised 18 to 35 voters that had a first-time opportunity to come out and vote.

We encourage many people. Many people in the room here who have testified, seated to my right, seated down at the end, we work together to try to build this community in the essence of ensuring that the rights, one simple thing, a vote, one vote, one vote would be counted for the person of your choice in an election.

And I state I sit here today, I feel disenfranchised because I really don't know if my vote counted.

I've been voting from the time I was eligible to vote, from the time I served in Vietnam to the time I have served, almost 30 years, in law enforcement.

And I find it discouraging, but there's also encouraging hope, because the young folks and the people in this community, we're not going to sit still and we want the world to know, and we want to Thank-you for being here to take testimony to listen to the concerns.

Every day when I'm out on the street and we protect people and citizens in this county, it's not about the choice of color. It's a matter of what I have to do and the professionalism that we display in protecting folks.

I sit here today and I ask you to extend the same courtesy to protect the folks of this county, this state.

We have had a miscarriage of justice here.

It's not about the candidate. It's about the right.

As I sit here and I've heard others give testimony, and I've thought about the things I want to say, I thought about my 17-year-old daughter that's going to graduate from high school this year.

I thought about my son who just finished and now is the teacher who went to vote at the time here for his choice of a candidate.

And I think about the future, and if I don't participate in this process, what choices do you leave us. What do I tell the rappers that came out, that participated in the elections, that wanted to be a part of this that made a record and demonstrated that with -- sang around the country to get folks out to vote?

What do I tell those folks that went out early in the morning the night before the election, three a.m., to take cards to residents to assure people they had the right to vote?

And I thought about that and I saw this Commission when it was formed, and I said to myself, that's the place I got to be,

regardless of when and where when the opportunity presents itself.

But in all that, I can recall that on the night after the election, the morning I got up, I should say the morning, I received a call from the elections office where someone who was kind enough to say, John, I don't know what's going on, but something funny is happening in this office with the vote.

And you got to imagine if you can get a call like that from someone what kind of results did you expect to happen.

This Commission, you have a responsibility just like I do, and I know each of you will carry out what you're supposed to do.

I just hope that I have the opportunity to use what I've been taught to do and hope that you bring back the results that would have me to be involved or someone to the folks who have committed this atrocity and advise them, you have the right to remain silent.

Thank-you.

CHAIRPERSON BERRY: Thank-you very much, Mr. Pace, Jr.

If you would all just sit there for a minute while I conclude this.

Let me just say first that, as is customary with Commission hearings, I'm supposed to say this so I'm going to say it

and then I have something else to say.

The record will remain open for 60, during which any of the witnesses can submit any written statements that will aid in our interpretation of the testimony received.

In addition, any member of the public may submit any information helpful to our proceedings.

One of the witnesses asked what good would it do for us to be here or words to that effect or what could we do, and I think that deserves an answer.

It is essentially all up to the people of this country, and it's not up to us.

We can report as we will when we make our findings and recommendations.

We will report our views on what happened here and we will report recommendations for improvements.

We will report those to the president, and we will report those to the Congress, and we will report those to the public.

If the public believes that something ought to be done and that our recommendations make sense, then the public is in a position to see to it, no matter who is in office, wherever they are, to see to it that something happens, and it has happened over

and over again with recommendations made by this Commission in the most difficult of times.

This Commission reported recommendations all during the modern civil rights movement.

While the movement was in the streets, the commission was everywhere making recommendations.

And some people said what good is it going to do to make a recommendation, because the governor of X state or Y state or this person isn't going to do anything. It was up to the people.

So this time it will also be up to the people and not essentially up to us.

And we are here also because it is our duty to be here, and we have a responsibility to be here in addition to caring about what happened here and what happened all across the country.

So that's my answer, and we appreciate the attendance and participation of all who are here today.

And if there is no objection, this hearing is adjourned.

Thank-you very much and you are dismissed.

(Whereupon, the Public Forum was adjourned at 10:00 p.m.)